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PARLIAMENTARY DEBATES
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OFFICIAL REPORT

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

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

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

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

House of Lords

Monday 28 March 2022

2.30 pm

Prayers—read by the Lord Bishop of Worcester.

NHS: Gambling Treatment Services

Question

2.37 pm

Asked by ***The Lord Bishop of St Albans***

To ask Her Majesty's Government, further to the announcements that the NHS (1) will no longer accept money from GambleAware, and (2) is establishing two additional NHS gambling clinics to meet demand, what plans they have to agree a long-term independent funding settlement for NHS gambling treatment services.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): In 2019, the NHS committed to establishing 15 specialist gambling clinics by 2023-24. Five clinics are now operational across England, with a further two to open by May. This rollout carries a budget of £15 million, including £6 million allocated for 2023-24. After this, NHS England will provide recurrent annual funding of £6 million. The Department of Health and Social Care and NHS England and NHS Improvement are currently undertaking a review to ensure there is a coherent pathway of advice and treatment for those experiencing gambling-related harm.

The Lord Bishop of St Albans: I thank the Minister for his reply, but it is quite extraordinary that, at a time when the NHS is in such dire straits, with such financial pressures, we are picking up the costs incurred by an industry. This announcement has shown that far more resources are needed to deal with the outcome of problem gambling, and that the current voluntary levy is simply inadequate to provide the level of independent research, education and treatment that we need. Will the Government commit to introducing a compulsory levy of, say, 1% of gross gambling yield on the polluter pays principle, so that taxpayers are not picking up the huge bills being created by this problem that exists right across society?

Lord Kamall (Con): I thank the right reverend Prelate for his follow-up question and for raising the issue in the first place. He is absolutely right that we must think about this across government; DCMS leads the policy, but the Department of Health and Social Care is co-operating with it to look at the health issues. Gambling used to be considered a syndrome, but it is now recognised as an addiction. We are committing resources to it through our long-term plan, and will open 15 NHS specialist gambling clinics by 2023-24, with £15 million of funding over the period.

Lord Watts (Lab): My Lords, do we not need a mandatory levy now? The Government should be setting up a body made up of independent experts, charities and the NHS to decide what services are required and where they should be provided.

Lord Kamall (Con): The former Public Health England, now the Office for Health Improvement and Disparities, works closely with us, particularly on this issue. We understand the call for a compulsory levy. Indeed, as I am sure many noble Lords will be aware, DCMS recently conducted a review of the Gambling Act 2005. The DHSC was part of that, looking at the impact of gambling on health. Gambling is now recognised as an addiction, as opposed to any other issue. We are looking at this and considering all options. The Government received 16,000 responses to the consultation; we are looking at that and will publish the White Paper soon.

Lord Butler of Brockwell (CB): My Lords, with respect, the Minister did not really answer the question about the financing of these services. Does he accept, or understand, that those who treat and research gambling conditions are reluctant to accept funds that are voluntarily provided by the gambling industry?

Lord Kamall (Con): I completely recognise the noble Lord's point, which is why we welcome the fact that GambleAware will no longer fund the two clinics in London and Leeds. NHS England has stepped forward on that, but we are reviewing this overall, in a holistic way. When we have an issue that is considered across government, we must make sure that it is all joined up. The Department for Digital, Culture, Media and Sport has been leading the review into the Gambling Act 2005, and has asked the Office for Health Improvement and Disparities and the Department of Health and Social Care to feed into it, along with all the other stakeholders.

The Lord Speaker (Lord McFall of Alcluith): My Lords, the noble Baroness, Lady Brinton, will make a virtual contribution.

Baroness Brinton (LD) [V]: My Lords, Public Health England says that around 246,000 people are likely to have some form of gambling addiction, but last year, only 668 people—with the most severe addiction issues—were referred to the gambling clinics because of a lack of resources. Even with the extra clinics over the next three years, will this number of clinics be able to treat the top 10% of patients, which is 24,000 people? If not, when will the service expand to help them too?

Lord Kamall (Con): The noble Baroness makes an important point and there is recognition that we must do far more on this. That is why we held a review of the Gambling Act in the first place. As noble Lords will be aware, when the work is cross-government, the Department of Health cannot lead in this area; it can contribute when it comes to the health and addiction impacts of gambling but we are doing this in a joined-up way. The White Paper will be published soon and we are continuing to have conversations with the Department for Digital, Culture, Media and Sport on this issue.

Baroness Manzoor (Con): My Lords, I echo the point made by the right reverend Prelate. The polluter pays principle is really important, particularly when we think that the gambling industry continues to offer customers VIP packages and streams live sport, which are equally damaging. This badly affect the lives of

[Baroness Manzoor]
families and has an impact on individuals' struggles. I welcome the NHS clinics but we always seem to tackle issues once the horse has bolted. I want my noble friend the Minister to address the issues of prevention and working much more closely with the gambling industry and others in government.

A noble Baroness: My Lords—

Lord Kamall (Con): I am very happy to take two questions at once; I will even take three, if noble Lords want, and try to answer them.

The important point that a number of noble Lords are making is that many want to see a polluter pays principle. In economics, this goes back to negative externalities, where you tax things that are considered bad. Some people call them bad; others call them negative externalities. However, when you say that the polluter should pay, who is that? People sometimes say that it should be users but, if you do that, users will end up paying more. Others say that it should be the industry, but will the industry then pass on those costs to users and put those people into even more distress? This is why we want to look at this issue in a joined-up way. Yes, it is about the gambling industry, and this may well be the option we land on, but we want to make sure that we tackle the issue in a completely holistic way.

Baroness Armstrong of Hill Top (Lab): My Lords, I welcome the Government saying that there needs to be a range of treatment and not just the hard-end clinics. I declare my interest, as in the register, having recently become a trustee of GambleAware; I did that because I want those people who are scared of going for treatment and frightened of the stigma to be able to access early intervention, which means much more work for the voluntary sector. Can the Minister commit to the Department of Health ensuring that the pathway is very clear and will involve early intervention, particularly for women, so that they do not have to end up in heavy-end treatment?

Lord Kamall (Con): The noble Baroness makes a very important point: people must be treated as individuals—they will have come to addiction from different pathways. We have been engaging with the Department for Digital, Culture, Media and Sport on a number of issues. Additionally, the Office for Health Improvement and Disparities regularly engages with NHS England working-level counterparts, including recently on the establishment of a joint task and finish group on integrating the gambling treatment pathway. Referring directly to the question asked by the noble Baroness, there is no one simple pathway into gambling, and there is a stigma. By putting it at the forefront of some NHS services, we are showing that we are taking it seriously, and that it is not just an affliction but an addiction. We recognise that we must do more to tackle that.

Lord Foster of Bath (LD): My Lords, I declare my interest as chair of Peers for Gambling Reform. The Minister has talked a lot about treatment, but does he accept that by adopting a public health approach, we would reduce harm in the first instance? Can he give us an absolute assurance that his department is co-operating on all aspects of the gambling review that is currently taking place and that it will be involved in the writing of the White Paper that will, I hope, come before us very soon?

Lord Kamall (Con): We take the public health aspect very seriously. Public Health England did some work with the DCMS on looking at gambling from a public health perspective, and the Office for Health Improvement and Disparities continues to do that work. While the Department for Digital, Culture, Media and Sport is looking at the gambling industry, we are also looking at this as a public health issue via the Office for Health Improvement and Disparities. I see that the seconds are running out, so I will give the Labour Front Bench time to ask a question.

Baroness Wheeler (Lab): I thank the Minister for that.

GambleAware recently announced a new major public health campaign to raise awareness of the gambling harms that women experience and to highlight the warning signs and the support that is available. It is particularly focusing on women between the ages of 25 and 55 who gamble online. Can the Minister reassure the House that such vital campaigns will continue to be supported through the long-term funding settlement for NHS gambling treatment and support services?

Lord Kamall (Con): I am afraid that I cannot answer on the specific initiative that the noble Baroness refers to, but I know we take very seriously that this is a public health issue that we must tackle in a holistic way. We are looking at how we can allocate funding in the NHS long-term plan to tackle gambling addiction and to ensure that we focus more on prevention rather than simply dealing with people once they have a problem.

Police and Crime Commissioners: Budget

Question

2.48 pm

Asked by ***Lord Bach***

To ask Her Majesty's Government what assessment they have made of the decisions of Police and Crime Commissioners who have (1) cut the number of police officers in their police force area in their 2022/23 budget, and (2) applied for a grant from year 3 of the Police Uplift Programme.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, through the police uplift programme, police forces in England and Wales have recruited over 11,000 additional officers. Police and crime commissioners can also fund the recruitment of officers on top of the uplift allocations from local funding such as precept outside of the uplift grant. We

collect data annually on local ambitions to recruit additional officers, to ensure that growth is tracked accurately.

Lord Bach (Lab): My Lords, I remind the House that I am a former police and crime commissioner and I thank the Minister for her Answer. According to the Prime Minister himself, the Government are committed, as a priority, to increasing the number of police officers. How do they not see the need to criticise those PCCs, such as the new police and crime commissioner for Leicestershire, who even though they have the resources through government grant and maximum council tax, have chosen in their 2022-23 budgets to cut the number of police officers rather than increase it? Surely the Government have the courage to tell them that they are wrong.

Baroness Williams of Trafford (Con): First, I pay tribute to the noble Lord, Lord Bach, whom I saw first-hand doing an excellent job as a PCC for Leicestershire. Secondly, how PCCs allocate their funding and their officers is obviously a decision for local areas. Thirdly, if that PCC does not perform in line with the public's expectations, they have the remedy at the ballot box.

Lord Lexden (Con): My Lords, is it not outrageous that the PCC for Leicestershire and Rutland, who describes himself as a Conservative, is cutting police numbers while paying £100,000 plus expenses to Mike Veale, a man facing severe misconduct proceedings who, as chief constable for Wiltshire, besmirched the reputation of Sir Edward Heath—a wicked deed for which he has still not been called to account? Should not this dishonourable PCC be thrown out of the Conservative Party and the proceedings against Mr Veale started as soon as possible?

Baroness Williams of Trafford (Con): My Lords, his membership of the Conservative Party is clearly a matter for the Conservative Party. Whether he should continue as PCC, as I said earlier to the noble Lord, Lord Bach, is entirely a matter for the electorate.

Lord Paddick (LD): My Lords, what power does the Home Secretary have to overrule police and crime commissioners—for example, if they refused to increase police numbers to achieve the Government's planned 20,000 uplift, or when the Mayor of London forced the Commissioner of Police of the Metropolis to resign? If the Home Secretary did not agree that Dame Cressida Dick should go, why did she not intervene at the time, rather than commission an inquiry after the event?

Baroness Williams of Trafford (Con): Clearly, the Commissioner of the Metropolitan Police Service has given notice of the end of her tenure. It appeared to be quite short notice, although she has yet to depart. I understand she will be departing in April and I join the Home Secretary in paying tribute to her work. I say to the noble Lord that the police are operationally independent and the PCC sets the direction for the local area. If the public in that area are not happy, they have the remedy at the ballot box.

Lord Rosser (Lab): Is it not the reality that the new PCC for Leicestershire has, from the third tranche of the Government's police uplift programme and the maximum permitted increase in council tax of £10 per year per dwelling, the resources for another 100 officers in 2022-23, as previously budgeted for and agreed? He has decided not to use the money for that purpose, even in part. The number of officers there will remain under 2010 levels in 2022-23, despite the Government saying that the overall 20,000 additional officers nationally are to restore the cuts in numbers since 2010. Does the Answer to my noble friend Lord Bach mean that the Government condone what the new PCC for Leicestershire is doing in using money intended to increase police officer numbers for other purposes in 2022-23?

Baroness Williams of Trafford (Con): My Lords, the Government have been absolutely clear on the police uplift programme: we expect that funding to go towards the 20,000 police officers. That is not in any doubt. What is in debate this afternoon is whether the precept should be used on top of that to fund police officers. Whether a local PCC decides to do that is down to that local PCC. Should local areas need to invest in additional police officers, they have the funding to do so through either the police uplift programme or indeed the precept.

Lord McLoughlin (Con): My Lords, in welcoming the increase in police numbers that the Government have achieved, will my noble friend assure me that police and crime commissioners will have the flexibility to best respond to local circumstances? We are seeing that cybercrime does not necessarily need a uniformed officer to investigate it; police and crime commissioners may decide there are better ways to do it, and surely that is the point of having them.

Baroness Williams of Trafford (Con): My noble friend is absolutely right: local circumstances will dictate different needs in different places. He is absolutely correct to say that cyber and other types of crime—county lines, for example—may necessitate different solutions in different areas.

Lord Browne of Ladyton (Lab): My Lords, following that specific question and the implication that somehow this money was being spent on cybercrime, the principal cybercrime in this country is fraud. Some 42% of reported crime is fraud—despite the fact that the Government regularly drop off this figure when they talk about crime. Some 1% of police resources are used in policing fraud—so it clearly cannot be the case that these resources are being used for other policing purposes; they must be being used for something else.

Baroness Williams of Trafford (Con): I return to the point made by my noble friend: it is down to local elected PCCs to decide. Also, cyber is not just about fraud; it can be about all sorts of things, such as disruption et cetera. There are other bodies that deal with fraud as well, but, frankly, we deal with fraud and other types of crime across several agencies.

Baroness Jones of Moulsecoomb (GP): My Lords, I declare that I have met several PCCs during my long interest in policing. It is true that Conservatives have a propensity to cut—they cut figures, costs and budgets all the time. It is exactly what the Conservatives did back in 2010, which caused chaos in policing, because the budget was cut so savagely and so quickly. So perhaps this PCC did not get the memo that the Government are now recruiting.

Baroness Williams of Trafford (Con): My Lords, I think all PCCs got the memo. The funding and the precept capability are there for police to not just get the numbers through the police uplift programme but to add to them through the precept, if they see fit in their area.

Lord Dholakia (LD): My Lords, there is serious concern about the recruitment of police officers from the diverse communities in this country. If the number is cut, how will we improve on this record?

Baroness Williams of Trafford (Con): My Lords, the numbers will not be cut; they are going up quite significantly—I think they went up 9% in the last year. On the point about diversity, the noble Lord is absolutely right; we talked about this last year in relation to the HMICFRS report on the back of the Daniel Morgan inquiry. Over the last four years, numbers have gone steadily up in terms of BME representation in the Metropolitan Police.

Lord Harris of Haringey (Lab): My Lords, I refer to my interests in the register. Of course, it is to be commended that the Government are putting more resources into police numbers, but that is only to reverse the cuts that they themselves made. Can the Minister tell us how many of those who are being recruited as part of the uplift programme have actually completed their training and not dropped out or been found not to have met the necessary requirements? What are the Government doing about the chronic shortage of detectives, which is now apparent partly because of the loss of police officers over the last 12 years?

Baroness Williams of Trafford (Con): My Lords, the noble Lord raises an important point about how many officers have taken up their posts. The total number of officers recruited is nearly 140,000, which is an increase of nearly 10%, as I said. I do not know the dropout number. I suspect that 140,000 is the overall number, but if there are any dropouts I will let the noble Lord know.

Schools: Extremism and Intolerance

Question

2.58 pm

Asked by ***Lord Godson***

To ask Her Majesty's Government what assessment they have made of the reporting in "The Trojan Horse Affair" podcast, published by the *New York Times* on 4 February; and what steps they are taking to prevent extremism and intolerance from gaining a foothold in schools in England.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, we remain absolutely committed to keeping children safe from extremism. We provide online resources and fund networks of practitioners to support schools to promote shared values and build resilience to extremism. We also take action against those in the sector who express extremist views. The Government's response at the time of "Trojan horse" rightly focused on whether the alleged events and behaviours actually happened. A number of independent reports confirmed that they did.

Lord Godson (Con): My Lords, I thank the Minister for her Answer and pay tribute to her great diligence in having subjected herself to listening to all eight hours of the *New York Times* podcast on this subject. I did not intend to subject her to a cruel and unusual punishment when I originally decided to ask the Question. Will she join me in paying tribute to the whistleblowers of all communities in Birmingham who played their part in bringing these most important allegations to public attention? Many of these people have been harassed by the *New York Times* in the years since the revelation of these allegations. Connected to that, will she give some sense to the House of the progress made on the independent report undertaken by Peter Clarke, former head of the counterterrorism command on the Trojan horse affair at the time, and the progress made on his 15 recommendations in this regard?

Baroness Barran (Con): The Government recognise the very important contribution that whistleblowers make. We have had anonymous reporting lines since 2015 and established an online reporting system in 2021, which is available to those working in the sector and to the general public. I hope I can reassure my noble friend that we have made good progress on implementing Peter Clarke's recommendations. To give the House some examples, we have strengthened the Ofsted inspection framework so that its inspectors are now required to assess how well schools protect pupils from the risks of extremism and radicalisation, and to promote fundamental British values. We have pursued action against those who may have breached teacher standards and taken action against those involved in the management of schools. We continue to assess whether other areas of the country could be similarly vulnerable, and we have a dedicated counterextremism function in the department to consider allegations.

Lord Singh of Wimbledon (CB): My Lords, does the Minister agree that extremism arises from claims that the one God of us all has human prejudices and is more favourably disposed to our particular faith, as opposed to others', no matter how we behave towards others? Does she further agree that the teaching of RE in schools should emphasise ethical commonalities, which are much greater than the smaller area of conflict-producing differences?

Baroness Barran (Con): The noble Lord asks a rather profound first question, which I might need a bit more time to think about. On his second point, the principles that underpin fundamental British values, which are now taught in every school, include diversity, tolerance, mutual respect and the rule of law.

Lord Goddard of Stockport (LD): My Lords, the report by the independent review of the Prevent extremism strategy was due to be submitted to the Home Office in September. It was then put back to 31 December, and it still has not been published. Will the Government tell us whether they have received the report and whether they will commit to releasing the strategy before the summer Recess to ensure that the UK's counterterrorism strategy is fit for purpose?

Baroness Barran (Con): My understanding is that the independent review of Prevent is ongoing, and we will consider its findings in due course.

Baroness Meacher (CB): My Lords, at least 6,000 children are being educated in unregistered illegal schools where they are exposed to extremist, intolerant, homophobic and sexist literature. As the Government indicated, can the Minister confirm that legislation will be included in the May Queen's Speech to increase powers for Ofsted to bring illegal schools into registration, and to introduce a register of home-educated children, so many of whom attend illegal schools? If not in May, then when?

Baroness Barran (Con): The noble Baroness will understand that I cannot anticipate the Queen's Speech, but I absolutely share her deep concern about the risks faced by children who are in unregistered schools. The Government have said that at the next legislative opportunity, we will seek to address some of those weaknesses. I can confirm that the Government are committed to a register for home-educated children.

Lord Pearson of Rannoch (Non-Afl): My Lords, do the Government recall that one of the schools in the Trojan horse scandal is actually called the Al-Hijrah School, thus extolling not only Muhammad's journey from Mecca to his takeover of Medina, but his massacre there of 600 Jews in one afternoon, after which his religion went on to conquer most of the known world. Does not the name say it all?

Baroness Barran (Con): I really cannot comment on that; I will leave it to the noble Lord to decide for himself.

Lord Watson of Invergowrie (Lab): My Lords, the safety of children is paramount and whistleblowers often provide a very important service, but it is known that the then Secretary of State for Education had been informed that counterterrorism police had determined that the Trojan horse letter was bogus. None the less, he went ahead by citing the letter when instituting major reforms in Birmingham, through which teachers lost their jobs and schools were closed, and changes in national education policy resulted as well. Can the Minister say whether the Minister in question—who is now, of course, the Secretary of State for Levelling Up—has faced any consequences of those actions and whether the changes he instituted as a result will be revisited?

Baroness Barran (Con):I do not think that the then Secretary of State or any subsequent Secretary of State should in any way apologise for their relentless focus on safeguarding children and the safety of those children. The alleged events and behaviours were confirmed in a number of independent reviews and an independent tribunal.

Baroness Hussein-Ece (LD): My Lords, can the Minister confirm that what was subsequently uncovered by several Ofsted reports, two separate inquiries by the Department for Education, Birmingham council and multiple court judgments was that there was no organised plot but that a small cluster of Birmingham schools, including three run by an academy trust, suffered from a range of issues—poor governance, a lack of child protection safeguards and a failure of leadership? Does the Minister agree that what millions of Muslim families in this country want most of all is for their children to have a good education, to be integrated and not to suffer the consequences of this incident?

Baroness Barran (Con): I absolutely agree with the noble Baroness that the vast majority of Muslim families in this country want exactly what she described. I have had the pleasure of visiting a number of excellent faith schools of all faiths, including Muslim schools, which comply with promoting fundamental British values, as all in your Lordships' House would agree.

The Lord Bishop of Birmingham: My Lords, will the Minister commend the people of Birmingham for their extraordinary efforts since 2014 on cohesion and attempting to learn lessons from this very complicated event, as we have heard in your Lordships' House today? Will she particularly commend them for the United Nations rights reporting school award, which has been applied for every year and is now awarded to 51% of primary and secondary schools in Birmingham, compared with only 18% across the country? Will she commend these actions and others, and ask for them to be replicated around the country so that we might live as one people?

Baroness Barran (Con): I thank the right revered Prelate for his question and for pointing out the success of integration in primary schools; I am happy to share in his welcome of that.

Baroness Sanderson of Welton (Con): As the right reverend Prelate said, it is a complicated situation, but the podcast itself—the reporting as per the original Question—was at times quite worryingly skewed. Does my noble friend think that schools are doing enough to challenge extremism, or, as a result of this podcast, are they afraid of being labelled racist?

Baroness Barran (Con): My noble friend is right that these are very sensitive issues, but challenging intolerant, racist or discriminatory views should be seen as part of a school's wider anti-bullying and safeguarding duties. Actively promoting British values means that any opinions or behaviours that contradict them need to be challenged. I hope my noble friend will be reassured that a survey in 2021 showed that 87% of school leaders reported feeling confident that their school could facilitate conversations around extremism and radicalisation.

COP 26

Question

3.10 pm

Asked by ***Baroness Blackstone***

To ask Her Majesty's Government what progress they have made towards establishing the processes necessary to implement the 'side deals' made at COP26 on (1) coal, (2) methane, (3) forests, and (4) finance; and what discussions they have had with international partners about their implementation.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, we are implementing progress in a number of ways, including through, first, the Powering Past Coal Alliance, the COP26 Energy Transition Council and the Just Energy Transition Partnership with South Africa; secondly, the global methane pledge, working closely with the US and the EU; thirdly, the Glasgow leaders' declaration on forests and land use; and, fourthly, the Glasgow Financial Alliance for Net Zero, whose work is being taken forward in dialogue with the Government, businesses and civil society organisations.

Baroness Blackstone (Ind Lab): My Lords, I thank the Minister for his reply. A number of pledges for funding were made at COP 26 and, as I am sure he is fully aware, 141 countries signed up to the Glasgow declaration on forest and land use to halt land loss and deforestation by 2030. In these circumstances, are the Government taking steps to stop financial institutions operating in the UK funding businesses that are linked to deforestation? The due diligence processes proposed by the Government are of course very welcome, but could more be done to stop the flow of money going to harmful deforestation?

Lord Callanan (Con): I thank the noble Baroness for her question. I am sure there is always more that can be done but we have made considerable strides in terms of green finances, as I am sure she is aware. We are working closely with the Glasgow Financial Alliance for Net Zero, now representing more than 450 financial firms with £130 trillion in assets, to make sure that private finance goes towards green policies.

Lord Howell of Guildford (Con): My Lords, while all these deals are desirable—as are the main COP 26 aims, the net-zero aims and the Paris targets, if we can get anywhere near them—is not the real need now, the urgent deal, to restore some balance in all energy markets to avoid the kind of super volatility of prices, appalling inflation, considerable suffering for many households and the general economic disruption that we face now and which, if it persists, means that we will never get anywhere near the long-term aim of decarbonisation at all?

Lord Callanan (Con): My noble friend makes a powerful point. We are seeing unprecedented turbulence in the energy markets, with massive rises in the prices of fossil fuels in particular. Ultimately, the best solution to high prices in fossil fuels is to use less of them, which is what we are trying to do.

Baroness Blake of Leeds (Lab): My Lords, despite being a signatory to the Glasgow declaration on forests, Brazil shows no sign of respecting its Glasgow commitments. It recorded the most deforestation ever in the Amazon rainforest in the month of January 2022, with 430 square kilometres of forest destroyed. What actions do the Government think will be effective for signatories that fail to make progress, and what reporting is required?

Lord Callanan (Con): Clearly, Brazil signed up to the declaration at COP 26 along with 140 other countries covering over 90% of the world's forest. It is important for us to continue working with Brazil and countries representing some 75% of trade in agricultural commodities to try to move those countries' trade towards more sustainable means.

Baroness Sheehan (LD): My Lords, the IPCC estimates that spending on adaptation needs to reach $127 billion per year for developing countries by 2030, but at the moment adaptation spend accounts for just a fraction of that, and for just 4.8% of tracked climate finance. Do the Government accept that spending on adaptation and mitigation needs to be equal? If so, is that something which will be achieved during our year of the COP presidency?

Lord Callanan (Con): Clearly, we are working with other like-minded countries to try to deliver the maximum resources possible for developing countries to help them to adapt to the effects. I am very proud of our contribution of £11.6 billion of international climate finance over this five-year period.

Baroness Boycott (CB): My Lords, methane, which the Minister mentioned, is 80 times as potent as CO_2 in the near term and cutting it fast is crucial. Since the Industrial Revolution it has been responsible for 40% of heating, and a staggering 47% of it comes from agriculture. The good news—if there is good news—is that it dissipates quickly, in 12 years, so if we can have rapid reduction of methane, we can make a really big difference to the CO_2 in the atmosphere. There are two stumbling blocks. First, what are the Government doing, and is it enough? Secondly, public information is very low about the effect of methane. For instance, one-third of farmers say they do not understand it or know how to deal with it, so I ask the Government what they are doing about that.

Lord Callanan (Con): We were one of the first countries to sign up to the methane pledge. Now over 110 countries have signed up to it, including 15 of the major emitters. We continue to explore policies to reduce methane and all greenhouse gas emissions as we strive to reach net zero.

Baroness Rawlings (Con): My Lords, what assessment have the Government made of the effect of all the bombing in Ukraine on the COP 26 agreement and our net-zero aim?

Lord Callanan (Con): My noble friend makes a powerful point—clearly, it will have a detrimental effect. We need to work with Ukraine to help it in the future to rebuild its nation and make sure that Putin does not succeed in his aim.

Baroness Bennett of Manor Castle (GP): My Lords, going back to methane and the global pledge the Minister referred to, he may be aware of an article in *Environmental Science & Technology* on Wednesday. Stanford University researchers found using aerial data that New Mexico's Permian Basin is leaking six times as much methane as the US Environmental Protection Agency has estimated. That global pledge was utterly focused on stopping leaks and flaring. Surely the amount of fugitive methane that fossil fuel operations create means that to keep under the 1.5 degrees warming target we have to end exploration and new production of oil and gas.

Lord Callanan (Con): I have not seen the article to which the noble Baroness refers. It will probably come as a shock to her that I am not responsible for New Mexico; that is part of the United States' commitment. All we can be responsible for are our own emissions and our own policies. We are striving to reduce our fossil fuel production and use in the UK, but it is a gradual phase-out. Rather than using imported LNG from the likes of the areas she mentioned, it makes more sense to use our own domestic production during that transition period.

Lord Pearson of Rannoch (Non-Afl): My Lords, do the Government consult with any of the many serious scientists who say that net zero is a colossal mistake?

Noble Lords: Oh!

Lord Callanan (Con): We consult with lots of scientists. Of course, there are always ongoing debates about these matters. Irrespective of the opinions of particular scientists, there is now a legal commitment, and it is the job of the Government to work towards what Parliament has legislated for.

Baroness Hayman (CB): My Lords, I declare my interests as set out in the register and hope the Minister will keep listening to the IPCC and the overwhelming scientific advice on this issue. In an earlier reply, the Minister referred to GFANZ and the importance of financial flows into green projects. Does he agree with me that for those flows to be effective and genuinely go into green projects, we need an international green taxonomy that is respected? Can he give any more information on the working party on green taxonomy?

Lord Callanan (Con): I agree with the noble Baroness; it is important that we get a green taxonomy right, and the products and services that will form part of it. We are working hard towards getting it finalised in the UK. I cannot give her a precise timescale at the moment, but we are determined to be a world leader in green finance.

Baroness McIntosh of Pickering (Con): My Lords, can my noble friend tell us how much of the palm oil we import comes from the process of deforestation in countries such as Brazil? Should we not be aiming to reduce the amount of palm oil we import from these sources?

Lord Callanan (Con): Deforestation is clearly a problem. I suspect most of the palm oil we import does not come from Brazil. It is more likely to be from Malaysia or Indonesia, as I think they are our largest sources. Obviously, it needs to be sustainable. Palm oil can be a very useful product—it can form foodstuffs and be part of a whole range of consumer goods, but we must make sure it comes from sustainable sources.

Homes for Ukraine Scheme

Private Notice Question

3.20 pm

Asked by ***Baroness Finlay of Llandaff***

To ask Her Majesty's Government how many applications for visas under the Homes for Ukraine scheme have been received and provided to Ukrainian refugees, and how many refugees have entered the UK since the scheme opened.

Baroness Finlay of Llandaff (CB): My Lords, I beg leave to ask a Question of which I have given private notice, and declare an interest as I applied with my husband on the day the scheme opened to welcome and support a family into our home.

The Minister of State, Department for Levelling Up, Housing and Communities and Home Office (Lord Harrington of Watford) (Con): I thank the noble Baroness for the Question. I can confirm that more than 20,000 applications have been received for the Homes for Ukraine scheme and we will be providing further information in due course.

Noble Lords: Oh!

Baroness Finlay of Llandaff (CB): My Lords, the lack of information is extremely worrying. We have an ethical obligation of non-abandonment, having given a commitment to stand with Ukraine and offer sanctuary. Do the Government recognise that the visa process is causing great distress to already-traumatised Ukrainians who have experienced cumulative losses, pervasive

[Baroness Finlay of Llandaff]
existential terror and mass bereavements and are now increasingly at risk? The process is also increasingly frustrating for the tens of thousands of Britons who want to welcome them into their homes and will provide a long-term commitment. Will the Government heed the call from major charities in the *Times* today to introduce a simplified emergency humanitarian process immediately?

Lord Harrington of Watford (Con): I agree with much of the sentiment of what the noble Baroness said. As far as the visa process is concerned, the only purpose is to provide security checks for this country. As I have said on the record before, when I was given the job to do by the Prime Minister, that was the only constraint. It is my job to make sure that the visa process is speeded up, and in the last two weeks we have gone on to a system where those with Ukrainian passports can fill out the form and download the visa without having to go to a visa centre, which they did only two weeks ago.

Lord Ponsonby of Shulbrede (Lab): My Lords, the Minister said there were 20,000 applications for visas. Can he say how many Ukrainians have actually arrived in this country under this scheme? It is heartening to see how full-hearted the response from the British public has been to it, but what is the position with very young children, newly born babies and those soon to be born? Will their parents need similar visa arrangements for them to come to this country?

Lord Harrington of Watford (Con): The answer to the question on the babies is that children under five do not have passports or visas. The reason why there still have to be visits to visa application centres is our fear that very young children will be used to be trafficked over here, and we need evidence that typically the mother—but sometimes the father—in question is in fact the rightful parent. We really do that as quickly and easily as we can. We cannot ignore the fact that there are people traffickers operating, and we have to do some due diligence.

Lord Cormack (Con): My Lords, is my noble friend aware that today, following meetings with British universities, eight rectors of medical universities in Ukraine—and I have the letter in my hand—have written to the Secretary of State asking that where a British university has invited an academic or a student over, entry into this country be expedited?

Lord Harrington of Watford (Con): I thank my noble friend for that question. I was not aware of the letter and I look forward to receiving it from him personally, because it might be quicker than via the system, and I will answer it very quickly.

The Lord Bishop of Worcester: My Lords, I pay tribute to the Minister for the enormous amount that he has done in a very short space of time. At the same time, however, I acknowledge the frustration that is felt and expressed by the noble Baroness, Lady Finlay, on the part of so many people. We have tried locally to convene people in the community, and enormous support is forthcoming, but there seems to be a problem with the process. One acknowledges the need for security checks, but I have heard a lot of times, anecdotally, about the complexity of the visa process and how difficult it is. Local government is waiting for guidance from the Government here.

Lord Harrington of Watford (Con): It should not be my job always to agree with the questions that are asked but, in this case, I totally believe in the sentiment that the right reverend Prelate expressed. I am looking at every aspect of the visa process to speed it up. The Home Secretary and I have personally spent hours with officials, including at weekends, looking at ways that we can speed this up because, if the security checks are put in place—which they are—it seems to me that there is no reason why people applying on the internet, or indeed at a visa centre in the countries adjacent to Ukraine, should not be able to get a response really quickly to allow them to come here. I cannot stand here for a long time using the excuse that I am new to the job, but I promise the right reverend Prelate and noble Lords that this is an absolute top priority.

Lord Paddick (LD): My Lords, whatever their advice, the security services advise Ministers, but it is Ministers who decide. Why is almost every other European country—Ireland, for example—content to allow Ukrainian refugees to enter visa-free while the UK is demanding a visa before entry? Do our security services not liaise with our allies? Instead of security, is it because such an approach would contradict the proposed inhumane treatment of refugees in the Nationality and Borders Bill?

Lord Harrington of Watford (Con): I cannot comment to the noble Lord about the security services, except to say that I have not seen the advice that they have given to the Prime Minister. However, my instructions are to speed up this process as quickly as possible to move an uncapped number of people here in a humanitarian and decent way. It is my intention to deliver that promise.

Lord Hannay of Chiswick (CB): My Lords, could the Minister be kind enough to tell us whether we or the Government have had any contact with all the other European countries that are admitting people without security checks, to discuss whether the security problems being caused by our policy are disproportionate, or whether the contrary is perhaps true?

Lord Harrington of Watford (Con): I promise the noble Lord that I will engage in that process—in the two weeks that I have been in the job, I have not done so. It is something that we must do.

Baroness Kennedy of The Shaws (Lab): I also welcome the noble Lord to his role. I have heard only good things about him, and I wish him well in what he is doing—it is so important. First, I will ask something

that was raised by the noble Baroness, Lady Finlay: how many Ukrainians have arrived in this country under the system that has been created? We have not heard the answer to that question. Secondly, why cannot women with young children be allowed in—and, if there is any concern, a centre for DNA testing be created immediately? That can be done so simply nowadays; honestly, it is not complex any more. That is a route for dealing with this problem. My other point is that people are applying using their mobile phones, but it is very difficult to do so with young children when you do not have access to a computer. Like others, I say that the simplification of this system is absolutely imperative.

Lord Harrington of Watford (Con): I thank the noble Baroness for her good wishes, although I may not receive them after I answer this question because, for the moment, I cannot give her the answer that she wants, which is the number of visas that have been successfully submitted. The scheme is new—

Noble Lords: Oh!

Lord Harrington of Watford (Con): If noble Lords will bear with me, we will be able to give those numbers in the next few days. I reiterate that it is my intention and that of the Home Secretary to make the visa process as rapid as possible, and literally all my time at the moment is spent trying to deliver that.

Lord Wigley (PC): I draw to the Minister's attention the experience of a Ukrainian refugee known to me who, on Monday of last week, went to a UK embassy in a central European state to make a visa application. They were told they did not deal with them on Mondays, only on Wednesdays and to come back then. Is that a reflection of the urgency the UK Government are giving to this matter?

Lord Harrington of Watford (Con): I ask the noble Lord to give me the details of that person—that is unacceptable and there is no visa centre to my knowledge that would say, "We don't do it on Mondays, we do it on Wednesdays". We have broken such things as the European working time directive with permissions of Governments to get embassies, such as in Warsaw, open seven days a week. It is certainly not our intention to stop people with excuses like that. I would be grateful for that example.

Lord Bridges of Headley (Con): Are the Bank of England and the Treasury working with the ECB to help Ukrainian refugees convert their currency into either euros or pounds? In asking this question, I draw your Lordships' attention to my entry in the register.

Lord Harrington of Watford (Con): I shall write to my noble friend with the answer to that question because I am not party to that information.

Baroness Sheehan (LD): Will the Minister meet me, because I am really struggling to get a family that I am trying to sponsor to fill in the paperwork. They are all women and children—three generations. They are struggling to fill in the application forms and upload the documents: they have to use Google Translate, their internet keeps failing and each time they have to start from the beginning as the page is not saved. That process has to be done for each and every person. Why is there no one on the ground in the Home Office to help them? Honestly, it looks as though the Home Office has designed a system that is programmed to fail. That just does not reflect the generosity of the British people.

Lord Harrington of Watford (Con): I do not accept the statement of the noble Baroness that the system is built to fail—it is not. But there are problems with it. I would be delighted to sit down with her and discuss it. She did make one error in what she said—and perhaps she does not realise it—in that though the forms are in English, there is a drop-down section for each one translating into Ukrainian. But I would be very pleased to meet her.

Lord Cunningham of Felling (Lab): My Lords, it is a simple question: how many Ukrainians have been admitted to the United Kingdom under this scheme? It is quite simple—or is the Minister telling us he does not know?

Lord Harrington of Watford (Con): We will publish the answer to that question very soon, I promise.

Baroness Hollins (CB): My Lords, I understand that a private provider is involved in the visa application process. I wonder whether the Minister could tell the House who that is?

I have another question, which is about health workers who come to this country from Ukraine. Will they be allowed to continue working immediately? They need to. It would mean their qualifications being recognised and, for those still in training, it would mean them being accepted into the medical, nursing and other training institutes as soon as possible so that they can contribute not only to the NHS but to the health of their own nationals who are settling here.

Lord Harrington of Watford (Con): The noble Baroness asked two questions—the first one about an outside provider. As far as I know, the Home Office uses some agency staff to boost up staff; for example, with the night shifts we are doing. I do not know whether there is one general provider. There is not to my knowledge, but if there is, I will drop her a line and say so.

In answer to the question about health workers, we have a section in the welcome pack for Ukrainian refugees about recognising overseas qualifications and we have people who are doing that. Quite as to the specific healthcare qualifications that she mentions, I do not know—I think it depends on the nature of the qualification. But if we are not doing it, we should be, and I will do my best to make sure that happens.

Lord Kerr of Kinlochard (CB): My Lords, I have every sympathy with the Minister in trying to defend the indefensible, but I would be very grateful if he

[Lord Kerr of Kinlochard]
would go back to the department and ask three questions. First, is there any overriding reason why we have to have a visa requirement and none of our European neighbours do? Secondly, if there is a requirement for a visa, could we not initiate—as suggested in debates on the borders Bill—a temporary provisional humanitarian visa for issue on demand? Thirdly, would the Minister please consider whether the security case is still as strong as was put to him? Would he please have a look at this personally? I find it very hard to see these desperate, destitute Ukrainian mothers and children as a plausible security risk compared to, say, Russian oligarchs with strong KGB or FSB connections.

Lord Harrington of Watford (Con): I could not really dispute the rationale of what the noble Lord said last; I do not think we can compare oligarchs who are not allowed here to refugees who are. We want to expedite them coming here as quickly as possible. I will look at the security advice. To reiterate, at the moment, our policy is that we need the security advice. A visa is needed, but it is done as quickly as possible. As the days and weeks go on, I intend to make sure that that happens faster and faster.

Business of the House
Motion on Standing Orders

3.36 pm

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

That Standing Order 44 (*No two stages of a Bill to be taken on one day*) be dispensed with on Wednesday 30 March to allow the National Insurance Contributions (Increase of Thresholds) Bill to be taken through its remaining stages that day and that therefore, in accordance with Standing Order 47 (*Amendments on Third reading*), amendments shall not be moved on Third Reading.

The Earl of Courtown (Con): My Lords, I beg to move the Motion standing in my noble friend's name on the Order Paper.

Motion agreed.

Down Syndrome Bill
Order of Commitment

3.36 pm

Moved by ***Baroness Hollins***

That the order of commitment be discharged.

Baroness Hollins (CB): My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

Motion agreed.

Animals (Penalty Notices) Bill
Order of Commitment

3.37 pm

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

That the order of commitment be discharged.

Lord Randall of Uxbridge (Con): My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

Motion agreed.

Subsidy Control Bill
Third Reading

3.37 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 Subsidy Control 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.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): For the benefit of noble Lords, I will first make a statement on legislative consent. As promised to the noble and learned Lord, Lord Hope, on Report and as I have sought to do throughout passage, I would like to update your Lordships' House on the legislative consent process.

Your Lordships will understand that there remain differences of opinion between the devolved Administrations and the Government. This includes the Scottish and Welsh Governments' retained in-principle objection to subsidy control being a reserved matter, and their objection to the inclusion of agriculture in the scope of the Bill. It is therefore with regret that I inform your Lordships that we have not been able to convince the devolved Administrations of the need for the UK Government to act in this key area. This is, of course, not the end of our engagement with the devolved Administrations. It is our intention to continue to work closely with them on the future regime, and accordingly our next steps will focus on agreements at working level to support the operation of the Act, including a memorandum of understanding in two parts.

I want to reassure noble Lords that it has never been our intention to proceed without consent in place. Our preferred approach throughout has always been to secure legislative consent Motions. I want to reassure the House that the Government remain fully committed to the Sewel convention and the associated practices for seeking consent. We will of course continue to seek legislative consent from the devolved legislatures when applicable.

Lord Hope of Craighead (CB): I am grateful to the Minister for fulfilling his commitment and producing the report for which I asked. It is disappointing, but I

am reassured by the latter part of his statement—that engagement with the devolved Administrations will continue. I very much hope that that will produce a more fruitful result than has been achieved so far.

Lord Wigley (PC): My Lords, I also express concern that it has not been possible to get agreement. Quite clearly, it is in everybody's interest that the devolved Administrations and the UK Government should be working in harmony on these matters. There are issues, concerning agriculture in particular, that are causing concern. Could the Minister therefore give an assurance that, as his discussions go on with the Governments in Cardiff and Edinburgh, he will keep the House informed and give us an opportunity to debate, discuss, or at least put questions forward to him on, the outcome of any such deliberations?

Lord Dodds of Duncairn (DUP): My Lords, could the Minister outline the position as far as the devolved Administration in Northern Ireland is concerned? He mentioned Scotland and Wales, but perhaps he could touch on what the situation is as far as any legislative consent from the Northern Ireland Assembly—before it was dissolved at the start of this week for the Assembly elections. He is aware—this was raised in Committee—of the grave concerns that there is there now a dual subsidy control system: the EU system in Northern Ireland and the GB system now applying to England, Scotland and Wales. This could, as he said in his own letter to the chair of the Protocol on Ireland/Northern Ireland Sub-Committee on 22 March, cause real problems and confusion for Northern Ireland.

Lord Callanan (Con): I thank noble Lords for their contributions. In response to concerns of the noble Lord, Lord Dodds, of course I understand the points he is making. He will be aware that negotiations continue on the operation of the Northern Ireland protocol. The noble Lord and I have discussed this a number of times. The Northern Ireland Executive have not been able to respond formally to our request for a legislative consent Motion, given their current status. We will, of course, continue to work closely, as far as possible, with the Executive and with the officials. I will be certain to update the noble Lord when I am able to do so.

3.42 pm

Motion

Moved by ***Lord Callanan***

That the Bill do now pass.

Lord Callanan (Con): I am delighted to open the debate. I am grateful to all noble Lords who have participated in the many debates that we have had across Your Lordships' House, to create a new domestic regime that will deliver on our international obligations but, crucially, will enable central government, the devolved Administrations and public authorities the length and breadth of the United Kingdom to deliver for their people and their communities.

It is my great pleasure to thank all those who have supported the progress of this Bill. First, I thank my noble friend Lady Bloomfield; it is always a great pleasure to work alongside her. I express my thanks for the considerable contributions that have been made on the Floor of this House in relation to this Bill. I thank, particularly, the Opposition—the noble Lord, Lord McNicol, and the noble Baroness, Lady Blake—for their constructive challenge and the discussions we have had on the Bill, most notably on the issue of transparency, where we have been able to move a lot in response to the concerns raised in particular by the Opposition. It is also worth paying tribute to noble Lord, Lord Fox, for his engagement, and to his Liberal Democrat colleagues for their role in improving this legislation, particularly with regard to devolved powers—and for his personal forbearance with me in my illness during the latter stages of Report. I thank the noble Lord, in particular, for bearing with me.

3.45 pm

I would also like to thank some of the Back-Bench colleagues who have contributed. I thank the noble Lord, Lord Ravensdale, for his diligent work on issues pertaining to areas of local and regional disadvantage; the Bill is better for that consideration. I thank my noble friend Lord Lamont, who is not in his place, for his constructive challenge, notably in relation to the role of the CMA. In that vein, we made improvements to the Bill to ensure that the CMA reviews the operation of the regime earlier than it otherwise would have done, ensuring that issues such as upload thresholds and deadlines, limitation periods and routes to challenge remain appropriate. I also thank the noble and learned Lord, Lord Thomas, who made significant contributions to our debates and proposed well-reasoned amendments on this Bill. His contributions, made in his calm, deliberate and thoughtful style, have considerably raised the quality of the debate. Many other Front-Bench and Back-Bench colleagues contributed; they are too numerous to mention, but I thank them all.

I shall say a brief word on the excellent team of officials who have made this Bill possible. Again, there are far too many to mention today, but I shall single out one or two in particular: my private secretary, Ruth Kaufmann Wolfe; the Bill manager, Thomas Bingham, and the wider Bill team; and the policy lead, Matilda Curtis, and her team of officials. I thank them for their joint work over a long period of up to 18 months to make this Bill what it is today. I also pay tribute to some of the legal colleagues—Michael Brannagan, Giovanna Amodeo, Edd Williams and Tom Davis—as well as the wider subsidy control team and colleagues across government, who have been fundamental to making this Bill work and become a success. Today marks the culmination of almost two years of work on their part. I also recognise once again the exemplary work of the Office of the Parliamentary Counsel in both drafting this Bill and supporting its progress at so many points during its passage so far. The House authorities, parliamentary staff, clerks and doorkeepers, as always, did their work excellently and competently.

We will continue to gather feedback as the regime is developed ahead of implementation. I am happy to report that our subsidies of particular interest regulations

[Lord Callanan]
consultation is now live and will run until 6 May, for any colleagues who wish to participate. I am grateful once again for your Lordships' House's scrutiny and the improvements to the Bill that have resulted from it, and I look forward to the Bill receiving Royal Assent.

Baroness Blake of Leeds (Lab): I will start by sharing our concern at the information the Minister gave regarding the devolved authorities. We look forward to being involved in ongoing consultation and discussions as time goes forward. I echo the comments already made by the noble and learned Lord, Lord Thomas, and the noble Lords, Lord Wigley and Lord Dodds, on this issue.

I think it is fair to say that this Bill might not have been noticed by as many people as the more high-profile Bills that are going through the House at the moment, but everyone who has been involved in it recognises the significance of the work undertaken and just how deep the implications are for how public money will be spent for years to come. As we made clear from the outset, we agreed with the Government's core principles in this area, including introducing greater flexibility through the removal of pre-notification requirements. However, as we have stressed throughout the debates on this Bill, with power comes responsibility. It is for this reason that we have focused on increasing the transparency obligations on public authorities, as the Minister just outlined. We are talking about large sums of public money, which must be easily accounted for and deliver real value for money. Unfortunately, we have had too many examples recently where we cannot claim that that is the case.

However, we are very grateful to the Minister and to the Whip, the noble Baroness, Lady Bloomfield, for their genuine engagement on these matters. Although we did not achieve everything that we would have liked, we believe the Bill is much improved as a result of the substantial package of concessions brought forward on Report.

I would like to echo our profound thanks to everyone involved through the Bill team. Our access to officials has been particularly helpful; they have been very open. It has enabled us to delve into the detail and discuss potential ways forward, whether legislative or non-legislative.

Despite good progress being made in most areas, there are significant concerns in others—particularly, as we have already highlighted, in relation to the involvement or otherwise of the devolved Administrations and the substantial financial and practical barriers imposed on SMEs and others if they wish to challenge individual subsidies. A particular concern of the business community is the lack of clarity in the guidance around the decision-making on when subsidies will be awarded.

We will have a review, as is outlined in the Bill, of some of these matters in three years' time, and we hope the Government will act quickly in response to the findings. Until then, we hope public authorities will make the most of this new framework. In particular, I am appreciative that the Government listened to all the arguments about focusing and directing money towards areas with economic deprivation. This is a welcome shift from the Government across this area.

Another regret is failing—just—to pass the amendment to improve the Bill's green credentials. We hope all levels of Government will continue to have regard to the fight against climate change. Pursuing a net-zero strategy is not just a statutory duty but a moral one. I firmly believe we have missed a trick by not more firmly linking net-zero obligations to the awarding of subsidies.

All that remains is to thank all colleagues who took part during the Bill's various stages—particularly, as has been highlighted, the noble Lords, Lord Fox, Lord Lamont, Lord Ravensdale and Lord Wigley, the noble and learned Lord, Lord Thomas, and the noble Baroness, Lady Sheehan. I would like to pay tribute to my noble friend Lord McNicol. Unfortunately, he cannot be with us today, but I think we all recognise the amount of work he put in. I would like also to add my thanks to all the staff, clerks and doorkeepers in the normal manner. I end by thanking sincerely Dan Stevens, the officer in our office, for his unfailing patience, support, and clarity of thought and purpose, and for helping us to put down the improvements sought.

Lord Fox (LD): My Lords, it is genuinely pleasing to see the Minister looking in a substantially better state than he did at the end of Report. I am pleased that he is back up and at the Dispatch Box.

As the Minister has repeatedly told us throughout the process, this Subsidy Control Bill is a consequence of the TCA. The Minister also claimed that it was rare for such controls to exist in other countries around the world, and said it would be a permissive regime, the antithesis of the regime it is replacing. So it is something of a legislative experiment as it goes forward.

Since its introduction, as has been stated, improvements have been made, and the Bill leaves your Lordships' House much improved. My noble friends, Her Majesty's loyal Opposition and some important voices from the Cross Benches and Conservative Benches have helped to make these improvements, along with the work of the Minister and his colleagues.

But noble Lords would expect me to say that it remains a flawed Bill. As was highlighted, it is more transparent—but a £99,999 subsidy need not be reported, and that remains a very large sum of money that can be passed from government to business without a report. It invests some powers to the CMA, but insufficient authority. I align myself with the comments of the noble Baroness, Lady Blake, on the subject of the burden on SMEs and the absence of any net-zero quantity.

The biggest uncertainty hanging over the Bill, as far as we can see, is this: if it is permissive, what will it permit? True to the nature of this Government, they have delivered a Bill that is not designed to deliver a strategy—almost the opposite. By permitting authorities to deliver subsidies or subsidy schemes in their area of control, essentially independent of schemes in adjacent areas, they are creating the potential for huge confusion and conflict, with money flowing from the richest areas back into their own communities to ensure that they remain the richest areas. The failure to grasp the need to map deprivation systematically could well render this system very divisive.

My noble friend Lord German used the Welsh example, but I will use an English one, because the Minister is the English Minister. As we know, EU funding in Cornwall over the seven years from 2014 to 2020 was nearly €600 million. This was based on a realistic assessment of the relative poverty of that county. The proof of this Government's subsidy scheme, system or control, and of their promises, will be how much UK money flows into Cornwall.

As the Minister mentioned, there was the whole devolution issue. I will not repeat all the arguments, but the Government's mantra of repeating over and again "It is a reserved issue" does not represent negotiation, nor is it designed to win the hearts and minds of those who sit on the edge of the unionist/separatist divide—quite the opposite; to then include agriculture, which is a devolved issue, in the Bill made matters substantially worse. We heard from the Minister that these were the issues driving the absence of legislative consent. Despite the many improvements we have seen, we on these Benches remain very concerned about the effect this Act will have on the union, but I will pass from this critique and move on to the Oscars ceremony part—the Minister can be assured that I do not mean that part of it.

I again thank the Minister. He showed remarkable fortitude during the Bill's passage, along with his Whip, the noble Baroness, Lady Bloomfield, who showed the customary availability and relatively good humour. Those in Bill team itself were, as usual, authoritative and helpful. I thank them, as set out by the Minister.

During the debates, the noble Lord, Lord McNicol, and the noble Baroness, Lady Blake, the noble Lord, Lord Ravensdale, the noble and learned Lords, Lord Thomas and Lord Hope, as well as the noble Lord, Lord Lamont, made significant contributions that helped to shape the Bill. On these Benches, my noble friends Lady Sheehan, Lady Randerson, Lady Humphreys, Lord German, Lord Bruce and Lord Purvis offered wisdom and experience. In the office, making sure that the whole thing held together, we must once again thank Sarah Pughe, along with Dan in the Labour office, who helped to drive us along.

So the Minister will have his Act. Whether it is indeed a subsidy control regime remains to be seen. I think many of us still suspect that it is actually a mechanism for central government to parachute schemes into areas of its choice, unchallengeable by devolved authorities, local authorities or indeed the CMA.

3.59 pm

Bill passed and returned to the Commons with amendments.

Elections Bill

Committee (6th Day)

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

4 pm

Amendment 152

Moved by ***Lord Wallace of Saltaire***

152: After Clause 13, insert the following new Clause—

"Voting by EU nationals

In section 1(1) (entitlement to vote in parliamentary elections) of the Representation of the People Act 1983, for paragraph (c) substitute—

"(c) is a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union; and"."

Member's explanatory statement

This new Clause would allow EU citizens to vote in UK parliamentary elections.

Lord Wallace of Saltaire (LD): My Lords, I regret that the noble Lord, Lord True, is unable to be with us. I gather he is down with Covid, and I send him sympathies. I hope I have not caught it from him—we shall press on. This creates some further difficulties in completing the Bill, on which I hope I may briefly remark. We need to have some discussions between Committee and Report. I hope there will be some—time is short and they need to be fixed up very quickly. As many of us have remarked, the state of the Bill is unsatisfactory. We know that the Public Administration and Constitutional Affairs Committee said that the Bill was unfit for purpose as presented to the Lords. We have explored many areas already in Committee, such as overseas voting, which we debated late at night in our previous sitting, when it was quite clear that the Government did not have answers to a number of our questions. How that will be implemented if the Bill is passed is, to put it mildly, extremely unclear and probably very messy.

We all regret the missed opportunity of this Bill. It is clear that there will have to be another elections Bill within the next two to three years to achieve what the Law Commission proposed, which is a simplification and rationalisation of our electoral law. This Bill is not that.

This group of amendments deals with the tangle of voting rights left by imperial history and various other things, which the Government appear not to be concerned to rationalise. We have rights for Commonwealth citizens. We have had rights for EU citizens. We have no rights for long-term residents from the United States, which is extraordinary given the Conservative Party's long feeling that we were closer to the United States than any other country.

My Amendment 152 is a probing one to spark a discussion on how we might think about rationalising the system. EU citizens resident in this country for a very long time—there are 100,000 French citizens in the London area alone, for example—have had the right to vote in British elections. Some would say that they should no longer have the right to vote in British parliamentary elections, but the case for the right to vote in British local elections for those who are resident here, pay council tax and contribute to other British taxes seems to me strong. As far as I am aware, the Government have no particular clear ideas on any of this.

Amendment 155 in the name of the noble Baroness, Lady Hayman, takes us to a recommendation of a number of reports that preceded the Bill: that we should move towards a residency requirement. That seems a rational suggestion. It has a clear principle, unlike the present situation. A residency requirement,

[Lord Wallace of Saltaire]
at least for voting rights in local elections, would be a very sensible way forward. I am very sorry that it is not in the Bill as drafted.

The rationale for extending rights to overseas voters does not seem to go along with a refusal to recognise that the argument for extending the rights of residents to local voting ought to be considered in the same context, but, sadly, the Bill leaves that as tangled as before. Part of the problem is that the concept of UK citizenship is also a tangle of historical legacies and anomalies.

I find it odd that the Government are happy with this. Do they not consider that a wider reform with a clearer rationale for the changes proposed is now needed? Why is it not in the Bill? The passage of this Bill in its current form will require a successor Bill as soon as possible by this Government or their successor. I beg to move.

Lord Desai (Non-Afl): My Lords, I speak on this amendment because, when I arrived here in 1965, I had an Indian passport and I was surprised when, during the 1966 election, someone said to me, "Have you voted yet?" I said that I did not know I had voting rights in this country. He said, "Get on with it and get yourself registered." This explained to me that, in the UK, we were subjects, not citizens. It was as subjects of the monarch that we qualified. Since the monarch also ruled over the Empire, all subjects of the Empire were equally qualified to vote in the election.

As far as I remember, the notion of citizenship only came with our membership of the European Union. We began to talk of ourselves as citizens, and we had differently coloured passports and things like that. However, the muddle that the noble Lord referred to in moving his amendment is that we are not clear as to what entitles us to vote. Is it our status as subjects of an empire? Is it our status as local taxpayers, as used to be the case before the universal franchise came in? Is it residency? If there is ever another, better version of this Bill, perhaps the first part of it should clarify the status of an individual under which he or she is qualified to be a voter. Until the muddle is clarified, we will have to proceed with a compromised mish-mash of rights.

Baroness Suttie (LD): My Lords, I also pass on my best wishes to the noble Lord, Lord True, for a speedy recovery. Having had it myself fairly recently, I can say that it is a horrible illness.

I want to move on to the question of Northern Ireland and speak in favour of Amendment 156 in my name, which the noble Baroness, Lady Ritchie of Downpatrick, has signed. It would ensure that EU citizens lawfully resident in Northern Ireland can continue to stand for election and vote in Northern Ireland district elections after the end of the Brexit transition period. It is primarily a probing amendment, however.

In the EU-UK withdrawal agreement, the UK Government committed, under Article 2.1 of the Northern Ireland protocol, to ensuring that certain equalities and human rights in Northern Ireland would continue to be protected after Brexit. Does the Minister—I appreciate that he is filling in at rather late notice—agree with the assessment of the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland that the Bill as it stands risks stepping back from those commitments and may in fact be in breach of the UK's obligations under Article 2.1 of the protocol? Will he undertake to set out, either in response to this amendment or in writing following this debate, the Government's assessment of the relevant provisions of the Elections Bill in the context of their conformity with our commitments under Article 2.1 of the Northern Ireland protocol?

Baroness Ritchie of Downpatrick (Lab): My Lords, I am delighted to follow the noble Baroness, Lady Suttie, in support of Amendment 156. I also pass on my good wishes to the noble Lord, Lord True, for a speedy recovery. I agree with the thrust of the amendments in this group; as a democrat, I believe in a fully functioning democracy in which all residents are allowed to register to vote, exercise their mandate at elections and be candidates in elections. That is what a functioning democracy is about. Universal franchise is vital in a liberal democracy and should be one of the hallmarks of the UK—free, fair and unencumbered elections.

Amendment 156, in my name and that of the noble Baroness, Lady Suttie, deals with that specific Northern Ireland situation. It is a probing amendment. We seek to delete paragraphs 7 to 9 from Schedule 8, which would ensure that all EU citizens lawfully resident in Northern Ireland continue to be able to stand as candidates and vote in district council elections in Northern Ireland.

I was a councillor in Northern Ireland for many years, as was the noble Lord, Lord Dodds, across the Chamber. We valued our time in local government as a learning curve. Many of those who participated in those elections and many new residents in Northern Ireland would also value that participatory part of democracy, in voting in district council elections and having the ability to be a candidate. I can think of a colleague in Derry and Strabane District Council, who is originally from Kenya, and is now a serving councillor.

This section does not apply to British and Irish citizens; it applies to EU citizens who have arrived to reside in Northern Ireland since January 2021 and whose country does not have a reciprocal agreement with the UK. I remind your Lordships, and particularly the Minister, that this is in some ways reminiscent of the "I" voter situation in Northern Ireland, which was removed by the Elected Authorities (Northern Ireland) Act 1989, when everybody in Northern Ireland was granted universal franchise. I remind the Minister that elections and the right to exercise one's franchise are very emotive issues in Northern Ireland. Please do not go down this road and create further problems with other EU nationalities and create barriers on the island of Ireland. It is highly important that that does not happen, because this is an emotive and politically charged issue, as it deals with EU citizens and excludes them; it could be perceived as a discriminatory provision.

The noble Baroness, Lady Suttie, referred to the equality and human rights commissions in Northern Ireland, which are concerned that this provision of the

Elections Bill could contravene Article 2 of the Ireland/Northern Ireland protocol, which states that there must be

"no diminution of rights, safeguards or equality of opportunity"

provisions, as set out in the Good Friday agreement, resulting from the UK's withdrawal from the EU. It could be perceived that this provision, within paragraphs 7 to 9 of Schedule 8 to the Bill, could contravene those rights under Article 2 of the protocol. If passed into law, this provision would create two new types of EU citizenship for the purposes of UK elections law—a qualifying EU citizen and an EU citizen with retained rights—in addition to the EU citizens who do not fall into either of these categories.

The right of EU citizens to vote in local district council elections in Northern Ireland was underpinned by EU law until the end of the transition period. I declare an interest as a member of the Protocol on Ireland/Northern Ireland Sub-Committee in your Lordships' House. We have engaged with Minister Burns, a Minister for the Northern Ireland Office in the other place, on this issue and we have received a response. An identical response was received by the equality and human rights commissions.

In my humble view, so far in those responses the Government have still not set out in full their assessment of the relevant provisions of the Bill in terms of compliance with Article 2. Will the Minister do that today? If that is not possible, will he write? It is most important that that is done to satisfy the concerns of both commissions.

Further, will the Minister and his colleagues commit to meet both commissions in Northern Ireland, either via the Cabinet or the Northern Ireland Office, to discuss Article 2 provisions under the Ireland/Northern Ireland protocol and how this contravention and these issues can be addressed to ensure that there is a full, participatory democracy that excludes nobody and includes all?

4.15 pm

Lord Shipley (LD): My Lords, I will speak to Amendment 155A in my name, which would give the right to vote in local elections to all those liable to pay council tax to that authority. I agree with the noble Lord, Lord Holmes of Richmond, who spoke last week on an amendment concerning the right to vote in parliamentary elections for 16 year-olds who pay income tax. As he pointed out, there is an important principle: there is a connection between a requirement to pay tax and the right to vote. Mine is a probing amendment. Taken as a whole, this group raises the question of whether the key factor for the right to vote should be nationality, residence or liability for taxation—issues which the Bill does little to address.

The Minister will not need to be reminded of the events that took place 3,269 miles to the west of here on 16 December 1773, when a large number of tea chests were thrown into Boston Harbor in protest against the imposition of taxation without representation. Because my aim with Amendment 155A is to secure the right to vote in local elections for all those with an obligation to pay council tax, that would mean taxation with representation. The amendment takes as its starting point the position of those who are required to pay council tax but who cannot vote in the local elections that will decide how the money they pay is spent. There is a principle at stake here: it becomes almost an issue of consumer rights.

In some cases, notably that of EU citizens, a resident here before 31 December 2020 will keep their local vote. However, the right of EU citizens to vote in local elections following our withdrawal from the EU is being denied to those arriving after 31 December 2020, except where reciprocal arrangements or agreements are in place. The implication of this is that citizens of Spain, Portugal, Luxembourg, Poland, Ireland, Cyprus and Malta will be able to vote in local elections, but citizens of other EU countries or non-EU countries will not. Except that, if citizens of those other EU countries lived in Wales or Scotland, they would be able to vote in local elections, and indeed for elections to the Welsh and Scottish Parliaments.

Am I alone in finding all these differences very hard to justify? The decisions in Scotland and Wales seem to me to be eminently sensible, although they should go even further and extend the right to vote to non-EU citizens who are paying council tax in those countries.

I want to see the franchise widened and a connection clearly made between taxation and the right to vote. I hope the Minister will be willing to think further about the complications that the Bill will introduce across the United Kingdom. I wish that we were still a United Kingdom, but with so many different rules in different places, with different categories of the right to vote, it is getting far too complicated. My amendment might well solve the problem.

Baroness Meacher (CB): I shall contribute briefly, following the contribution of the noble Lord, Lord Shipley, in support of Amendment 155A. I too fully support the principle of "no taxation without representation". If the Minister is unable to support this amendment, I wonder whether he could explain to the House why the Government do not accept this incredibly reasonable principle. How can they not agree to that? I do not get it.

The complexity and confusion referred to by the noble Lord, Lord Shipley, will inevitably be caused by introducing different voting rights for EU citizens who arrived in the UK before 2021 and those who arrived in or after 2021, and for those have arrived from one EU country rather than from another. It seems that Scotland and Wales are extremely sensible, as they have managed to adopt residence-based voting rights. The case for a UK-wide approach on this issue is incredibly strong and the Government will need a powerful argument to deny it. I hope they are able to make a sensible decision and accept the amendment.

Viscount Stansgate (Lab): My Lords, I add my name to those who have expressed their regret that the noble Lord, Lord True, is not in his place to respond to today's debate. All I can say is that I wish him a good recovery. If he is watching us online, I do not know whether that will aid his recovery or delay it.

[Viscount Stansgate]

The noble Lord, Lord Shipley, and other Members, including my noble friend Lord Desai, have all identified that this is an important part of the Bill but it is a mess. It is really difficult to encapsulate what we are trying to talk about, but I wanted to intervene to make one point. One of the general principles that we should apply is that if you have the right to vote, however that is defined, then you should also have the right to be a candidate. You may say that that is a rather simple and obvious thing to say, but I shall give the Committee an example: between 1969 and 2006 we had a period where there were people with the right to vote but not to be a candidate. It is remarkable, really, that it was only in 2006 that the law was changed to allow people from the age of 18 to 21 to be a candidate as well as being an elector. I have good personal reasons for being very well aware of that fact. I wanted to introduce the principle that there is a good case for having a system whereby, if you have the right to vote, you can also be a candidate in the election in question.

Lord Scriven (LD): My Lords, I also wish to speak in this part of the debate in Committee on these amendments.

I have to be totally honest with the Committee: when I was asked to be part of the team on this Bill, I was not an expert on elections other than that I had been a candidate and I had been the leader of a council and seen election officers' work close up. As we have progressed through the Bill, some issues have become clearer but some have confused me even more as we have debated them. This is a part of the Bill that really confuses me. What is the basis of the electoral franchise in the UK? What is the platform that is easily understood by a citizen? This is an example of why electoral law needs to be simplified.

I want to deconstruct what that means in the terms of my noble friend Lord Shipley's Amendment 155A. Let us take it down to ordinary citizens. In a local authority area, you could have someone who owns a holiday home, and so has an address there, but they never live there. They rent that accommodation out for 52 weeks a year, yet they have a right to vote there. They do not use the services and do not contribute other than in council tax. Another person lives there for 365 days a year, works in the local area and pays taxes, volunteers at the local food bank, is an upstanding member of the community and gets involved in litter picks, is an active citizen in the community, uses the bin service, wants to get involved in planning and is affected by planning policy, has friends who use social care, wishes to use the library—and library services are starting to charge—and uses all the local services but, because of either where they came from or when they came to the UK, they do not have a vote. Yet someone in that area who has no connection other than that they can purchase a holiday home can vote.

Lord Grocott (Lab): I very much agree with the thrust of the comments of the noble Lord, Lord Scriven. In the light of that, would he apply a similar argument to the extension of the franchise, contained in a different part of this Bill, to some 2 million overseas electors who have not been in the country for 40, 50 or 60 years and do not pay taxes here? Does he agree that that is an oddity in our electoral system as well?

Lord Scriven (LD): The noble Lord is just slightly ahead of me, because I was going to come on to that. I will answer his question, but I was just pointing out very clearly the inconsistencies in what happens at local level. I will then answer his question on the other issue with what I was going to say, because if the Bill passes in this form, we will have to consider that. Will the Minister explain in very simple terms, to somebody who is not an expert in elections but just an ordinary citizen, how that can be justified? There must be a sense of fairness as the basis for people voting at local elections.

On national issues, if the Bill passes, we could also be in the situation referred to by the noble Lord, Lord Grocott. Take somebody who has not been in this country for 50 or 60 years: they have no family here; they do not pay taxes here; they left when they were 18 and have never worked here. They will be able to vote. At the same time, there are some people who have been here for 20 or 30 years, who pay their taxes and work here, but because of their status, they cannot vote. Can the Minister explain how that would be perceived as fair and a good platform for our electoral process? It seems to me that this is an important matter. This is the whole basis on which people not just pay tax and are citizens but actually influence services and taxes that affect their very life by being resident here. But as the noble Lord, Lord Grocott, said, if the Bill passes, people who have not lived here for 50 years will have the right to vote and influence government policy, even though it does not directly affect them.

Lord Hodgson of Astley Abbotts (Con): My Lords, I wish to send my good wishes to my noble friend Lord True. I hope that if he has got Covid at all, he has it very mildly—he might think that preferable to another day on this Elections Bill Committee. I certainly wish him well, as I am sure we all do.

I made common cause with the noble Lord, Lord Wallace of Saltaire, on various occasions in the past, and I shall do so again when we get to Amendment 197 in group 6 on donations. However, I am afraid that I part company with him on this occasion, and I take a rather different—some might say old-fashioned—view.

I go back again to my Select Committee on Citizenship and Civic Engagement and some of the evidence that we got and lessons that we learned while going through that episode. As good citizens, we all have rights, but we have an equal and opposite number of responsibilities. Unless each of us understands the balance between those two things, our society might become fractured.

One of the things that most obsesses me about our modern society is the increasingly widely held view that to compromise is to show yourself as weak. Modern social media shows us with reinforcing messages that we are right—and we all want to be proved right—and has fed that view in a very bad way. But compromise is the oil that makes our society work,

and without it, as I said, it will become fractured and tense. I am spending a few seconds on this because it shows what a highly complex matter it is to be involved in the detail of a country—the balance that needs to be struck and for which, for younger people, good citizenship education is really key and important.

4.30 pm

Although I will support the Government if they are going to reject the amendment from the noble Lord, Lord Wallace, I have to say that, after all the work that we have done and all the good words we have heard about citizenship education, today's White Paper of 60 pages has only one mention of citizenship education in the whole thing. How will we get people to connect with what it means to be a citizen if we do not get that properly taught? I regard this as a very sad and sorry miss by the Government; I hope that something can be done about it as we develop the White Paper and the proposals in it.

I accept that the rights that come with citizenship in this country include a right to vote and, of course, it is absolutely essential that we encourage people to use that right. However, it is also a privilege for which earlier generations have strived, fought and occasionally, unfortunately, died. Having the right to vote is not like getting a driving licence or even a passport. The act of voting goes to the very heart of how our country is run, the philosophy and practices that we follow and the values that we endorse. Put simply, to be entitled to vote, you need to show pretty irrevocably that you intend to make this country your home, by becoming a citizen; then, of course, you are welcome to join the rest of us in deciding how the country is run.

Reading through some papers for this debate, I noticed that this country was described by a US commentator on a final dispatch before she returned to the United States as

"complex, incorrigible, often infuriating, endlessly perplexing, stroppy, ironic and fiercely disputatious".

We are trying to decide how our Government are to deal with a society that can be described in that way. I am afraid I cannot accept that someone who pops over from, say, France should be able to vote in our elections any more than I should be able to vote if the situation were reversed. In short, the privilege of voting requires a combination of long-term commitment, physical presence and an understanding of current British life and how it is lived therein. I note that Amendment 155 in the name of the noble Baroness, Lady Hayman, seems to be groping towards some further developments in that area and I have some sympathy with what she is trying to achieve, particularly for those resident in a country where there are reciprocal voting arrangements, but I fear that her approach is probably too complex or possibly too open to abuse of this great privilege.

I have two final points to make. First, as I said, I can see the arguments for widening the franchise in cases of reciprocal rights being given by another country. That is an argument to which we shall come in more detail in Amendment 154 tabled by the noble Lord, Lord Green of Deddington, in support of which I expect to speak. Finally, some noble Lord—probably the noble Lord, Lord Scriven, or the noble Lord, Lord Grocott—will say that my remarks run completely counter to the provisions of Clause 12 extending the right of British citizens anywhere in the world indefinitely to vote in UK elections. Such an accusation would be correct. I think the Government have misjudged this issue, to put it no higher, and that our manifesto commitment was a plain mistake. For someone to be able to emigrate to Australia or retire to Jamaica and have continued participation in UK elections over tens of years seems plain wrong, as the noble Lord, Lord Grocott, said. What can a person know about life in Britain after an absence of 20 or more years? Why should they have an equal say to a person who has lived here and contributed to the life of this country throughout that period? However, the fact that this is an ill-advised policy does not mean that we should add another ill-advised policy to it, and I am afraid that I regard the policy proposed in Amendment 152 as just that.

Baroness Bennett of Manor Castle (GP): My Lords, I offer Green support for the general trend of these amendments. I also join the rest of the House in wishing the noble Lord, Lord True, a quick recovery. I very much agree with the comments from the noble Lord, Lord Scriven, and disagree with the noble Lord, Lord Hodgson. If someone is here contributing to society and is a part of this community—maybe that is only for 20 or 30 years and maybe they will eventually go back to the country they came from, to care for their elderly parents or another reason—they should have a say. They have chosen to make this their home and we should recognise that with the vote.

It is really interesting if we look at the overall context of the Bill—and I very much agree with the comments of the noble Lord, Lord Wallace, about the general sense of confusion and the lack of a real sense of clear direction—that where there is a sense of direction, it is utterly the wrong direction. As we were talking about with voter ID and offering a positive alternative of automatic voter registration, we have seen a trend over centuries for more and more people to have the right to vote. Yet, what we have done right now with the Brexit situation and with the rules as they currently are with the Bill without these amendments is that fewer and fewer people are having the right to have a say. That is a diminution of what democracy we actually have.

I very much agree with the comment from the noble Viscount, Lord Stansgate, that if you are able to vote, you should be able to stand. There is a really interesting case study related to that of the kind of tangles that electoral law can get itself into. Between 1918 and 1928, there were certain groups of women who could stand but not vote. The Parliament (Qualification of Women) Act 1918—with 27 words, it is the shortest law on the statute book—created a rather strange tangle where women were able to stand, and indeed some women did stand, when they could not vote for themselves. That really is an illustration of how you can get yourself into a mess when things are not properly thought through.

I have some very specific questions. I am aware that the Minister has kind of been landed with this, so I entirely understand if he might wish to write to me

[Baroness Bennett of Manor Castle]
later. One of the things that perhaps many of us in your Lordships' House do not think about very much is that there is another reason to be on the electoral roll beyond voting: being on the electoral roll is good for your credit rating and improves your access to credit. I will confess, it is something I have used many times on the doorstep to encourage people to go on the electoral roll. One of the things we will do with this current change is to make access to credit more difficult for some people, such as EU citizens who do not qualify for the vote. As we are seeing with all these complications, I wonder whether the Government have really looked at this situation and considered whether it is appropriate to allow that to continue when we are randomly taking that right away from people.

We have already heard very clearly laid out from a range of noble Lords, particularly the noble Lord, Lord Shipley, and the noble Baroness, Lady Ritchie, all the complicating factors about whether you are allowed to be on the electoral roll or not. Are the Government confident that they have given full and clear instructions to all the local authorities in the land to ensure that they are able to implement this effectively? Are people on the roll rightly when they should be? With local elections coming up, I am sure all of us, except perhaps the Cross-Benchers, know people who are out now knocking on doors and talking to voters and potential voters. Is there a place where the Government have set this all out very clearly so political campaigners out encouraging people to get involved can find out who is eligible to vote and who is not? That would be a very useful practical resource to have.

This is something that has just occurred to me as we have been going through the debate: I imagine that to vote when you do not have the right to vote is an offence. Are the Government going to provide directions to acknowledge that some people, with the best will in the world and no ill intention, will end up voting in this coming and future elections when they do not have the right? I think people in that situation should be protected, given the complexities that we have all just heard outlined.

I will briefly make two other specific points. On an earlier group, the noble Lord, Lord Wallace, I think, noted how Scotland has given refugees the right to vote. Given the situation that we see in a world with more and more refugees, and as we will, I hope, welcome more refugees here, I wonder whether the Government have considered that.

I declare my position as co-chair of the All-Party Parliamentary Group on Hong Kong. Of course, BNO passport holders have the right to vote, but their children will not—so it could literally be that someone who was born in Hong Kong on a certain day has the right to vote, but a person born there one day later does not. So have the Government considered the situation of the children of BNO passport holders who have come here with their parents now? The Government have said that they are looking to allow, from September, the children of BNO passport holders to come on their own—so might that not be another group to consider?

Since I have just introduced several other layers of complexity, is not the obvious situation to base this right to vote on residence? If people have made themselves part of the community and contributed to it, that should be the basis of the right to vote.

Lord Dodds of Duncairn (DUP): My Lords, I will speak briefly to Amendment 156 in the names of the noble Baronesses, Lady Suttie and Lady Ritchie of Downpatrick. I too extend my best wishes to the Minister, the noble Lord, Lord True, for a speedy recovery.

This amendment is specifically to do with Northern Ireland, and its basis rests on an interpretation of Article 2 of the Northern Ireland protocol to the withdrawal agreement. The ability to stand for election and vote of EU citizens who were resident at the end of the transition period—or the implementation period, as it was called—on 31 December 2020 is clearly preserved. There is no argument about that; it is set out and is the legal position. So we are talking here about EU citizens who arrived in the UK—or Northern Ireland—after that. I understand that this is a probing amendment, but it is worth pointing out that EU citizens who have arrived since 1 January 2021 will move to a position whereby voting and candidacy rights are granted where there is an agreement with the European Union member state that they came from—they are preserved on a bilateral basis. That is the normal accepted position.

There has been a reliance on an interpretation of Article 2 of the protocol, and a lot of claims are made, appealing to not just the letter but the spirit of the Northern Ireland protocol, with all sorts of extravagant positions that would otherwise not be deemed to be rational or even democratic. People talk about taxation with no representation, and laws are now made over vast swathes of the economy of Northern Ireland, despite no Member of the Northern Ireland Assembly, for which elections will take place on 5 May, or of this or the other House being able to have any say or vote on them. People are running for election to the Assembly in Northern Ireland to make laws for Northern Ireland, yet, in vast swathes of the economy, they have no powers whatever—those laws are imposed on them by the European Union on a dynamic basis, in over 300 areas of law. In a modern 21st-century democracy, that raises severe problems about the democratic deficit.

I return to this particular amendment. Article 2 of the protocol confers no right on Northern Ireland citizens to have voting rights in an EU member state in which they choose to reside. Therefore, it would seem bizarre to argue that it confers rights on EU citizens to vote in Northern Ireland district elections—that seems totally incongruous and spurious, and it is a wrong-headed argument. For that reason, I would obviously oppose that amendment if it is pressed.

4.45 pm

Lord Collins of Highbury (Lab): My Lords, I too wish the noble Lord, Lord True, a speedy recovery and a quick return to duty, hopefully in time for Report. I am sure that the noble Earl would be pleased by that.

This has been a very good debate, because it has focused on broader issues of principle which we need to probe the Government on. The noble Lord, Lord Wallace, is absolutely right, as we have said at a number of stages, that this Bill represents missed opportunities. It is not so much what is in it as what is not in it that has been a problem. I am sure that the amendments which we have tabled will be considered. If they are not in this legislation, we will return to these broader issues of principle. The one thing that we would have all hoped for in terms of that right to vote is clarity, which we do not get here for all kinds of reasons, not least legacy reasons. Noble Lords have spoken about the complications that we will now face which we had not faced previously, not least that we will have some EU citizens with the right to vote and some without the right to vote, based on when they arrived—an arbitrary date as far as they are concerned.

Of course, the principle that we have sought to highlight in our amendment is what sort of qualification would make sense, would be clear and would be easily understood. We bandy terms such as "no taxation without representation" around, but lots of people who should be perfectly entitled to vote do not pay tax, particularly council tax. Residency is an important principle and perhaps the missed opportunity that this Bill could have addressed more properly, not least because of that legacy. I am not arguing at all for a change in what happened in the Brexit vote. We have left the EU. However, there is a legacy that we must consider there, particularly on people who have made their home here.

I must declare an interest, not least because in my household, with every general election that comes around, we are denied the right to vote. I wish we could vote but we cannot. My husband has lived here for 27 years; he has been a taxpayer, a national insurance payer and a council tax payer. He is a member of the Labour Party, has campaigned for candidates and has voted in every local election that he has been permitted to. The legacy of that will continue. The complication is that it will not apply to other EU citizens who establish the right of residency, who work here and who pay tax here. After a certain date they will not have that right to vote. It causes unnecessary complication.

Throughout this Bill I have readily agreed with the noble Lord, Lord Hodgson, particularly on citizenship education—and by the way, citizenship education should not be limited to citizens of the United Kingdom. The rights and responsibilities of living in this country should be understood by all who live in this country, and we would create a much safer society if we undertook that responsibility. That is why we should consider a right to vote based on the clear principle of residency. Maybe we will not have the opportunity in this Bill. The noble Lord, Lord Hodgson, said that people who just pop over here should not have the right to vote. However, because of our legacy as an empire and our legacy in terms of the Commonwealth, it is a bit ironic that a student from Australia on an overseas experience visa can land in this country and get the right to vote, but my husband, who has been here for 27 years and paid tax, does not. It does not really make sense.

This is, sadly, a missed opportunity. Amendment 156, in the name of the noble Baroness, Lady Suttie, and my noble friend, deals with precisely that issue: instead of clarity we end up with confusion, with some people having the right to vote and others not, but both having the right of residency and to work and pay tax and national insurance. This country will have to consider that at some stage, if not now. I hope the Minister will understand why we have tabled our amendment. I agree with the noble Lord, Lord Wallace, that this is a missed opportunity. I am sure none of these amendments will be agreed to, but I hope that the principle we are trying to establish will be considered in the future.

Earl Howe (Con): My Lords, I begin by conveying the regret of my noble friend Lord True that he is unable to be in his place today because of illness. As a result of his indisposition, the Committee finds itself with a deputy Minister in the shape of me. That is a privilege for me, but I am only glad that I am so ably supported by my noble friend Lady Scott in this endeavour.

My Lords, this group of amendments deals from various perspectives with the voting franchise in the context of UK national elections. I hope that I can be of help to noble Lords in setting out the Government's approach to this issue and the logic that lies behind it. I was grateful to my noble friend Lord Hodgson for what he said in connection with Amendment 152, which I shall begin with.

The purpose of Amendment 152 is to require the Government to allow EU citizens to vote in UK parliamentary elections. It may be helpful if I explain our policy position on this. Our policy has always been that after our exit from the EU there should not be a continued automatic right to vote and stand in local elections solely by virtue of being an EU citizen. The provisions in this Bill are based on two main planks: first, to respect the existing rights of those who chose to make their homes in the UK before the end of the implementation period; secondly, to look to retain rights on a bilateral basis where possible.

Amendment 152 would extend the parliamentary franchise to EU citizens where no such rights previously existed. In a similar vein, Amendment 156 seeks to allow EU citizens to continue to vote and stand in local elections in Northern Ireland. Those who are nationals of an EU member state have never been able to vote in UK parliamentary elections by virtue of their EU citizenship. If an EU citizen becomes a British citizen, they will be eligible for the parliamentary franchise from that point.

The Government stand by their commitment to EU citizens resident before EU exit, and the Bill ensures that any EU citizen who was a resident before the end of the transition period on 31 December 2020 and who has retained lawful immigration status will retain their voting and candidacy rights in England and Northern Ireland. This goes beyond our obligations in the withdrawal agreement. EU citizens who arrived after the end of the transition period will move to a position whereby local voting and candidacy rights

[Earl Howe]
rest on the principle of a mutual grant of rights through voting and candidacy rights agreements with individual EU member states.

On Amendment 156, the noble Baronesses, Lady Suttie and Lady Ritchie, and the noble Lord, Lord Dodds, referred to the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland. As was rightly said, both those commissions have sought clarification on EU voting and candidacy rights in relation to the Northern Ireland protocol. The UK Government's position is very clear and has been explained to both commissions. Removing voting and candidacy rights from EU citizens arriving in Northern Ireland after the implementation date does not run counter to article 2 of the Northern Ireland protocol.

Article 22 of the Treaty on the Functioning of the European Union confers a right to vote and stand as a candidate in municipal elections only in respect of EU nationals who are resident in another member state, having exercised their rights of free movement and residence. As the UK is no longer a member state, EU citizens self-evidently no longer enjoy the right to reside here, so the ancillary article 22 right to vote and participate in municipal elections is no longer applicable to it in this context. This is entirely consistent with part 2 of the withdrawal agreement, "Citizens' rights". I hope that is helpful.

I submit to your Lordships that the Government's approach is a sensible and fair one, whereby established rights are recognised while moving to new bilateral agreements with individual nation states in the EU. I am afraid, therefore, that the Government cannot accept either of these amendments.

Amendment 155 is intended to extend the parliamentary franchise to foreign nationals with certain types of immigration status in the UK. The right to choose the next UK Government is rightly restricted to British citizens and those with the closest historical links to our country. In this respect, the UK is in line with international norms. Citizenship is the normal criterion for participating in national elections in most democracies, including the UK.

Amendment 155A in the name of the noble Lord, Lord Shipley, proposes to enfranchise all who pay council tax in the relevant local authority area. Taxation has never been the basis for representation in the UK in modern times. There is a long-standing principle in the UK, as originally recommended by the Committee on Standards in Public Life in 1998, that those who do not pay income tax, such as those earning less than the tax-free personal allowance, rightly remain entitled to vote. Similarly, full-time students are legally exempt from paying council tax but still have the right to vote in local elections. So, I submit that that connection between taxation and voting does not exist. The Government hold to that principle and therefore cannot support Amendment 155A.

The noble Baroness, Lady Bennett, asked me a number of questions. I will arrange for a letter to be sent to her, but I will comment on her point about credit scoring and being on the electoral roll. The noble Baroness is, of course, not wrong in pointing out that credit reference agencies use the electoral roll to enable lenders and other service providers to confirm someone's identity. However, it is true to say that lenders look at the entirety of the information on a person's credit side, as well as other factors, to decide whether to lend to somebody. Lenders and other providers of financial services can ask for other forms of identity and confirmation.

The noble Baroness also asked whether we were taking steps to inform local authorities about the measures being taken. The Government are very conscious of the competing priorities that local authorities have and, particularly, electoral registration offices, both in relation to their business as usual activity and in the new activity that will be conferred by the Elections Bill. We are committed to working closely with the electoral community throughout the development of secondary legislation and implementation planning. We will commit to funding all new burdens incurred by EROs as a result of implementing this policy, as is customary.

5 pm

The noble Lord, Lord Desai, raised an issue from his personal experience. I believe that it is one that we will reach when we come to consider Amendment 154 in the name of the noble Lord, Lord Green of Deddington, so perhaps we can come to it at that point.

In summary, the Government have no plans to extend the parliamentary franchise in this way, either to EU citizens or to foreign nationals, and in consequence I am afraid that I cannot support these amendments.

Baroness Meacher (CB): Before the Minister sits down, he rightly said that taxation has not historically been used as a justification for the right to vote, but have the Government actually looked at it? In the context of a Bill that will supposedly rationalise and make sense out of our electoral system, have the Government looked at the idea that taxation would be a good, sensible rationale for the right to vote—at least at local elections, where it would be a lot more straightforward than national elections?

Earl Howe (Con): My Lords, I understand where the noble Baroness is on this. I think one has to distinguish national elections from local elections, and the rules do so in respect of the various categories of individuals who live in this country. To answer her question directly: the Government have looked at this issue and we do not believe that a change is warranted. As I say, we do not deny the vote to those who happen not to be earning. Equally, we do not grant the vote, in general elections, to foreign nationals who happen to pay council tax. I think there are good reasons for that.

Lord Shipley (LD): Before the Minister sits down, can I clarify what he has said about liability for payment? My Amendment 155A relates to the liability to pay council tax. Where people are excused, they might otherwise be liable to pay council tax but, because of government legislation, they have been excused the need to do so. I make the point that although I

planned this as a probing amendment, I now realise we have a much bigger issue to address, and we will need to discuss this further on Report.

Baroness Deech (CB): My Lords, may I point out one other anomaly? I imagine everyone in this House pays tax, and yet we do not have the vote. I think that is really rather unfair and hope to see that rectified.

Earl Howe: The noble Baroness, Lady Deech, is, of course, quite correct and we will be looking at the question of voting rights for noble Lords in a subsequent group of amendments.

Lord Wallace of Saltaire (LD): My Lords, this has been a very useful debate, which has yet again exposed how unco-ordinated and ill thought through this Bill is. I strongly agree with what the Minister said: local elections are different from national elections. Indeed, in the late-night debate we had last week on overseas voting, it was pointed out that overseas electors are allowed to vote in our national elections but not in our local elections. If there is a good, rational argument for that, then there is an equally strong argument why long-term residents in Britain should be allowed to vote in local elections but not in national elections. If one were to think these things through, and clearly the Government have not, we would be moving in that sort of direction.

Similarly, if we had automatic voter registration, the complexities of residents and non-residents would be clearer. Incidentally, the logic that says overseas electors are not allowed to vote in local elections because they no longer have any connection with the local area goes completely against the logic that they should be allocated to constituencies, which they have lost touch with over the decades since they were in Britain. That is why I put down the amendment on the creation of overseas constituencies, but that has not been thought through either.

We all understand, as someone said to me at the weekend, that the Bill is driven by staff in No. 10 who are above all concerned with increasing the chances that the Conservatives win the next election. One of the strongest arguments for prioritising overseas voter registration over other categories is that they are thought to be more likely to vote Conservative.

Earl Howe (Con): I am grateful to the noble Lord for allowing me to intervene. As I understood it, it was official Liberal Democrat party policy to scrap the 15-year rule that has existed up to now on overseas voters. Can he confirm that that is the case, because that is what the Bill does.

Lord Wallace of Saltaire (LD): Yes, and to create overseas constituencies. I am looking at the noble Lord, Lord Altrincham, who was deeply shocked to be told by the noble Lord, Lord True, in a meeting a few weeks ago when he recommended the creation of overseas constituencies on the French model that that was Liberal Democrat policy. I hope he has now recovered from the shock.

There are tremendous problems with the Bill and the failure to connect all these dimensions. We will come in the sixth group to one of the other reasons why the Conservatives want to push ahead with extending the rights to overseas voting without thinking through the other dimensions of it, which the Liberal Democrats have thought through—the expectation that, once overseas voters are on register, they will be able to increase the systemic advantages—

Lord Grocott (Lab): I am grateful to the noble Lord, Lord Wallace, for talking about people thinking through the consequences of legislation, and of amendments. I remain puzzled by the Liberal Democrat policy that these 2.5 million additional people, who have never lived in this country, other than maybe for a very short time when they were very young, and who do not pay taxes into or own property in this country—not that that should be a qualification to vote, of course—must now be given the right to vote, should they choose to do so, in British general elections. There are lots of ramifications that the noble Lord has not thought through.

Lord Wallace of Saltaire (LD): There are lots of ramifications that we have discussed extensively. I am happy to discuss them with the noble Lord off the Floor. What I am objecting to is dashing ahead with this without the creation of special constituencies and a number of other things that would begin to match the demand for them to come in.

The noble Lord, Lord Hodgson, might be disappointed to hear me say that we do not disagree on very much. I strongly agree with his emphasis on citizenship. The badge of a liberal democracy is active citizenship. One of the things that most concerns me about the drift of politics and legislation in this country is that we are heading towards a much more passive model of citizenship and a much more populist model of democracy. That is another thing to which, in broader terms, we must at some point return.

For the moment, having recognised that the Government have not worked out what they want on all this, and that they have inherited a tangle of historical rights to vote and denials of the right to vote, I am happy to withdraw my amendment. I hope this might just possibly be one of the issues we will discuss between Committee and Report.

Amendment 152 withdrawn.

Amendment 153

Moved by ***Lord Dubs***

153: After Clause 13, insert the following new Clause—

"Members of the House of Lords: voting at elections to the House of Commons

(1) Notwithstanding any other provision of law, a member of the House of Lords is not disqualified by virtue of that position from voting at elections to the House of Commons.

(2) This section comes into force 24 months after the day on which this Act is passed.

(3) This section extends to England, Wales, Scotland and Northern Ireland."

Lord Dubs (Lab): My Lords, it is with great pleasure that I speak to Amendment 153 standing in my name and that of the noble Lord, Lord Naseby. On his behalf, I express his regret that he is not able to be here today. He is away on urgent matters, but I am sure he will be here at later stages of the Bill if we need to debate this again.

There is a very simple proposition in this amendment: that Members of this House should be entitled to vote. That is an argument that has gone on for many years. Indeed, I traced it back to 1699, thanks to the excellent report from the House of Lords Library, but it may have started even earlier. They have done a good job. They produced that report when I put forward a Private Member's Bill on this subject. It passed this House, but I will come on to what happened to it when it got to the House of Commons. The noble Lord, Lord Naseby, also put forward a Bill, but his was talked out. He and I are united in our wish to see progress on this matter.

The situation is anomalous. Part of the debate on this amendment has been covered in that on the previous amendments. I could have extracted some quotations in support of this if I had been quick enough to write them down. Members of this House can vote in local elections. We can vote for the devolved Administrations. We can vote in referenda. Previously, we could vote in European elections. It seems anomalous that there is one election in which we cannot vote. It is quite difficult for local government returning officers to know that we are not entitled to vote when they prepare the electoral list, as we are there for other things. I have never quite understood how they discover that we are Members of this House—they are clever people. At any rate, mistakes are sometimes made. Historically, Members of this House have voted and then there has been a bit of a row about it, because they were on the voting list and were not excluded from voting in parliamentary elections. It is an anomaly.

It is also an anomaly that Members on the Bishops' Benches can vote. Though they may not exercise their right to vote for other reasons, they certainly have it. If we look abroad, United States Senators can vote for Congress, which seems fairly parallel to the position we are in. Indeed, according to that excellent House of Lords Library report, of the 189 countries in the Inter-Parliamentary Union, the United Kingdom is the only country in which members of the second chamber cannot vote in general elections for the first chamber. We are the only country, yet some of the arguments against must apply elsewhere.

I agree that most of the British population are not aware of this. Indeed, when I talk to friends, I have to remind them that I am not allowed to vote when it comes up in conversation. I am fully aware that the masses who sometimes demonstrate in Parliament Square are not going to assemble there to support our right to vote. However, not every change in this country has to be the subject of enormous demos, much as I enjoy some of the demos and have been on them—that was a debate we had on the police Bill, and it is not appropriate today. The fact is that this is still an anomaly.

In preparing for today's debate, I had to remind myself of some of the arguments against. There was a debate in 1936. It was introduced by a predecessor of a Member of this House, Lord Hailsham, and the proposal for reform was put forward by Lord Ponsonby, whose son is now in this House, so there is a tradition in this. They had a much longer debate than we will have today, I trust, for the sake of the Front Benches on both sides. The then Lord Chancellor, Lord Hailsham, said in talking about reform that

"it is not a wise thing to attempt to deal with a problem of this character piecemeal because, inevitably, you would get questions the answers to which might affect the attitude which your Lordships would take with regard to one particular proposal and the attitude you were going presently to take with regard to some other proposal on the other side of the picture."

That is quite a complicated sentence, but I think it means he is against piecemeal reform. It is arguments against piecemeal reform that have bedevilled discussion on this.

I do not understand the argument why opposing piecemeal reform is a good thing. In our British tradition, pretty well all reforms are piecemeal, even from people who are on the political extremes. We normally progress piecemeal; we do things stage by stage. The argument that everything should be done in one go seems rather weak. I cannot resist quoting from the reply by the previous Lord Ponsonby. Admittedly, the proposition at that time was twofold: that we should have the right to vote; and that Members of this House should be entitled to stand in House of Commons elections. I would not suggest that at all, and most of the debate was about that second point: Members of the Lords being able to stand in House of Commons elections. Lord Ponsonby of Shulbrede made this comment:

"It is perfectly absurd to say that this is a matter of the reform of the House of Lords or reform of the House of Commons. It is, if I may respectfully say so, an old trick of the noble and learned Viscount"—

that is, Lord Hailsham—

"to use a magnifying glass in order to make a mole-heap into a mountain and then all the more easily to destroy it."—[*Official Report*, 12/2/1936; cols. 568-73.]

I liked that phrase, so I had to bring it in somewhere into our debate today.

5.15 pm

The point is that the actual arguments against have been mainly opposition to piecemeal reform, the argument that we should not cherry pick, as if cherry picking was some reprehensible human activity. The second argument is that we already have influence on legislation. Of course we do; so do American Senators. The point in an election is to influence who are to be the Government of the day. Legislation comes later. It is because we do not have the right to influence who will be the Government of the day that I propose this amendment. The Joint Committee on Human Rights wrote some time ago, when there was a coalition Government, to the then Deputy Prime Minister, who again used the piecemeal argument as one reason not to do it.

I shall be brief. I remember that one or two people sitting here today objected to my Private Member's Bill that passed this House. I know who they are, and I can see them, but perhaps they have changed their minds. I speak like a right reverend Prelate: I like

repenting sinners, and perhaps they are repenting sinners by now. My Private Member's Bill passed here about nine years ago, but it then had to go to the House of Commons. There is a procedure in the House of Commons—not a very healthy one; most of your Lordships will know it. If a Bill from here goes to the Commons and is called, if one voice says "Object!", it kills it. No argument needs to be put forward; indeed, the identity of the objector is kept secret, it is not revealed.

I wrote to several MPs who I knew tended to object as a matter of course and asked them not to. I was in the Gallery watching, and I do not know who shouted "Object!", but somebody did. I have reason to believe that the objection was not Back-Bench but government-inspired, on the argument that the coalition Government did not want piecemeal reform, they wanted to wait until there was reform to everything.

This is such a basic proposition that nobody in their right mind can really object to it. The constitution will not be undermined. We will not change the structure or powers of the Lords. All we are doing is giving us as individuals the right to vote. Many of us canvass and campaign in elections but then, come election day, I have asked people to vote but we are not able to vote.

As a token of my seriousness, the original version of my amendment said that it should be enacted within 12 months. I thought that was pretty difficult for returning officers and local government to get the voting lists right, so I have made one change and it now says that it should be brought into being in 24 months. This is a serious proposition; I urge your Lordships to support it.

Lord Cormack (Con): My Lords, I generally agree with the noble Lord, Lord Dubs. He makes some extremely powerful speeches in this House and when he is talking about refugees, I am generally 100% behind him. But I do oppose this amendment, and I oppose it for one simple reason that I will put before your Lordships very briefly: we do not have the vote because we are permanent Members of Parliament. It is as simple as that. United States Senators are not permanent members of the Senate: they come up for re-election on a rotating basis every six years. We do not.

There is another argument to be had. I am personally—and your Lordships know this—in favour of a non-elected second Chamber. I am in favour of that for many reasons, including the gridlock that would inevitably emerge if there were two elected Chambers. But that is not what we are debating this afternoon. We are permanent Members, we are here, and it is for that reason and that reason only that we do not vote for the other House: because we have this permanent responsibility. Whatever the result of the next general election—in 2024, 2023 or whenever it happens—we will still come back here. That is the reason why it is illogical and unnecessary to argue that we should have a vote in general elections. It would make absolutely no difference to the result, because even if everybody in your Lordships' House cast a vote around the country, you are talking about significantly fewer than 1,000 votes—I wish we were talking of no more than 600 but that, again, is another issue.

So, I hope we can move on quickly and stick with the Bill in this particular phase as it is. Like others, I send my warm good wishes for the speedy recovery of my noble friend Lord True, and I assure my noble friend Lord Howe that he has my total support on this issue.

Baroness Jones of Moulsecoomb (GP): My Lords, I came into this Chamber absolutely not caring about the outcome of this—I was waiting for subsequent groups. But actually, having heard both speeches, I totally agree with the noble Lord, Lord Dubs. In spite of all the respect and affection I have for the noble Lord, Lord Cormack, I cannot see that what he said makes any difference at all. So what if we are permanent? We come and go, we do not always survive very long here, we can retire or die, so I do not see the relevance of what he is saying. And, of course, he pointed out that if we all voted it would not make any difference. We all have our views and we all vote in other ways in other elections, so I salute the noble Lord, Lord Dubs, for his thorough examination of this problem and I completely support him. I had never given it a thought before—I had not minded about not voting, but now I do.

Lord Horam (Con): My Lords, I am sure we all hope that the noble Baroness, Lady Jones, lasts for a long time in this House. She is a great asset to this place, particularly given the brevity and pointedness of her speeches. I have to say that I agree with my noble friend Lord Cormack, because there is no doubt that he is constitutionally absolutely correct—and he has the better argument.

However, the noble Lord, Lord Dubs, hit firmly on one point in his speech: in the registration document which we all have to fill in to vote in local elections and so forth, often, there is no category for "Lord", "Lady" or "Baroness". I do not know what other Members' experience has been, but I had some difficulty, living in Hammersmith and Fulham, filling this in. I rang up the registration office and said, "I can't vote in national elections—are you aware of this?" They said, "There is no category on the computer that allows for this, so we will have to put you down and just rely on your native honesty that you do not actually vote". Well, I can assure the House that I am an honest person, as are all its Members. None the less, there is a discrepancy and a difficulty here, and I hope the Minister can draw it to the attention of others.

Lord Rennard (LD): In the six general elections since I have been a Member of this House, I have always found people to be very surprised that I was unable to cast a vote in them, even though I campaigned in all of them. They find it ironic that I have been campaigning for my party, and its predecessor the Liberal Party, for some 49 years, but I now no longer have a say on who will be the Prime Minister of the country.

Like the noble Lord, Lord Dubs, I am not an opponent of piecemeal reform of this House; I am actually rather in favour of radical reform, and quickly. However, if we had objected to piecemeal reform, this

[Lord Rennard]
place would be the same as it was in the 19th century. All the progress on reform of your Lordships' House has been piecemeal, and this amendment would also be an example of piecemeal reform. The principle of the amendment moved by the noble Lord, Lord Dubs, was debated extensively when it formed the basis of two recent Private Members' Bills, and there was a clear logic to the proposition. The Parliament Acts of 1911 and 1949 ensured that Peers lost the power of an absolute veto on legislation, or to determine any financial measure. As Peers, we have no opportunity to vote at a general election to help decide who becomes Prime Minister. Therefore, in those debates on the Private Members' Bills, I supported the principle of Peers being able to vote in general elections, but I also emphasised that it is not my party's immediate priority. There are many measures in this Bill which may have considerable impact on future elections, but this is not one of them. As the noble Lord, Lord Horam, pointed out, if membership of the House were evenly distributed across 650 constituencies, there would, on average, be one extra voter on top of some 73,000 others. Therefore, it would be unlikely to make a great deal of difference to the election outcome—although it was of course Churchill who said that "one vote is enough".

The issue we are debating is really one of principle. As an issue of principle, it is ironic, in my view and that of my party, for any Peer to argue for their right to vote in general elections without also arguing for the right of our country's voters to have a say in who becomes a Member of this House. There are other priorities. Before we argue for our right to vote in general elections, we must address the problem of 9 million people being missing from or incorrectly recorded on the electoral registers. Our last debate showed that there is a real need to address major inconsistences in the right to be included in our electoral registers. For these reasons, we support this amendment but, while it is logical, it is not our priority.

Lord Desai (Non-Afl): My Lords, one of the things which today's debate has proved is that logic has never been the basis of enfranchisement in this country or of its constitution. The constitution is what it is because of the way it has developed. As far as the logic is concerned, let me try this. The weight of my vote to elect someone to the House of Commons may, theoretically, be one in 73,000, but in rejecting government legislation it is one in 800—or, given how many noble Lords are present, one in 400. When I was asked to come here, I had a choice. I could have said, "No, I am not coming to this place because I would lose my right to vote". I chose to come here and that is a very big sacrifice because, as noble Lords have said, we are here for life. Of the 193 upper Houses to which the noble Lord, Lord Dubs, referred, not one is unelected, although maybe a few people in them are unelected. However, we are unelected and, therefore, we are here.

Lord Dubs (Lab): I think the Canadian upper House is not elected.

Lord Desai (Non-Afl): They follow us, which is quite nice; they are part of the Empire. I would rather that we be removed from here and replaced by elected Members—this is the futile movement for which I have fought all these years. However, the privilege of being legislators for life is so great that we must make a small sacrifice for it. Not being able to vote at a general election is one such small sacrifice.

Baroness Quin (Lab): My Lords, I did not speak on the Bill on Second Reading, because I was not able to be present, although I have followed debates very closely on a number of issues. I would like to ask the Minister a couple of questions on this issue. My noble friend Lord Dubs, in his persuasive speech, certainly convinced me that it needs to be looked at in the light of two things in particular. First, he mentioned that Bishops were able to vote, which I was surprised at. That means Bishops who are Members of this House can vote in parliamentary elections.

5.30 pm

Lord Cormack (Con): Bishops are here for only a brief period. Some of them are here for five, six or seven years. One came in a few months ago and will be gone by the end of this year. They are not permanent legislators.

Baroness Quin (Lab): None the less, while they are Members of this House, it seems rather odd that they are allowed to vote in parliamentary elections. Indeed, the noble Lord, Lord Cormack, leads me on to the second point, which is that we are able these days to take retirement from the House of Lords, and many people have done that. I am sorry that I do not know the answer to this, but is it possible for those who are no longer active Members, and are not able to speak or vote in the House, to vote in parliamentary elections? If not, that is surely an anomaly that needs correcting. The Government should look at this issue again, in the light not only of the speech by my noble friend Lord Dubs but of the anomalies that exist and seem odd in the current situation.

Lord Sherbourne of Didsbury (Con): My Lords, I support the noble Lords, Lord Dubs and Lord Rennard. I am not going to repeat the arguments; I support them, and the House has heard them. This anomaly can be dealt with without opening the Pandora's box of reform of the House of Lords. I spoke in support of the Private Member's Bill of the noble Lord, Lord Naseby, and I heard the then Minister's answer. I do not want to be too presumptuous, but I think I can hear the Minister's response already, with all the same arguments rolled out. I simply ask him one question: what is the practical downside of accepting this amendment? What is the danger? What is the risk?

Lord Redesdale (LD): My Lords, I also apologise for not speaking on Second Reading; I was unable to. I was not planning on speaking in this debate, but the noble Lord, Lord Cormack, raised the point of some of us being here permanently. I have been here a mere 30 years, but I cannot actually see the fact that I have been here 30 years as a legislator making that much difference to the country. I would love to say that being a Back-Bench Liberal Democrat is the bedrock

of our whole system, but I cannot really put that forward. When I came here, it was the mantra that only Lords, lunatics and criminals could not vote, but that is no longer the case—though it depends on what bracket you put us in.

I have one question for the Minister. I am standing as a candidate in the local election, and my wife is standing as the agent for the Liberal Democrats in Islington. The complexity of the forms you have to fill in, with the understanding of the minutiae and detail, is incredibly difficult. What is the cost to the country of us being taken off the electoral register? Everybody has to be trained; it has to go through the whole system; it has to be part of the process. The cost is not insignificant for 800 people to be treated in a different category. Of course, it goes into a number of different areas. If the Minister could give us an indication of just how much our privilege of being taken off the register, so we can carry on with this view that we are a permanent part of the process, would cost, and whether that is worth it, I would be very interested.

Lord Rooker (Lab): My Lords, I have a question—and I did not come in to speak either. Since I have been a Member of this House, which is 20 years, there is at least one Member—I think only one—who was here when I arrived, subsequently got elected to the other place and is now back here. Yes, he is here today. At the time that he left this place and got elected to the other place, was he able to vote in the election he stood in? I am not sure what his status would have been.

Viscount Thurso (LD): Yes, I was allowed to vote.

Lord Rooker (Lab): Well, that is the answer to my question.

Lord Collins of Highbury (Lab): My Lords, we talk about piecemeal reform, and changes to this House have not necessarily been a result of legislative change or even reform. I have mentioned in previous debates the excellent book by Antonia Fraser about the debate on the Great Reform Act 1832. What I found most fascinating was that most Members of the House of Commons were sons of aristocrats and were put there by their fathers to have proper training to come into the House of Lords. Of course that was in the days when the powers of this House were great, as noble Lords have mentioned.

What recently shocked me even more—and I have cited this too—were the diaries of "Chips" Channon, who, when he was writing pre-war, leading up to the 1938 Munich debacle, mentioned that most of his friends in the House of Commons were sons of aristocrats who eventually ended up in this House. I hope things have changed. Constitutionally, things have radically changed, quite rightly, in the powers of this House, which can no longer challenge the democratic mandate of the House of Commons. The question is not simply about whether we are here for life or not; it is about what we do here. Even where we have particular circumstances of power, I am one of those people who would not use it to challenge the democratically elected House of Commons.

My noble friend made a very powerful case, and the point that struck me was that not many people in the public out there are aware that we have not got the vote. I remember campaigning in the 2017 election and a young, radical activist stopped me and asked if I had voted yet. When I explained I could not vote for Jeremy Corbyn, she nearly issued an internal disciplinary notice. Once I had explained, I was eventually forgiven. But I think it is a point worth making that most people assume that everyone in this country has a free and fair democratic right to vote, and it just seems ridiculous that we do not.

Earl Howe (Con): My Lords, this amendment from the noble Lord, Lord Dubs, who is joined on the Marshalled List by my noble friend Lord Naseby, brings us to a topic on which each of them has tested government policy on a number of occasions in the past, including, as I recall and as the noble Lord, Lord Dubs, mentioned, through my noble friend's Private Member's Bill in 2019. On the latter occasion, my noble friend Lord Young of Cookham set out the Government's response, and I therefore hope it will not come as a shock to the noble Lord, Lord Dubs, that my response today bears an uncanny resemblance to the one given to the House previously.

I understand and respect the case that noble Lords have articulated on this issue. However, I am afraid it is not a case I can accept, and the reason is clear and straightforward and was well articulated by my noble friend Lord Cormack. Noble Lords will be aware that although, as the noble Lord, Lord Collins, rightly said, the role of this House has changed over time, our place in Parliament still gives us a position of influence not held by other citizens. My noble friend Lord Sherbourne asked what the downside would be of accepting the amendment. Enfranchising noble Lords to vote in general elections would give Peers two ways of being represented in Parliament. Members of this House have an opportunity to debate and vote on legislation. To provide a vote for Peers in UK parliamentary elections would undermine the principle that all citizens are equally represented in politics.

Baroness Jones of Moulsecoomb (GP): Is that not true of MPs? Why should they be allowed to vote? They have two grabs.

Earl Howe (Con): When Parliament is prorogued for a general election, MPs cease to be Members of Parliament. They therefore become ordinary voters, if I can put it that way.

In our democracy, everyone should have a voice, but the Government's view is that Peers who are Members of this House have that by virtue of their participation in this Chamber. That principle has been upheld for more than 300 years, including by the courts. It has not altered over successive Governments: in fact, in the debate on his Private Member's Bill nearly three years ago, my noble friend Lord Young reminded the House that, as recently as 1999, Section 3 of the House of Lords Act explicitly enfranchised hereditary Peers who are not Members of this House and disfranchised Peers who are.

[Earl Howe]

The noble Baroness, Lady Quin, asked whether Peers who have retired from this House have the right to vote. My understanding is that they do, because they ceased to be parliamentary Peers at that point.

The noble Lord, Lord Redesdale, asked about the cost of taking parliamentary Peers off the register. I doubt that that cost has been computed by anybody—of course, there must be a cost—but it is a very considerable privilege that we as Peers have, and I for one would argue that it is not unreasonable for that privilege to carry a public cost.

Lord Cormack (Con): Of course, we are on the register and can vote in every other election, including local government elections, referenda—the lot.

Earl Howe (Con): I think the point made by the noble Lord, Lord Redesdale, was that a distinction must be made on the register between different types of election, and that that carries a cost; he can correct me if I am wrong in assuming that.

This House is a respected voice that adds depth and, I hope, wisdom to our legislative process. It allows us, as its Members, full participation in the life of the nation. The Government therefore have considerable reservations about this proposed new clause, and I ask the noble Lord, Lord Dubs, to withdraw his amendment.

Lord Dubs (Lab): My Lords, I never thought that so many different sorts of opinions would come out of the woodwork. It has been absolutely fascinating. The arguments have been somewhat different from the last two or three times we debated this issue. I just want to comment on them briefly.

As regards the voting list—this is a technical point—my understand is that there is no obvious way in which when we register we can declare that we are Members of this House. Somehow, in some local authorities, the polling clerks are aware of it but, in others, they are not. I am always mystified by that; it is not clear. I have known of people who have not been debarred from voting and could have gone to vote—they did not do so but they could have—simply because it was not obvious to the polling clerks that they were Members of this House.

On my noble friend Lady Quin's comment about Members of Parliament, again, it is purely a technicality that they cease to be Members of Parliament during the period of an election campaign. Nobody knows about it except for a few nerds like us—sorry, nerds like me. It just means that they are technically not MPs. However, for all practical purposes, of course they are; they still get representations made to them, constituency casework and so on. Even during the election campaign, they cannot just say, "No, I'm not prepared to do it."

Lord Cormack (Con): The noble Lord cannot get away with that. When Parliament is dissolved, as distinct from being prorogued, the House of Commons does not exist and everyone must seek election or re-election to it. As the noble Lord knows only too well, there are occasions when Members of Parliament lose their seats—so of course it is right that they should have a vote for somebody in Parliament when there is no House of Commons. He is really not giving the argument the justice it deserves.

Baroness Jones of Moulsecoomb (GP): My Lords, the noble Lord, Lord Grocott, has just informed me that MPs are paid during Prorogation. So even when they vote in a general election, they are in fact still being paid as MPs.

Lord Sherbourne of Didsbury (Con): I just want to say to my noble friend Lord Cormack that, if a Member of Parliament is in a constituency that they do not represent but is on the register, they can vote for that constituency in a by-election even though they are still an MP.

5.45 pm

Lord Dubs (Lab): Well, we are getting into the realm of pub quiz questions. I am perfectly aware of the point that the noble Lord, Lord Cormack, made. My argument is that the public are not aware of it. It is a distinction that I did not know about until the first time I was trying to get re-elected in the Commons; I had no idea. I bet that 99.9% of the public would think that this is an amazing anomaly and would not attach very much weight to the argument, although I am perfectly aware of it. All I am saying is that, sometimes, these are very technical points. They do not take away from the fact that this is an anomaly where we, as individuals who in every other respect are members of a democracy and can vote, cannot vote in general elections.

This may have been the case for 300 years, but we unearth a lot of issues that we have had for hundreds of years and do not necessarily always go along with them. We change them from time to time. Women used not to have the right to vote. It was a tremendous victory when the suffragettes won the right to vote. So I would not use the argument that it has been like this for 300 years and therefore we are not going to change it.

I would like to come back to this on Report but, for the time being, I beg leave to withdraw the amendment.

Amendment 153 withdrawn.

Amendment 154

Moved by ***Lord Green of Deddington***

154: After Clause 13, insert the following new Clause—

"Commonwealth citizens: reciprocal franchise

(1) The Representation of the People Act 1983 is amended as follows.

(2) In section 1 (parliamentary electors)—

(a) in subsection (1)(c), for "a Commonwealth citizen" substitute "a citizen of a Commonwealth country in which British citizens are entitled to vote in general elections", and

(b) at the end insert—

"(3) For the purposes of subsection (1)(c), a country is deemed to be "a Commonwealth country in which British citizens are entitled to vote in general elections" if it is specified as such in regulations made by statutory instrument by the Secretary of State.

(4) A statutory instrument containing regulations under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament."

(3) In section 4 (entitlement to be registered as a parliamentary or local government elector), in subsection (1)(c) after "Commonwealth citizen" insert "of a Commonwealth country specified in regulations under section 1(3)"."

Member's explanatory statement

This amendment will ensure that the right of Commonwealth citizens to vote in UK general elections will in future be confined to citizens of those Commonwealth countries that grant to British citizens the right to vote in their own general elections. The amendment will not affect Irish citizens with whom the United Kingdom has had reciprocal voting arrangements since 1922.

Lord Green of Deddington (CB): My Lords, I gave notice at Second Reading that it was my intention to bring forward an amendment on votes for Commonwealth citizens in general elections—and I repeat that. We have had a very good debate on local elections and got into a lot of technicalities, but this is now about general elections.

My suggestion is that, to vote in general elections, the basic requirement should be citizenship of the UK. That is clear, simple and logical, and I trust that the noble Lord, Lord Wallace, agrees. In the wider context, however, it would be a pity to take an action that might be perceived as unfriendly to the Commonwealth. We should therefore introduce the principle of reciprocity; I will come back to that point.

At present, all Commonwealth citizens have the right to vote in not only our local elections but our general elections without becoming British citizens. That is the case whether or not their countries of origin permit British citizens to vote in their general elections; as I will explain, most of them do not. In practice, as things stand now, Commonwealth citizens in the UK can simply put their names on the electoral register. Indeed, now that the register is reviewed every month, they could acquire the right to vote very shortly after their arrival. By contrast, foreign nationals in the UK must first obtain British citizenship—a process that takes five years or so.

A word about the background—as I mentioned at Second Reading, the noble and learned Lord, Lord Goldsmith, a Labour former Attorney-General, recommended in 2008 that this virtually automatic right for Commonwealth citizens should be phased out. He made three points, which briefly were that: first, most countries do not permit non-citizens to vote in national or even local elections; secondly, the UK does not have the same clarity around citizenship as other countries do, which is quite important; and thirdly, it is right in principle not to give the vote to citizens of other countries living in the UK until they become citizens of the UK. All that makes perfect sense. It is just a pity that it was not listened to at the time.

I just mentioned reciprocity and I am grateful to the House of Lords Library for its research into this. Only about 10 of the 53 Commonwealth countries grant British citizens the right to vote in their general elections, and nearly all those countries are small Caribbean islands. It would be wrong to remove the vote from nationals of those countries that continue to grant it to British citizens, so my amendment therefore makes that one small group of exceptions.

Sadly, no action was taken on this matter by the Labour Government at the time, nor by subsequent coalition or Conservative Governments. However, this Bill provides an opportunity to deal with it quickly and, I hope, quietly.

The effect of my amendment would be to put virtually all those coming legally to live in Britain on the same footing—namely, they would be entitled to vote when they had achieved British citizenship and not before.

On the numbers potentially involved, according to the Office for National Statistics, the number of Commonwealth citizens has increased by about 100,000 a year in the past five years. At this rate, very generally, about half a million would be able to vote in a general election without having acquired citizenship.

As a further point, and not an unimportant one, the present law is expressed in what one might call Home Office speak. That is picked up by the Electoral Commission, the website of which says:

"Any type of leave to enter or remain is acceptable, whether indefinite, time limited or conditional."

That is absolutely extraordinary. In practice, it means that any Commonwealth student or work permit holder can register to vote before an approaching general election and so could their adult dependants. This right could even be extended to visitors, as most get six months' leave when they arrive, as noble Lords know. As the noble Lord, Lord Collins, mentioned, this makes no sense. I would be grateful if the noble Earl, Lord Howe, would confirm that I have correctly explained the meaning of these words on the Electoral Commission website, which corresponds to the Home Office website. Could he also confirm that British nationals overseas are Commonwealth citizens for the purpose of voting? I believe they are.

Migration Watch, of which I am president, has made a rough estimate of the numbers involved. If one takes just the top 10 Commonwealth nationalities, the number of entry clearances granted in 2021 was about 360,000. If visitor visas are included, the total is over 500,000. If Hong Kong is included, it would add those who are adults among the 100,000 who have already arrived. I realise that may sound a little techie, and these numbers are not exact, but they are certainly not insignificant. I leave it to noble Lords to consider whether election agents in the relevant constituencies would be able to work it out. I suspect that they might.

It is important to be clear that my amendment would not take the vote away from anyone who now has it, only from future arrivals until they became British citizens. I add a final note on Irish citizens in the UK. As most Members know, they have had the right to vote in general elections since 1922, and vice versa. These arrangements would not be affected by my amendment and nor should they be.

To sum up, this amendment is about four matters: first, the simplification and rationalisation of the system, as the Liberal Democrat spokesperson, the noble Lord, Lord Wallace, pointed out and which the noble Lord, Lord Desai, called for; secondly, reciprocity and therefore fairness; thirdly, a basic requirement of citizenship; and fourthly and perhaps most importantly, maintaining confidence in the electoral system. There can no longer

[Lord Green of Deddington]
be any justification for this anomaly. My amendment makes a simple and sensible change, and this Bill is an opportunity to get it done.

Lord Collins of Highbury (Lab): Before the noble Lord sits down, could I ask a question? He referenced my noble and learned friend Lord Goldsmith. If he recalls, this issue came up during the debate on voting rights in the referendum. The noble Lord, Lord Green, referenced this as the second issue that my noble and learned friend Lord Goldsmith raised in his report: what is a British citizen? Does he think that fundamental question has been properly addressed for this purpose?

Lord Green of Deddington (CB): A lot has changed in 14 years, but the thrust of what the noble and learned Lord, Lord Goldsmith, said is absolutely right. We now have a system that has developed somewhat in defining what a UK citizen is—I accept that—but it is not too difficult, is quite well known and has been discussed recently. I do not think that undermines his recommendation or the logic of saying that the clear thing, if you want to vote in this country, is to become a citizen, and you know how to do that.

Lord Wallace of Saltaire (LD): My Lords, I have great sympathy with the arguments of the noble Lord, Lord Green of Deddington; I am sorry he looks so surprised. We need to sort out what we mean by UK citizenship. I cannot now remember which election it was when I was canvassing in Southwark and I came to a block that had a large number of Congolese-born people and a large number of Tanzanian-born people. The latter had the right to vote; the former did not, although I deeply suspected that some of them had got themselves on the register, somehow or other, because the local people were not quite sure who was what. This is at least as much a legacy of empire and our great-grandparents' day as the sacking and pencils in polling stations, which the noble Baroness, Lady Noakes, was talking about. Both need to be modernised and it is high time we did so.

I ask the Minister whether he can tell us when Mozambique joined the Commonwealth and whether that meant that all Mozambiquans in Britain immediately gained the right to vote. I think I am right in saying that Rwanda joined the Commonwealth and that must have given them the vote, as well. The noble Lord, Lord Howell, if he were in his place, would remind us that he has campaigned for Algeria to become a member of the Commonwealth. The hypothetical question of how many voters we would be adding each time a new country became a member of the Commonwealth is interesting.

Of course, we should be sorting out the categories of our voting. We have been saying that all afternoon. The noble Lord, Lord Green, is entirely right on this and I hope that the Government take some notice, but I suspect that they will not act on this unfortunately illogical and messy Bill.

Lord Horam (Con): I declare an interest as a former electoral commissioner. First, I agree with the remarks made on the previous amendment by the noble Lord, Lord Wallace of Saltaire, that this Bill should have included the findings of the Law Commission, which have cleared up a lot of the complexity of language involved in legislation. It sometimes goes back to the Victorian times and is really a wholesale mess, frankly. I was glad that the Law Commission came to such clear conclusions.

Of course, the noble Lord will appreciate that the Law Commission by itself cannot alter anything and does not alter the law as it stands. None the less, I agree with him that it is a missed opportunity that we have an Elections Bill of this kind but are not able to take into account the views of the Law Commission. When I was on the Electoral Commission, it would have wanted the Law Commission's findings to be taken into account as soon as practically possible, as it certainly would now.

6 pm

I will speak briefly on Amendment 154. I am sure we are all wondering what my noble friend Lord Howe, who has nobly stepped into the situation, has in his brief. I am afraid to say that he probably has a note from the FCO saying, "No, old chap, don't agree to this because it might upset the Commonwealth". That is the sort of line that I suspect he has there; he is nodding, so maybe I have hit the nail on the head. The noble Lord, Lord Green, made the point in his argument about reciprocity that there is a simple point here —if people from particular countries wish to vote, they can have a reciprocal arrangement. A few do, but not many. That deals with the Commonwealth point.

The wider point, which has been made several times during the discussion on this series of amendments, is that citizenship is an important issue. As the noble Lord, Lord Green, said, the Goldsmith report made this point very well in 2008; it is a wonderful report. The issue was also covered by this House, by my noble friend Lord Hodgson of Astley Abbotts, who is not in his place at the moment, in the report of the committee on citizenship that he chaired in 2017-19. It concluded that

"it strikes us from our research that what is missing is any clear, coherent or ambitious vision of why citizenship should matter in the UK in the 21st century".

In other words, on two separate occasions, widely spread and backed by different parties, this House has made it clear that it is unhappy with the role of citizenship and the way it is decided in our voting system. Therefore, we need some clarity on this issue, and it is a pity that the Bill does not go into that as much as it should.

To allow people who are not citizens of this country to vote in our elections seems to me to simply devalue the whole idea of citizenship. Why should people who are not citizens vote in our elections? People should qualify for citizenship, as they can in the appropriate way, and then be allowed to vote. That treats citizenship as a valuable thing, which I believe it to be. Therefore, as the noble Lords, Lord Wallace and Lord Collins, have argued, we should look at this and give clarity to the whole idea of citizenship, which is what the amendment does. The noble Lord, Lord Green, has

therefore performed a public service in moving this amendment, and I hope the Government will listen to what he says.

Lord Desai (Non-Afl): My Lords, this is the third occasion on which I have had to say that, given the way our constitution is, it is obviously not an exercise in logic. The noble Lord, Lord Wallace, is right that the Bill should have been an occasion to sort out in a clear, straightforward, logical way what the qualifications are that give somebody a right to vote in this country. The right to vote in this country has been based on the principle of the Empire. In 1858, Queen Victoria's declaration for the Indian empire, a very important document, said that she would treat all subjects of her Empire as equal. She meant that the people in this country were the same part of the Empire as people in India. One of the leading Indian nationalists in the 1870s described that as a Magna Carta for India.

Mahatma Gandhi fought in South Africa for the rights of indentured labourers on the grounds that, being Indian subjects of Queen Victoria, they had the same rights as the white settlers in South Africa. He did not get very much, but that was the principle on which he fought.

Lord Green of Deddington (CB): I assume the noble Lord is aware that British citizens in India are not permitted to vote.

Lord Desai (Non-Afl): I shall come to that; this is the beginning of a lecture that will take some time.

When I arrived here, I was the holder of an Indian passport. India had become a republic in 1950. Just as we recently saw in the exercise of persuading the Jamaicans not to become a republic, becoming a republic takes a Commonwealth country out of the reciprocity relationship because the country can then choose whether to give reciprocal rights. That is Jamaica's choice, not ours.

We have to be aware that our original right to vote was as subjects—we are still subjects—of the Crown, and the whole notion that we are citizens is an entirely European import. We became citizens only when we joined the EU; we ceased to be citizens when we left. The notion of citizenship is not relevant. We are not a democracy: the Crown in Parliament is sovereign; people are not sovereign. That is the constitutional position. Noble Lords can challenge me if they wish.

I am not disputing the principle of what the noble Lord is proposing, because he has explained very clearly and patiently that there ought to be reciprocity or symmetry. The Commonwealth itself is an anomaly because it is not a symmetrical association of equal states. Her Majesty the Queen heads the Commonwealth because of her position as the Crown and she has asked the Commonwealth Heads of Government to agree that His Royal Highness Prince Charles will head the Commonwealth when he succeeds her. So the Head of the Commonwealth will always be the British monarch. The Commonwealth is not a society of equal nations; there is an asymmetry there.

We are not French; we are British. We do not believe in logic; we believe in convention, tradition and evolution, and therefore there is an anomaly. If the Government want to have a logical structure, let them bring a Bill that in the first clause defines who has the right to vote in this country and why, and who does not have the right to vote, despite being a resident, taxpayer or whatever. That exercise has not been carried out, and so we have an anomalous position. That is the beauty of the constitution—it is not a logical construct.

Baroness Neville-Rolfe (Con): My Lords, I was sorry not to be able to speak at Second Reading. It is always a pleasure to follow the noble Lord, Lord Desai. Logic, clarity and lack of reciprocity call for Amendment 154, in the name of the noble Lord, Lord Green, to be taken seriously and for the questions he has raised to be answered. I look forward to hearing positively from my noble friend the Deputy Leader. I will not delay the House.

Lord Collins of Highbury (Lab): My Lords, I have some sympathy with the points made, but I wish this amendment could have been debated in the group of amendments we had on the entitlement to vote, because I do not really want to move away from the principle I articulated before. Not everyone wants to lose the status of their nationality. For example, my husband does not want to give up his Spanish citizenship, which he may have to do. A number of European countries have started to change but they did not allow dual nationality. A lot of people could lie about that, but he does not want to give it up. I certainly do not want to give up my nationality.

When we were in the EU, we were in the comfortable position of being, as we used to describe ourselves, EU citizens; we could locate and meet our families in our respective countries with ease. Now that has changed and we accept that, but I do not quite understand why we do not accept that there is a settled status, where someone has lived in the country for 27 years, paid tax, national insurance and everything else—they have taken the responsibility of a citizenship—but for one reason or another do not want to take formal citizenship, and why that should preclude them from having the right to vote.

It is crazy that, as I mentioned, an Australian student who comes over for their OE can immediately apply for the right to vote. I would rather the debate focused on what entitles somebody to vote. We have talked about taxation, we have talked about responsibility, and I say that clear levels of residence should establish some basic rights, so that we treat people who live here equally, and when they contribute to the success of our country we should acknowledge that.

I come back to what the noble Lord, Lord Green, said. One of the issues his amendment ought to probe and cause us to think about is: what is a British citizen? He says that British nationals (overseas) are not included. We can make commitments suddenly; for example, we made a commitment to Hong Kong citizens who are BNOs because of the breach of an international agreement. I have no doubt that in future, as we have done in the past, we will want to protect our legacy. The noble Lord, Lord Desai, spoke about the legacy of British Empire, which of course we cannot ignore, and things have changed.

[Lord Collins of Highbury]

I welcome the fact that the noble Lord, Lord Green, has tabled this amendment but we need to consider it in the light of all the amendments we have had on the right to vote and what the qualifications are. I do not think we should ignore residency.

Earl Howe (Con): My Lords, with Amendment 154 we return to the franchise. The purpose of the amendment, as the noble Lord, Lord Green, explained, is to require the Government to confine the voting rights of Commonwealth citizens to citizens of countries that grant British citizens the right to vote in their general elections. The effect of this would be to limit the franchise to Commonwealth citizens from countries where British citizens are entitled to vote in general elections.

I take this amendment seriously but perhaps I could clarify the position as it relates to Commonwealth citizens. First, it is important for me to point out to the noble Lord, Lord Wallace, in particular, that there is no blanket voting right in this country for Commonwealth citizens. The right to vote applies only to qualifying Commonwealth citizens: those who have leave to remain in this country or have such status that they do not require such leave. The noble Lord, Lord Green, asked me to expand on that definition. The definition of "Commonwealth citizen" is a broad term and is not limited to citizens from Commonwealth countries listed in Schedule 3 to the British Nationality Act 1981. It applies equally to other types of British nationality defined in Section 37 of that Act. This includes Hong Kong British nationals (overseas), British overseas citizens and British Dependent Territories citizens. It also includes British Overseas Territories citizens.

I acknowledge that the approach adopted in relation to Commonwealth citizens is different from that that we take towards other categories of foreign nationals. However, there are sound and well-rooted reasons for that difference. The rights of Commonwealth citizens to vote are long standing and reflect the historic connections and well-established links with the Commonwealth of this country and Her Majesty the Queen, as the noble Lord, Lord Desai, outlined.

6.15 pm

How did those rights originate? The Representation of the People Act 1918 provided that only British subjects could register as electors; others, defined in the Act as "aliens", were excluded from voting. However, the term "British subject" then included any person who owed allegiance to the Crown, regardless of the Crown territory in which he or she was born. In general terms, this included citizens who became Commonwealth citizens under the British Nationality Act 1981, as I mentioned. The Government gave assurances during the passage of that Act that the new definition of "British subject" would not alter the possession of civic rights and privileges, such as the right to vote.

Lord Desai (Non-Afl): I just wanted to point out that the 1918 Act was passed especially in recognition of the fact that many people from the Empire had given their lives in the First World War.

Earl Howe (Con): The noble Lord, Lord Desai, is once again perfectly right.

Successive Governments and Parliaments since 1981 have concluded that the existing voting rights of Commonwealth citizens should not be disturbed, and it is on this basis that the Commonwealth citizens are granted the right to vote in UK elections.

I have enormous personal sympathy with the noble Lord, Lord Collins, and his husband in the situation he has outlined. The best answer I can give him is to refer back to the speech of the noble Lord, Lord Desai. As a country, we have found ourselves at various times in our history as members of different families of nations; for example, the family of EU member states and the family of Commonwealth nations. It is therefore perhaps unsurprising that the links and historic traditions, and hence entitlements, relating to each such family are different from one another. Our formal ties with the EU have been severed. Our ties with the Commonwealth endure. The weight of history plays a very considerable part in all sorts of aspects of our national life—

Lord Collins of Highbury (Lab): The noble Earl says that our ties with the Commonwealth endure. I agree with the sentiment but the reality, as the noble Lord, Lord Desai, said, is that the relationship with Commonwealth countries has changed fundamentally, and is continuing to change. As Prince William said yesterday in his press statement—I have forgotten the exact words but it seemed relevant to me—the relations endure but Commonwealth countries change. The fact is that we have not changed what we define. With all these different British nationals as a consequence of our imperial legacy, we find it very difficult to define citizenship in that regard. That is why I come back to this fundamental point. I am not arguing that my husband has a special right as a former EU citizen. I am saying that someone who has lived here for 27 years, and paid tax and national insurance, should have the right to vote. It is residence that I am arguing for, which is what a number of noble Lords have been making the case for.

Earl Howe (Con): My Lords, I understand that. It is clear that this is an argument that runs very deep. We may or may not return to it on Report but if there is anything else that I can add to the remarks that I have made, I will ensure that a letter is sent to all noble Lords who have taken part in this short debate.

In short, it is for reasons of history and because of the well-established ties that we in this country have with the family of nations that we call the Commonwealth that the Government have no plans to change the voting rights of Commonwealth citizens. Therefore, I am afraid we cannot support this amendment.

Lord Green of Deddington (CB): My Lords, it has been a very interesting debate. I welcome the response of the noble Lord, Lord Wallace, on behalf of the Liberal Democrats and note the careful response from the Labour Front Bench. There are wider issues here, and I hope that both opposition parties will look at this and that the Government will, too.

The point that the noble Baroness, Lady Neville-Rolfe, made is a very important one. This loose end, to call it that, rather devalues the worth of UK/British citizenship. We need to sort it; this Bill is a very simple one, this could be a very simple amendment, and this is an opportunity to support it. I intend to bring it back at Report, and I hope that there will be a different reception to it. Meanwhile, I am happy to withdraw it.

Amendment 154 withdrawn.

Amendments 155 and 155A not moved.

Schedule 8: Voting and candidacy rights of EU citizens

Amendment 156 not moved.

Amendments 157 to 160

Moved by ***Earl Howe***

157: Schedule 8, page 151, line 5, leave out "or Northern Ireland"

Member's explanatory statement

The reference in paragraph 12(4)(b) of Schedule 8 to a member of a local authority in Northern Ireland is unnecessary in view of how the qualification requirements in section 3(1) of the Local Government Act (Northern Ireland) 1972 operate.

158: Schedule 8, page 151, line 14, after "authority" insert "in England"

Member's explanatory statement

See the explanatory statement for the amendment in Lord True's name at page 151, line 5.

159: Schedule 8, page 151, line 15, leave out "in relation to England, a county council" and insert "a county council in England"

Member's explanatory statement

See the explanatory statement for the amendment in Lord True's name at page 151, line 5.

160: Schedule 8, page 151, line 18, leave out paragraph (b)

Member's explanatory statement

See the explanatory statement for the amendment in Lord True's name at page 151, line 5.

Amendments 157 to 160 agreed.

Schedule 8, as amended, agreed.

Clause 28: Disqualification orders

Amendment 160A

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

160A: Clause 28, page 40, line 31, at end insert "or

(b) where a person is convicted of an offence under the Terrorism Act 2000."

Member's explanatory statement

This amendment intends to probe the circumstances of elected candidates being found guilty of terrorism offences.

Baroness Hayman of Ullock (Lab): My Lords, I have a couple of amendments to Clause 28 in this group, and then further amendments, all looking at disqualification from elected office. My Amendments 160A and 161 to Clause 28 are really just to probe different government decisions as to why the Bill is laid out as it is. Amendment 160A is to probe the circumstances of elected candidates being found guilty of terrorism offences; that is pretty self-explanatory. Amendment 161 was tabled because the Government have put in the Bill that someone could be disqualified for five years from standing for elected office, and it probes the reasoning behind the period of five years. If the Minister could give the Committee some understanding of where the figure came from, that would be very useful.

Amendment 168 to Clause 32 would add fundraising as an activity undertaken for election purposes, because I think pretty much every political party does it as an election activity. Amendment 170 to Clause 33 is tabled so that we can see clearly the details of any disqualification orders given to ensure transparency. I am aware that the noble Lord, Lord Hayward, has an amendment in this group, so I will be interested to hear his introduction to it. Amendment 172 to Clause 34 probes the Government's intention to vary the offences. It would be interesting to hear from the Minister some more detail on that and how it came to be in its current form.

I shall not give a long speech, as we have a long way still to go on the Bill and it is pretty clear what the Government are looking to achieve by this section of it. There is one issue I will raise, which was raised in Committee in the other place as well, and it concerns the five-year period. Many of the people who go on to intimidate candidates, agents or campaigners—unfortunately, I have been a victim of that, as have many people who stand for elected office—and who commit such crimes and acts, are not really interested in standing themselves to become elected representatives. Some of them are just opposed to the whole idea of how we run our democracies. But is that five-year period going to stop anything? Do the Government think that anything further could be done to manage the problem? Intimidation is becoming an increasingly difficult issue which, sadly, anyone putting themselves forward for public life at any level has to deal with.

We support the Government in their really important effort to do something about intimidation of candidates, be it physically or through social media. The Opposition are happy to work with the Government if there are ways in which we can continue to improve the situation, support people who put themselves forward for public office and protect them from this kind of behaviour. I beg to move.

Lord Hayward (Con): My Lords, the noble Baroness, Lady Hayman, referred to my Amendment 171 in this group, to which I would like to speak. Before I do, and with the indulgence of the House, I refer to some comments made by the noble Baroness, Lady Scott, in Committee last week:

"However, given the important concerns that have been raised on the secrecy of voting, Minister Badenoch will be writing to the Electoral Commission and the Metropolitan Police to confirm our common understanding of the position set out in legislation—that the only people who should provide assistance at a polling booth are polling station staff and companions who are doing so only for the purpose of supporting an elector with health and/or

[LORD HAYWARD]

accessibility issues that need such support. We are confident that the Electoral Commission will be able to respond promptly".—[*Official Report*, 21/3/22; cols. 750-1.]

I raise that because the Minister wrote to the Electoral Commission and the police last week in very clear terms, covering the points made by, I think, every Member in the debate, and emphasising that there should be no element of doubt. Noble Lords will note that the Minister said that it was hoped that the Electoral Commission and the police would respond promptly. I quote from the letter the Minister wrote to those two organisations. In the penultimate paragraph, she says:

"I would be grateful for a quick response … to reassure Parliament that the secrecy of the ballot is upheld at those polls"—

that is, in May—or the Government may be minded to "strengthen the law in this area, given the constitutional importance". I hope that the Electoral Commission and the Metropolitan Police will respond promptly, so that this matter does not have to come back at Report, as it may well have to do. I thank the Committee for its indulgence while I dealt with that, but it is important, given the general view that was expressed.

I move on to my Amendment 171. I am sorry here to possibly be raking over bad memories for the noble Lord, Lord Collins, who has said on a number of previous occasions that he was involved in the Tower Hamlets affair several years ago—and this is driven by the issue of Tower Hamlets and Lutfur Rahman. Lutfur Rahman was banned for five years, which may be where the question from the noble Baroness, Lady Hayman, about five years comes from. That was the maximum penalty available to the election court.

6.30 pm

The issue is current because Lutfur Rahman, having been banned for the maximum time available to an election court, is now in a position to stand at the upcoming local elections for mayor in Tower Hamlets. Lutfur Rahman has issued an election leaflet in which he identifies himself as the potential candidate for mayor, with the noble Baroness, Lady Uddin—I did give her notice that I would be referring to her—and Ken Livingstone as prime supporters. That is probably not the ultimate dream team that one could imagine for an election campaign.

The significant thing about this is that Lutfur Rahman can stand again, and he can do so not only because the election court has this maximum but because our election law needs bringing up to date—a matter that I referred to at Second Reading and to which a number of noble Lords have referred on many occasions. Lutfur Rahman is going around Tower Hamlets issuing leaflets that say, in his own words reported recently in *East London News*:

"I have never acted dishonestly".

He then goes on to refer to the election tribunal.

Well, Mr Rahman, if you have never acted dishonestly, why is it that in the judgment issued on 23 April 2015 in the High Court of Justice of the Queen's Bench Division, Richard Mawrey QC, sitting as the judge in the High Court, said—I quote from the formal conclusions in paragraph 672 onwards—

"the First Respondent Mr Rahman was guilty … of corrupt practices";

then, in paragraph b),

"Mr Rahman was guilty by his agents of illegal practices";

in paragraph c),

"Mr Rahman was personally guilty";

in paragraph d),

"Mr Rahman was guilty by his agents";

in paragraph e),

"Mr Rahman was personally guilty";

and, in paragraph f),

"Mr Rahman was personally guilty"?

There are seven different offences of which he was found guilty, and two others where he was found guilty with other people. Yet he seems able, despite the fact that he says he has never done anything dishonestly, to go around already for this election saying "I have never been found guilty of anything".

The judgment by Richard Mawrey is quite interesting and depressing. It shows the lengths to which Lutfur Rahman and others were willing to go. In paragraph 248, Mr Mawrey refers to Mr Rahman's

"close cronies, some of whom … have little to recommend them beyond blind loyalty to their leader."

At a later stage, Mr Mawrey says, in paragraphs 295 and 296:

"As a generalisation, politicians … avoid answering the question … Mr Rahman exemplified this trait to an extreme level. Faced with a straight question, he proved himself almost pathologically incapable of giving a straight answer."

In paragraph 298, he says:

"Sadly, it must also be said that he was not truthful. In one or two crucial matters he was caught out in what were … blatant lies."

Lutfur Rahman has said, as I quoted earlier, that he has "never acted dishonestly". This judgment is a series, almost a litany, of offences that we can only imagine. The judgment given by Richard Mawrey was then referred to the Solicitors Disciplinary Tribunal:

"The matter was heard on 18-20 December 2017. Mr Rahman was Struck Off the Roll."

So we have somebody who has been not allowed to continue his office as mayor, who has been struck off the solicitors' roll and who was banned for the maximum available time, yet he is now entitled to stand again for that role. He is also going around issuing messages saying that people claim

"I was found guilty of … corruption … These claims relate to an election tribunal".

They do not relate to an election tribunal; they relate to an election court. He goes on to say that

"Lord Justice Lloyd-Jones and Mr Justice Supperstone said that the findings 'did not amount to a finding of criminal guilt'".

They amounted to breaches of election law in seven different ways.

Lutfur Rahman is appealing for votes in a sectarian manner in Tower Hamlets. He is not appealing for votes in the interests of any broad community. He says in his election broadcast that he "feels the pain" of the community. He does not. He feels the desire to rehold an office from he has been banned and should have been banned for a much longer period. He is not

serving the Bengali community in Tower Hamlets; he is serving himself and, in the words of Richard Mawrey, "his cronies".

It is on that basis that I believe we have the ultimate example of the need for a ban to apply for more than five years. This man should not have been allowed to contest another election at any point.

Lord Scriven (LD): My Lords, very briefly from these Benches, most of these probing amendments seem reasonable and we look forward to the response of the Minister on the points that have been raised. I will just raise four points.

First, it is always a pleasure to follow the noble Lord, Lord Hayward. I have listened throughout Committee to his detailed analysis of what has happened in Tower Hamlets. I think it is important as we go through the Bill that we remember what has happened in Tower Hamlets, but we must not use it as the sole basis on which to make the law of the land; we have to listen to what has happened there, but making electoral law has to go much wider than just the Tower Hamlets case.

Having said that, like the noble Baroness, Lady Hayman, I want to probe why it is five years in particular. Five years is one election cycle, or could be one general election cycle. If somebody has committed quite a serious election fraud, having a five-year, one-term ban seems rather lenient to most people who would be looking in. What analysis was done by the Government in determining that five years was the particular period?

On Amendment 172, it is pleasing that, if the Secretary of State is going to vary, omit or add to the list of offences, it will be done on the affirmative procedure. Can the Minister give an example of what type of variation would be required? One can understand omitting, one can understand adding, but what kind of variation do the Government foresee could be laid by the Secretary of State? With those comments from these Benches, and my omitting when I first spoke to also wish the noble Lord, Lord True, a speedy recovery and wish him back to his place for Report, we look forward to hearing what the Minister has to say.

Baroness Scott of Bybrook (Con): First, I thank my noble friend for bringing the Committee up to date with the letter from the Minister to the Electoral Commission and the Metropolitan police that we discussed at our previous sitting. The letter is one thing, but I now wait for the responses to it. I will make sure that my noble friend Lord True knows about that so that we can keep the pressure on to get those responses. That is important.

The act of intimidation and those who perpetrate it have no place in our democracy. Clause 28 would create a new disqualification order for offenders who intimidate those who contribute to our public life. This would be a five-year ban on standing for, holding and being elected to public office. It can be imposed on those convicted of intimidating a candidate, elected office holder or campaigner. After all, it is simply not right that those who try to damage political participation through intimidation are allowed to participate in the very same process that they tried to undermine.

There is no single offence of intimidation in criminal law. Therefore, the new sanction would potentially apply to a wide range of existing intimidatory criminal offences, as listed in Schedule 9. The noble Lord, Lord Scriven, asked what more could be added to that, and I will get some suggestions for him.

Lord Scriven (LD): I did not ask what more could be added but for an example of variation.

Baroness Scott of Bybrook (Con): I will get an answer for the noble Lord and write to him.

The list includes, but is not limited to, stalking, harassment, common assault and threats to kill. By creating a new sanction instead of a new electoral offence, we would enable the protection from intimidation all year round, not just during an election period, and extend protection in law to two additional groups: future candidates and elected office holders.

We understand the noble Baroness's view on intimidating those not wanting to stand—they just want to intimidate. I will take it back because it is a valid point, but I imagine the answer is that there are other laws for that sort of intimidation that do not affect electoral law. I will ensure that the noble Baroness gets an answer.

For the disqualification order to be imposed, the intimidatory offence must be aggravated by hostility related to the status, or perceived status, of the victim being a candidate, elected office holder or campaigner. This ensures that the disqualification is imposed only in instances where political participation is genuinely at risk. The disqualification order is, of course, in addition to whatever other punishment the court applies to the offender for the underlying criminal offence. I think that is extremely important.

Amendment 160A probes the circumstances of an elected candidate being found guilty of terrorism offences. I can confirm that anyone committing an act of terrorism against a candidate, future candidate, campaigner or holder of elective office would already be subject to the disqualification order as currently drafted in addition to the penalties associated with that specific crime. If the offender was a holder of elective office, their office would be vacated in accordance with Clause 29. I therefore urge the noble Baroness to withdraw this amendment.

I heard what my noble friend Lord Hayward said about Amendments 161 and 171, but I am not going to comment on that case because I do not think it would be right to do so. These amendments seek significantly to increase the period of disqualification or incapacity arising from the imposition of the disqualification order or from committing relevant electoral offences, respectively. Changes of this significance require very careful consideration to ensure that these penalties continue to reflect the crime and do not become disproportionate.

6.45 pm

The fixed five-year disqualification period provided in Clause 28 is consistent with the existing incapacity arising from a corrupt or illegal practice as provided

[Baroness Scott of Bybrook]
by Section 160 of the Representation of the People Act 1983. I think that that answers the question asked by the noble Lord, Lord Scriven. The period of disqualification for the proposed disqualification order is designed to strike the right balance between ensuring a sufficient deterrent while remaining proportionate, given the potential interference with the right to participate in free and fair elections, most recently protected under Article 3 of Protocol 1 to the European Convention on Human Rights. I therefore urge the noble Baroness and my noble friend not to press these amendments.

Lord Hayward (Con): Before my noble friend moves off that point, and picking up a comment made by the noble Lord, Lord Scriven, although I have referred on a number of occasions to Tower Hamlets, I have done so because that is the most extreme example. Does my noble friend agree that there are other examples of election offences around the country which may be considered minor, but are indications of the sort of problems we are facing in a number of areas?

Baroness Scott of Bybrook (Con): Issues from around the country that we need to take note of have been brought forward in this Committee.

Lord Scriven (LD): My question was slightly different. I appreciate that the Minister tried to answer, but what assessment has been carried out to see whether five years is still relevant? If it is benchmarked against a five-year period within the Representation of the People Act, was that assessed against the types of crime that we are talking about and was that still seen to be the correct benchmark?

Baroness Scott of Bybrook (Con): It is considered to be the correct benchmark taking into account proportionality and the fact that many of these crimes will have further consequences because other crimes have been committed.

Amendment 168 seeks to widen the definition of a campaigner in Clause 32 explicitly to include fundraising activity as an activity undertaken by a campaigner for election purposes. I can assure the noble Baroness that fundraising activities for a registered party and a candidate are already implicitly captured, as provided by the broad wording that defines campaigners as engaging in activity to "promote or procure" support. However, we will explore options to clarify this further in the Bill's Explanatory Notes. I thank the noble Baroness for tabling this amendment, but I ask her not to press it.

Amendment 170 to Clause 33 would require a Minister of the Crown to publish a statement outlining the details of the disqualification order in the event that a person were to be elected to the House of Commons while subject to a disqualification order. Further, we note the noble Baroness's opposition to Clause 33 more generally. As explained, the new disqualification order disqualifies offenders from being elected to various offices. Clause 33 would ensure that this disqualification applies to membership of the House of Commons. To clarify, while the other relevant elected offices already have provisions which state that an election is void because of disqualification, there is currently no equivalent provision in relation to the election of a Member to the House of Commons.

Therefore, Clause 33 has an important role to play in ensuring that the new intimidation disqualification order operates as intended and as I suggest the electorate would expect it to operate. There is no reason why those elected to the House of Commons should be treated as a special case or held to a lower standard than any other elected office in this country. Anyone convicted of a politically motivated criminal intimidation-related offence should not be sitting in the other place for the duration of the disqualification period.

Turning specifically to Amendment 170, I reassure the noble Baroness that it would not be necessary. Although there is no notice requirement in Section 7 of the House of Commons Disqualification Act 1975, in the event that a seat becomes vacant, there will be a Motion for the Speaker to issue their warrant to make out a new writ for the election of a new Member to fill that vacancy. The writ would then be issued, and Members of the House of Commons would be made aware that a vacancy has occurred. I therefore urge the noble Baroness to withdraw this amendment.

I now turn to Amendment 172, tabled by the noble Baroness, Lady Hayman, which proposes to limit the regulation-making powers to amend Schedule 9, which lists the existing criminal offences of an intimidatory nature in respect of which the intimidation sanction can be made. The purpose of Clause 34 is to future-proof the new intimidation sanction so that it remains relevant and can continue to apply to offences of an intimidatory nature, recognising that the nature of intimidation and abuse can shift, and indeed is currently shifting, particularly online. A relevant example of this is the online safety Bill, introduced earlier this month: it proposes new communication offences originally recommended by the Law Commission last year.

In addition to enabling Ministers to respond to and add new offences, the clause ensures that the list provided in Schedule 9 remains accurate through powers to omit offences from the list and vary the description of offences already included in it, if and when any of the listed offences are amended or repealed in law. These provisions will require that any statutory instrument laid using these powers is subject to parliamentary scrutiny under the affirmative resolution procedure. This will ensure that Parliament can scrutinise and decide whether to accept any proposed changes to Schedule 9. I therefore ask the noble Baroness not to press Amendment 172.

Baroness Hayman of Ullock (Lab): I thank the Minister for the clarification she has provided, particularly around my amendment seeking to include fundraising. It would be extremely helpful if that could be added to the Explanatory Notes. She also explained that the Government want to future-proof intimidation sanctions, particularly online. When the Minister talked about varying the offences, did she mean just varying the descriptions of offences as things change to make sure they are always up to date? It would be helpful if the Minister could clarify that.

Baroness Scott of Bybrook (Con): No—we are talking about ensuring that the list provided in Schedule 9 remains accurate through powers to omit offences from the list and vary the description. So it is varying or omitting.

Baroness Hayman of Ullock (Lab): So the "varying" bit is just to do with the description of the offence. I thank the Minister.

As the amendments I have tabled show, my main concern is the fixed five-year period. Other noble Lords have raised that issue too—the noble Lord, Lord Scriven, rightly said that that is only one parliamentary term—so it would be good if the Government could look at that again. I will make another suggestion. If the Government are going to stick with the fixed five-year period, what would happen if there were a repeat offence? Would there be another five-year period, or is there an option to look at a greater sanction if such an offence were committed again? Otherwise, it is not a deterrent if the people just miss out every now and again. It would be good if the Government could have another think about that; otherwise, this issue will come back on Report, because there are clearly concerns about it.

I thank the Minister for her comments on the intimidation of candidates' agents and campaigners. I am aware that she rightly said that other offences are available for people to be convicted of if they are found to have behaved like that. I know that this is not part of the Bill, but often the effectiveness of the police's response to such intimidation varies greatly across the country. It would be good if the Government could also consider that in some form or other. For the moment, I withdraw my amendment.

Amendment 160A withdrawn.

Amendment 161 not moved.

Clause 28 agreed.

Schedule 9 agreed.

Clause 29 agreed.

Clause 30: Candidates etc

Amendments 162 to 165

Moved by ***Earl Howe***

162: Clause 30, page 42, line 23, after "office" insert "or a relevant Scottish elective office"

Member's explanatory statement

This amendment ensures that references to a candidate in clause 30 continue to include a candidate at an election for the office of member of the Scottish Parliament or member of a Scottish local authority, notwithstanding the amendments in Lord True's name to clause 35 which narrow the general definition of "relevant elective office".

163: Clause 30, page 42, line 27, leave out "for a relevant elective office"

Member's explanatory statement

See the explanatory statement relating to the amendment in Lord True's name at page 42, line 23.

164: Clause 30, page 42, line 30, after "office" insert "or a relevant Scottish elective office"

Member's explanatory statement

See the explanatory statement relating to the amendment in Lord True's name at page 42, line 23.

165: Clause 30, page 42, line 34, leave out "relevant elective"

Member's explanatory statement

See the explanatory statement relating to the amendment in Lord True's name at page 42, line 23.

Amendments 162 to 165 agreed.

Clause 30, as amended, agreed.

Clause 31: Holders of relevant elective offices

Amendments 166 and 167

Moved by ***Earl Howe***

166: Clause 31, page 44, line 2, after "office" insert "or a relevant Scottish elective office"

Member's explanatory statement

This amendment ensures that references in clause 31 to the holder of a relevant elective office continue to include the holder of the office of member of the Scottish Parliament or member of a Scottish local authority, notwithstanding the amendments in Lord True's name to clause 35 which narrow the general definition of "relevant elective office".

167: Clause 31, page 44, line 4, after "office" insert "or a relevant Scottish elective office"

Member's explanatory statement

See the explanatory statement relating to the amendment in Lord True's name at page 44, line 2.

Amendments 166 and 167 agreed.

Clause 31, as amended, agreed.

Clause 32: Campaigners

Amendment 168 not moved.

Amendment 169

Moved by ***Earl Howe***

169: Clause 32, page 45, line 37, after "office" insert "or a relevant Scottish elective office"

Member's explanatory statement

This amendment ensures that "relevant election", in clause 32, continues to include an election for the office of member of the Scottish Parliament or member of a Scottish local authority, notwithstanding the amendments in Lord True's name to clause 35 which narrow the general definition of "relevant elective office".

Amendment 169 agreed.

Clause 32, as amended, agreed.

Clause 33: Election etc of a person to the House of Commons who is subject to a disqualification order

Amendment 170 not moved.

Clause 33 agreed.

Amendment 171 not moved.

Clause 34: Power to amend Schedule 9

Amendment 172 not moved.

Clause 34 agreed.

Clause 35: Interpretation of Part

Amendments 173 to 176

Moved by ***Earl Howe***

173: Clause 35, page 46, line 24, leave out paragraph (b)

Member's explanatory statement

This amendment removes member of the Scottish Parliament from the definition of "relevant elective office" for Part 5.

174: Clause 35, page 46, line 27, after "authority" insert "in England, Wales or Northern Ireland"

Member's explanatory statement

This amendment, and the amendment in Lord True's name at page 47, line 1, remove member of a Scottish local authority from the definition of "relevant elective office" for Part 5.

175: Clause 35, page 46, line 35, at end insert—

> ""relevant Scottish elective office" means the office of—
>
> (a) member of the Scottish Parliament, or
>
> (b) member of a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994."

Member's explanatory statement

This amendment inserts a definition of "relevant Scottish elective office" for Part 5.

176: Clause 35, page 47, line 1, leave out paragraph (b)

Member's explanatory statement

See the explanatory amendment for the amendment in Lord True's name at page 46, line 27.

Amendments 173 to 176 agreed.

Clause 35, as amended, agreed.

Clause 36 agreed.

Schedule 10: Disqualification orders: minor and consequential amendments

Amendments 177 and 178

Moved by ***Earl Howe***

177: Schedule 10, page 160, line 33, leave out paragraph 4

Member's explanatory statement

This amendment omits amendments currently made by the Bill to sections 35 and 36 of the Local Government (Scotland) Act 1973.

178: Schedule 10, page 161, line 19, leave out paragraph 6

Member's explanatory statement

This amendment omits amendments currently made by the Bill to section 17 of the Scotland Act 1998.

Amendments 177 and 178 agreed.

Schedule 10, as amended, agreed.

Clause 37 agreed.

Clause 38: Definitions relating to parties etc

Amendments 179 and 180

Moved by ***Earl Howe***

179: Clause 38, page 48, line 1, after "office" insert "or a relevant Scottish elective office"

Member's explanatory statement

This amendment ensures that the definition of "candidate" continues to include a candidate at an election for the office of member of the Scottish Parliament or member of a Scottish local authority.

180: Clause 38, page 48, line 5, after "office" insert "or a relevant Scottish elective office"

Member's explanatory statement

This amendment ensures that the definition of "future candidate" continues to include a future candidate at an election for the office of member of the Scottish Parliament or member of a Scottish local authority.

Amendments 179 and 180 agreed.

Clause 38, as amended, agreed.

7 pm

Clause 39: Requirement to include information with electronic material

Amendment 180A

Moved by ***Lord Clement-Jones***

180A: Clause 39, page 48, line 28, leave out "reasonably practicable" and insert "possible"

Member's explanatory statement

This amendment replaces "if it is not reasonably practicable to comply" with "if it is not possible to comply" to ensure that the majority of electronic material is within scope of the bill's intentions.

Lord Clement-Jones (LD): My Lords, I shall also speak to Amendments 194A, 194B, 196A and 212C. I am a relative interloper on this Bill as I was not able to speak at Second Reading. Part 6 has taken a long time to come in Committee, but the digital aspects of election campaigns are nevertheless of great importance. For the convenience of the House, I thought it best to group all these digital amendments together, although they cover rather different aspects of digital campaigning.

Before I start, I will say that I was looking forward to a joust with the Minister, the noble Lord, Lord True, but I send my best wishes to him for a speedy Covid recovery. On the other hand, it is a pleasure to see the versatile noble Earl, Lord Howe, taking part in these proceedings.

Digital campaigning is of growing importance. It accounted for 42.8% of reported spend on advertising in the UK at the 2017 general election. That figure rose in 2019; academic research has estimated that political parties' spending on platforms is likely to have increased by over 50% in 2019 compared to 2017. As the Committee on Standards in Public Life said in its report in July last year, *Regulating Election Finance*:

"Research conducted by the Electoral Commission following the 2019 General Election revealed that concerns about transparency are having an impact on public trust and confidence in campaigns."

In that light, the introduction of digital imprints for political electronic material is an overdue but welcome part of the Elections Bill.

The proposed regime as it stands covers all types of digital material and all types of appropriate promoter. However, a significant weakness of the Bill may exist in the detail of where an imprint must appear. In its current form, the Bill allows promoters of electronic material to avoid placing an imprint on the material itself if it is not reasonably practicable to do so. Instead, campaigners could include the imprint somewhere else that is directly accessible from the electronic material, such as a linked webpage or social media profile or bio. The evidence from Scotland's recent parliamentary elections is that this will lead in practice to almost all imprints appearing on a promoter's website or homepage or on their social media profile, rather than on the actual material itself. Perhaps that was encouraged by the rather permissive Electoral Commission guidance for those elections.

Can this really be classed as an imprint? For most observers of the material, there will be no discernible change from the situation that we have now—that is, they will not see the promoter's details. The Electoral Commission also says that this approach could reduce transparency for voters if it is harder to find the imprint for some digital campaign material. It seems that

"if it is not reasonably practicable to comply"

will award promoters with too much leeway to hide an imprint. Replacing that with

"if it is not possible to comply"

would ensure that the majority of electronic material is within the scope of the Bill's intentions. What happened to the original statement in the Cabinet Office summary of the final policy in its response to the consultation document *Transparency in Digital Campaigning* in June last year? That says:

"Under the new regime, all paid-for electronic material will require an imprint, regardless of who it is promoted by."

There is no mention of exemptions.

The commission says it is important that the meanings of the terms in the Bill are clear and unambiguous, and that it needs to know what the Government's intent is in this area. In what circumstances do the Government really believe it reasonable not to have an imprint but to have it on a website or on a social media profile? We need a clear statement from them.

As my noble friend Lord Wallace said, Amendments 194A and 196A really should be included in the "missed opportunity" box, given the massive threat of misinformation and disinformation during election campaigns, particularly by foreign actors, highlighted in a series of reports by the Electoral Commission, the Intelligence and Security Committee and the Committee on Standards in Public Life, as well as by the Joint Committee on the Draft Online Safety Bill, on which I sat. It is vital that we have much greater regulation over this and full transparency over what has been paid for and what content has been paid for. As the CSPL report last July said,

"digital communication allows for a more granular level of targeting and at a greater volume – meaning more messages are targeted, more precisely and more often."

The report says:

"The evidence we have heard, combined with the conclusions reached by a range of expert reports on digital campaigning in recent years, has led us to conclude that urgent action is needed to require more information to be made available about how money is spent on digital campaigning."

It continues in paragraph 6.26:

"We consider that social media companies that permit campaign adverts in the UK should be obliged to create advert libraries. As a minimum they should include adverts that fit the legal definition of election material in UK law."

The report recommends that:

"The government should change the law to require parties and campaigners to provide the Electoral Commission with more detailed invoices from their digital suppliers … subdivide their spending returns to record what medium was used for each activity"

and

"legislate to require social media platforms that permit election adverts in the UK to create advert libraries that include specified information."

All those recommendations are also contained in the Electoral Commission report, *Digital Campaigning: Increasing Transparency for Voters* from as long ago as June 2018, and reflect what the Centre for Data Ethics and Innovation set out in its February 2020 report on online targeting in specifying what it considered should be included in any such advert library. The implementation of these recommendations, which are included in Amendment 196A, would serve to greatly increase the financial transparency of digital campaigning operations.

In their response to the CSPL report, the Government said:

"The Government is committed to increasing transparency in digital campaigning to empower voters to make decisions. As part of this, we take these recommendations on digital campaigning seriously. As with all of the recommendations made by the CSPL, the Government will look in detail at the recommendations and consider the implications and practicalities."

The Public Administration and Constitutional Affairs Committee report last December followed that up, saying at paragraph 216:

"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 … 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."

So the time has come for the Government to say what their intentions are. They have had over six months to do this, and I hope they have come to the conclusion that fully safeguards our democracy. I hope the Government will now see the merits and importance of those amendments.

On Amendment 194B, the CSPL also recommended changes to electoral law regarding foreign actors. We had some discussion about this issue during the debate on Amendment 35. The CSPL says at paragraph 6.29 of its report:

[Lord Clement-Jones]

"As we discuss in chapter 4, the rules on permissible donations were based on the principle that there should be no foreign interference in UK elections. However, the rules do not explicitly ban spending on campaign advertising by foreign individuals or organisations."

It specifically refers to the Electoral Commission's *Digital Campaigning* report, which said:

"A specific ban on any campaign spending from abroad would … strengthen the UK's election and referendum rules."

It quoted the DCMS committee's February 2019 report, *Disinformation and "Fake News",* which said that

"the UK is clearly vulnerable to covert digital influence campaigns",

and the Intelligence and Security Committee report, which stated that if the commission

"is to tackle foreign interference, then it must be given the necessary legislative powers."

These are powerful testimonies and recommendations from some very well respected committees. As a result, the CSPL recommended:

"In line with the principle of no foreign interference in UK elections, the government should legislate to ban foreign organisations or individuals from buying campaign advertising in the UK."

This is very similar to a recommendation in the Electoral Commission's *Digital Campaigning: Increasing Transparency for Voters* report of 2018, which I referred to earlier. In response, the Government said: "We are extending this"—the prohibition of foreign money—

"even further as part of the Elections Bill, to cover all third-party spending above £700 during a regulated period."

However, the current proposals in the Bill have loopholes that foreign organisations can readily use, for instance through setting up multiple channels. A foreign actor could set up dozens of entities and spend £699 on each one—something very easy for online expenditure.

Amendment 194B would ensure that foreign entities were completely banned from participating at all and would make absolutely certain that the Government's intentions were fulfilled. Again, I hope that the Minister will readily accept this amendment as strengthening the Bill against foreign interference.

Turning to Amendment 212C, tackling societal harms caused by misinformation and disinformation is not straightforward, as our Joint Committee on the Online Safety Bill found. However, consistent with the report of the Lords Select Committee on Democracy and Digital Technologies, *Digital Technology and the Resurrection of Trust*, chaired by the much-missed Lord Puttnam, we said:

"Disinformation and Misinformation surrounding elections are a risk to democracy. Disinformation which aims to disrupt elections must be addressed by legislation. If the Government decides that the Online Safety Bill is not the appropriate place to do so, then it should use the Elections Bill which is currently making its way through Parliament."

There is, of course, always a tension with freedom of expression, and as we emphasised in our Joint Committee, so we must prioritise tackling specific harmful activity over restricting content. Apart from the digital imprint provisions, however, the Bill fails to take any account of mounting evidence and concerns about the impact on our democracy of misinformation and disinformation. The long delayed report of the Intelligence and Security Committee on Russian interference of July 2020 was highly relevant in this context, stating:

"The UK is clearly a target for Russia's disinformation campaigns and political influence operations and must therefore equip itself to counter such efforts."

Protecting our democratic discourse and processes from hostile foreign interference is a central responsibility of the Government. The committee went on, very topically, to say:

"The links of the Russian elite to the UK—especially where this involves business and investment—provide access to UK companies and political figures, and thereby a means for broad Russian influence in the UK."

It continued:

"We note—and, again, agree with the DCMS Select Committee—that 'the UK is clearly vulnerable to covert digital influence campaigns.'"

The online harms White Paper published in April 2019 recognised the dangers that digital technology could pose to democracy and proposed measures to tackle them. Given the extensive regulatory framework being put in place for individual online harms in the Online Safety Bill, newly published last week, why are the Government reluctant to reaffirm the White Paper approach to elections and include it in this Bill? The Government responded to our Joint Committee report on this issue last week by saying that they agreed that misinformation and disinformation surrounding elections are a risk to democracy. However, they went on to say:

"The Government has robust systems in place that bring together governmental, civil society and private sector organisations to monitor and respond to interference in whatever form it takes to ensure that our democracy stays open, vibrant and transparent"

—fine words. They cite the Defending Democracy programme, saying:

"Ahead of major democratic events, the Defending Democracy programme stands up the Election Cell. This is a strategic coordination and risk reporting structure that works with relevant organisations to identify and respond to emerging issues".

So far, so vague. They continue:

"The Counter Disinformation Unit based in DCMS is an integral part of this structure and undertakes work to understand the extent, scope and the reach of misinformation and disinformation."

7.15 pm

The Government, however, seem remarkably reluctant to tell us through parliamentary Questions or FoI requests what this Counter Disinformation Unit within the DCMS is. What does it actually do? Does it have a role during elections? Given that government response, it seems clear that the net result is that the Elections Bill has, and will have, no provisions relating to misinformation and disinformation.

Amendment 194B is a start and is designed to prevent one strand of disinformation, akin to the 640,000 Facebook posts that led to the Capitol riots of 6 January last year, which not only has immediate impact but erodes trust in future elections. The Government should pick this amendment up with enthusiasm but then introduce something much more comprehensive that meets the concerns of the ISC's *Russia* report and tackles online misinformation and disinformation in election campaigns.

I would of course be very happy to discuss all these amendments and all the relevant issues with Ministers between Committee and Report stages.

Baroness Jones of Moulsecoomb (GP): My Lords, I congratulate the noble Lord, Lord Clement-Jones, on an extremely full exposition of his amendments, which makes me almost superfluous but I will add something anyway. The Minister is leaving, but I just say to him that the Government appear to want to get this excruciatingly poor Bill through before Prorogation. If they are going to do that, will they please accept some of the more sensible amendments so that the Bill contains some useful stuff that we can all use as politicians to make the whole process much fairer? The growing complexity of digital marketing makes online campaigning a major battleground for political dirty tricks; we all want to avoid that.

In 2019, political parties used data from Experian Marketing Services and Facebook to target specific campaign messages to individual voters. They also used Facebook services that allow advertisers to find customers similar to an existing group of customers. This allows targeting by age, location, interests, likes and a whole host of other personal data. The big risk of this, of course, is that political parties can promise anything to all people in a way that they could not before. We have politicians lying to our faces—the Prime Minister stands up and lies at the Dispatch Box. We all see him doing it; some of care and a lot of us do not. We can see it; it is happening. Now, however, there is an industry that would allow politicians to target their distortions of the truth on specific groups of people. The same candidate could target Brexit supporters with a pro-Brexit message, remain supporters with an anti-Brexit message and everyone else with a message saying that Brexit is a waste of time and we should all be getting on with more important things.

The threat to the integrity of our democracy is obvious; this is something we really do have to tackle. We need to move on with the times and be a bit more modern about accepting that we have a problem. There is a real risk that whichever party uses dodgy digital marketing in the most egregious and misleading ways will be most likely to win an election. We are at risk of a digital arms race in which truth and integrity are impediments to getting elected. I urge the Government to pick up at least some of these amendments, which would make our whole political system much clearer, cleaner and fairer.

Baroness Wheatcroft (CB): My Lords, I support these amendments, so comprehensively introduced by the noble Lord, Lord Clement-Jones, in particular Amendment 194B. It is clearly right that overseas actors should be specifically banned from interfering in our political process and publishing propaganda online. It is relatively easy for them to do that.

Clause 39 imposes a duty on those publishing election-related material to make clear the source of that material. The noble Lord, Lord Clement-Jones, has made clear that this is a loophole big enough for most people to get through; it is simply not enough. It would be naive in the extreme to assume that those who wish to influence our elections are not wily enough to circumvent these sorts of stipulations, and neither are they likely to be put off doing so by the fact that they would be breaking British law, as Amendment 194B would insist.

The bots that churned out online propaganda ahead of the referendum amounted to interference in our electoral process on an industrial scale. We cannot say categorically whether they affected the result, but we know they tried. Yet the Government have neither investigated what happened nor done anything that we can see to prevent such online terrorism. As the noble Lord, Lord Clement-Jones, put it, "So far, so vague".

As others have mentioned, the *Russia* report from the Intelligence and Security Committee was highly critical of the Government's failure to examine what had happened and to take action, yet the Government continue to resist anything tangible. That is why a cross-party group of MPs and Peers, of which I am one, has filed a legal action to try to force our Government to investigate and protect the integrity of our electoral system. That action has today been filed with the European Court of Justice. It will, of course, take a while before it produces anything, and I hope that in the meantime the Government take action that would render such legal action—to prompt them into doing what they should do—unnecessary.

Does the Minister believe that Clause 39, even with this amendment, will prevent malign interference in the UK's electoral process? Does he really believe that what is being done quietly is having any effect at all? Does he not think that the time has come, if the Government are taking real action, for us to be told about it and for the need for it to be enshrined in law?

Lord Mann (Non-Afl): My Lords, I would have rather welcomed being targeted by a foreign Government in the various elections I stood in. It would have been relatively straightforward to have turned that around—I would have used more traditional methods of communication—and exposed it. But I am not quite sure how we would be able to take North Korea, Mr Putin or whoever through the courts in this country for any remedy or preventive action. Donations, of course, are an entirely separate issue, but these amendments are on electronic communications.

I listened to the noble Lord, Lord Clement-Jones, and I will respectfully give a different point of view on his Amendment 180A, which is very well intentioned but rather misses the point about transparency and where the digital age is going. The concept of putting in an imprint to demonstrate who has put a particular advert or piece of propaganda out there is very valid.

It is quite feasible that I will not be standing at the time of the next general election, unless some odd mayoralty is formed that I suddenly decide I should run for. I have had my day fighting elections. But if I was, I would think about how I could harness the latest technology so that people's clothes would carry my name and slogan. Particularly at football matches, you regularly see straplines that change every few seconds; I would have them at strategic locations, firing out different messages. If others were doing so at prime locations and I had sufficiently robust funds to allow me to join in with using those advertising methodologies, I would certainly look to do that.

[LORD MANN]

When it comes to proper transparency, it seems to me that the concept of, say, an agent having to have everything declared precisely on a website is far more useful for the efficacy of elections than anything that would anticipate that, for example, the latest high-tech jumper I am wearing, advertising a candidate, could somehow be spotted to have on it something that could then be used to hold me to account. It seems to me that some of the tried and tested methods could be more useful for the intention—here I agree with the noble Lord, Lord Clement-Jones—of ensuring that there is maximum transparency and legality in elections. I would be interested in the Minister's views on whether this section of the Bill is sufficiently future-proofed for where technology will be next week, never mind next year.

Lord Stunell (LD): My Lords, I will briefly intervene, having heard the noble Lord, Lord Mann. It is important to understand that, as far as Clause 39 goes, the amendment talks about making sure there is some way of identifying the message you have. Of course, if it says "Vote for Mann" it might be a reasonable presumption that it had been sponsored by somebody supporting the candidacy of Mr Mann, as it would be. But the evil, if I can put it that way, of much social media advertising is that it is not clear what it is doing. You have negative campaigning as well as positive campaigning. It is not necessarily done in a way that makes it obvious that what you are reading is not a news item or a fashion page—to pick up the point from the noble Lord, Lord Mann—but it nevertheless conveys an important message to a particular category of reader. So I ask the Minister to address the substance of my noble friend Lord Clement-Jones's Amendment 180A.

"Reasonably practicable" has already been completely circumvented in Scotland, so we know it does not work there. It is inconceivable that whatever lessons were learned by campaigners in Scotland will not immediately transfer to campaigns across the United Kingdom. It is a good challenge for the Minister to explain what is wrong with "possible" and maybe, behind that, to say whether the Government have decided not to implement the clear advice of the Committee on Standards in Public Life and the Electoral Commission, both of which, I respectfully suggest, might be offering advice that is slightly more researched than that of the noble Lord, Lord Mann.

Lord Wallace of Saltaire (LD): My Lords, I thank my noble friend Lord Clement-Jones for the amendments he has brought forward with a great deal more expertise about this new dimension of campaigning than I have. I first learned about this new dimension of campaigning when I looked into post-Soviet Russian politics and discovered the new term "political technologies", used by campaigners working for Putin to mould public opinion and to try to interfere in other countries, using the newly available digital media to help their efforts.

Of course, this also costs money. As we have seen in the United States, the use of digital media, data mining and negative campaigning—as has already been mentioned —is one way in which, unfortunately, American politics is being debased. We do not want that to happen in Britain.

7.30 pm

There are those close to this Government who are good political technologists and we have seen some of their work already. They also have access to a great deal more money than any other political parties, and if we want to hold future elections on anything like a level playing field, we need some tight rules to cope with this rapidly changing area. Part 6 at present starts down that road but, as we have heard, it is weak and has not taken account of recommendations from the CSPL and the Electoral Commission. I very much hope that the Minister will take back that it needs to be strengthened.

We all recognise that we are now up against a very tight deadline for this Bill in this Session. I have said on a number of occasions since the Bill first reached this House that it is better to get it right than to rush it through. If it has to be held over or has to start again, it is better to do that than to leave a deeply unsatisfying Bill with opposition parties feeling that they have been misled and cheated, with the rules biased in a number of ways against them.

I say to the Minister: please take this back as a matter of urgency. This is an area which, as we all know, contains a number of new threats to democracy from the way in which our younger generation, in particular, now live online, and we need to have some strong safeguards.

Lord Collins of Highbury (Lab): My Lords, I thank the noble Lord, Lord Clement-Jones, for his excellent introduction to a range of amendments. We should not simply think that negative campaigning and threats to our election process are new things as a result of new technology. These sorts of things have been going on for many years. Certainly, I have seen a political party put one leaflet down one street saying one thing and then another down another street saying the complete opposite.

All of these things are addressed effectively through effective transparency, with people knowing exactly where this information comes from. I think the noble Lord, Lord Mann, is right there. That is why it is important that the Minister specifically addresses the point in Amendment 180A. I am worried that we spot a problem, understand the issue, say we are addressing it in legislation but then create a loophole where everyone can escape.

I am grateful for Adobe sending me its briefing on this issue. It basically says that we have the technology and there is a standard being developed for content authenticity initiatives—CAI—which, if adopted, and it is being adopted, can address this issue. I do not understand why we have this loophole. Technology can ensure that the imprint of who has created and published the content is there. I do not see the circumstances where it is not possible. Even if it is not possible on the face, they now have the technology to point out easily how you find it. Therefore, as the noble Lord, Lord Clement-Jones says, I do not see

why we have this wording of "not reasonably practicable". I am not even sure I would agree that it is not possible. It is possible—the technology is there so we should do it.

Noble Lords have referred to the Russia report. We said at the beginning of Second Reading—and I am not going to make a Second Reading speech—that the Bill is a missed opportunity. It could have embraced a lot more and the issues identified in that report will need to be addressed in future legislation as they have not been addressed here.

I hope the Minister can specifically address the issue in Amendment 180A; I particularly hope she has seen the briefing from Adobe and the industry which says that this is possible. They have created a standard which they expect everyone to adopt—in fact, Facebook, Twitter and others are all adopting it. If they are adopting it, can we not use the legislation to ensure that it becomes compulsory for all political actors to comply with this legislation and that we do not have a loophole?

Baroness Scott of Bybrook (Con): My Lords, I thank the noble Lord, Lord Clement-Jones, for a very thorough piece of scrutiny of this part of the Bill. I think it would be useful if between now and Report we had a meeting with him and other interested parties to discuss this further and also address some of his very in-depth speech that I will not answer this evening because we might be here all night. We will get answers to him very quickly so that we can discuss them when we have that meeting.

The noble Lord, Lord Mann, and many others are right: this is fast moving. What we see today is probably not what we will see in five years' time, and we need to future- proof. I think we all understand that.

There were some very specific questions that I will answer upfront because that will give some context to what else I am going to say. First, on digital imprints, it is important that "reasonably practicable" is understood. It should be read as commonly understood; "reasonably practicable" is commonly understood. The Electoral Commission and the police will need to interpret this phrase in context in the course of their enforcement of the Bill. The statutory guidance will provide further details on the location of this imprint and what is required. There will be further guidance on this.

A number of noble Lords spoke about the Intelligence and Security Committee and said that political adverts should include an imprint. The Government's digital imprint regime delivers the ICS's recommendation to introduce a requirement to add an imprint on digital paid-for political advertising. As digital campaigning is not confined to election periods or geographical boundaries, the regime is intended to apply all year round, UK-wide, and regardless of where in the world content is promoted from. Following a conviction or a civil sanction, the courts can make an order or the Electoral Commission may issue a notice to anyone, including social media companies, requiring them to remove or disable access to infringed content. Failure to comply with a notice or order would be a criminal offence.

The noble Baroness, Lady Jones of Moulsecoomb, brought up the issue of targeting messages. Targeting messages at voters is a legitimate activity that allows campaigners to maximise their resources and target their message at the right audience. All campaigners must comply with direct marketing and data protection laws when using personal data in their campaigning, but it is a legal activity.

Baroness Jones of Moulsecoomb (GP): This is about transparency, so that the public can know that somebody is saying different things in different places—that is all.

Baroness Scott of Bybrook (Con): Understood. Listening to the debate, two words have come out, and we will reflect those. One is "safeguarding", and one is "transparency", as the noble Baroness has just said. Those two things are important as we move forward with the Bill.

The provisions in Part 6 of the Elections Bill will introduce one of the most comprehensive "digital imprint" regimes operating in the world today; that is the positive thing. However, it is crucial to take a proportionate approach to the scope and application of the regime to ensure that it is enforceable and to avoid stifling political debate. It is for this reason that the Government do not support the noble Lord's amendments, as we consider that they would introduce unreasonable burdens on campaigners and therefore risk restricting freedom of expression.

Due to the way some digital platforms are designed, it will not always be practical to display the imprint as part of the material itself—for example, in a text-based tweet where there is a strict character limit. Amendment 180A would not give campaigners the much-needed level of flexibility and therefore risks unreasonably hampering their ability to campaign on particular digital platforms. I have listened to the points made about new technology coming out; it is important that we keep an eye on that, so that if that is possible in the future—

Lord Hodgson of Astley Abbotts (Con): I am not asking my noble friend to reply this evening, because this is a complicated question, but I think I heard the noble Lord, Lord Clement-Jones, say that the digital material would not have to have an imprint on itself and that it could refer you by a link to another page. If that is the case, we could have a situation where if you are retweeting things, you may get even further away from the reality of what is happening. It was also not clear to me, because of the Government's reaction to an earlier amendment, whether a third-party campaigner had to disclose on their home page that they were registered as a third-party campaigner. I am not sure that I have the links quite right here. If the noble Lord, Lord Clement-Jones, was correct, perhaps my noble friend could unpick that when she writes to us after today. I am not asking her to reply to that now.

Baroness Scott of Bybrook (Con): I take note of that and will make sure that my noble friend understands the unpicking of all of that.

I reassure the noble Lord, Lord Clement-Jones, that this flexibility does not amount to allowing campaigners to place the imprint wherever they want. Under our regime, campaigners would be required to

[Baroness Scott of Bybrook]
ensure that their imprint is displayed as part of the material and only when this is not reasonably practical may the imprint be located elsewhere—as my noble friend said—but it must still be directly accessible from the campaigning material. Those who do not comply will be committing an offence.

Turning now to Amendment 194A, the Government are mindful that transparency requirements on campaigners remain proportionate and that they are not unduly discouraged from participating in public life. Candidates and registered campaigners already have to detail their electoral spending in their returns to returning officers and the Electoral Commission and provide invoices for payments over a certain amount. Invoices provided to the Electoral Commission are then made available for public scrutiny. The practicality and impact on campaigners of requiring them to submit more detailed invoices or receipts about digital activity would need to be looked at very carefully, as the detail provided is determined by the suppliers themselves and not necessarily by the recipient.

Similarly, in relation to Amendment 196A, the Government welcome the steps already taken by many social media companies in this area. We continue to keep transparency rules under review, but given the steps taken already by platforms such as Facebook, we do not propose to mandate centralised libraries of digital political content. Requiring all campaigners promoting paid political advertising to themselves maintain a library of those adverts with specified information for at least 10 years risks adding a significant and unreasonable administrative burden on campaigners, particularly smaller groups that rely on volunteers or groups that are established only for the lifetime of a particular election campaign. We know that some small campaigns happen and, in our opinion, keeping a library for 10 years would be unreasonable.

7.45 pm

Amendment 194B seeks to ban foreign actors from promoting political advertising—an issue a number of noble Lords brought up—within scope of the digital imprint regime targeted at the UK electorate. With regards to the noble Lord's proposal to outlaw advertisement of paid electronic material, as set out in Clause 40, by non-UK residents and entities, he will be reassured to hear that electoral law already sets out a stringent regime of spending controls to ensure that only those with a legitimate interest in UK elections can campaign. Measures in Part 4 of the Elections Bill will stop ineligible foreign spending on electoral campaigning by restricting third-party campaigning above a £700 de minimis threshold to UK-based or otherwise eligible campaigners. This includes spending on any digital advertising that is seeking to encourage UK electors to vote in a particular way. Anyone who incurs expenditure in contravention of this will commit an offence. Therefore, this will by nature prohibit much of the advertising that the noble Lord, Lord Clement-Jones, has identified in his Amendment 194B. The noble Lord is shaking his head; this is something we can discuss further at our meeting.

Amendment 194B also contains a proposal to ban the promotion of other electronic material, as set out in Clause 42, by non-UK residents and entities. It is important to note that Clause 42 applies only to a list of types of electoral entity, such as candidates, registered political parties and third parties. This approach is aimed at ensuring that members of the public are able to express their political opinions online without requiring an imprint on election material that is not a paid-for advert. This list of electoral entities is almost entirely made up of UK-based entities, and therefore the noble Lord's amendment in this area would have little effect—the one exception being individual registered overseas electors who have registered as third-party campaigners. The Government cannot support any amendment that would seek to silence UK overseas electors as they are a legitimate part of our democracy. For these reasons, the Government ask the noble Lord to withdraw this amendment.

Amendment 212C would create a new offence which would seek to criminalise any false statements made by candidates and campaigners on the integrity of the electoral process. We have a tradition of robust political debate and freedom of speech in British democracy. We have been clear in our position that arguments which can be rebutted by rival campaigners and a free press as part of the normal course of political debate should not be regulated. Our electoral regulation should empower voters to make those decisions but not dictate them.

The Government recognise that disinformation and misinformation is an ongoing challenge, and that is why there are robust systems in place that bring together governmental, civil society and private sector organisations to monitor and respond to interference in whatever form it takes to ensure that our democracy stays open, vibrant and transparent. We recognise that there is a role for regulation—for example, as provided by the clarification of undue influence in Clause 8, which would include deceiving voters in relation to the administration of an election. However, any regulation needs to be carefully balanced with the need to protect freedom of expression and the legitimate public debate which is also crucial to a thriving democracy.

Generally, any new offence requires very careful consideration and development, and assessment of its impact. Clarity of language is crucial to ensure that an offence is proportionate, achieves its intended impact and does not unduly limit free speech. For example, the noble Lord's proposed amendment includes no reference to intent. Therefore, the new clause as drafted could criminalise unintentionally false statements and could therefore be very broadly applied. This clause could also discourage people from raising legitimate concerns where they exist, for fear of the statement being considered false, or lead to a flurry of vexatious claims and counterclaims.

Overall, this clause would infringe on the freedom of speech of campaigners and candidates. Because of this, I respectfully urge the noble Lord not to press this amendment. In saying that, I repeat that we will read very carefully all noble Lords' speeches on this subject, and we will offer a meeting to those who are interested. We will follow up with a letter covering anything that I have not managed to answer.

Lord Clement-Jones (LD): My Lords, I thank all noble Lords who have taken part in this debate, particularly the noble Baroness, Lady Wheatcroft. I am sure that we all wish her well in her lawsuit, which is clearly being taken for all the right reasons. I thank the Minister for her response, particularly her invitation to discuss this further, but the actual response she gave today did not score that many runs as far as I was concerned.

If you look at the intent behind all these amendments —prohibiting foreign interference, greater transparency over digital advertising, expenditure and content, preventing misinformation and disinformation—these are all things we should be striving for to make sure that we have a more vibrant democracy and to prevent damage to it. The Government have pushed back on them, and I am afraid that this is really not acceptable in this day and age. If I could respond to what the noble Lord, Lord Collins, said about digital, there is a difference. We have seen the power of the algorithm to amplify in a really unhelpful, dangerous and sometimes harmful way as far as individual harms are concerned, and it is true of democracy at large as well.

I take the point of the noble Lord, Lord Mann. He is clearly an extremely creative campaigner, and walks around with an electronic sweater that advertises—or used to advertise—his electoral qualities. We have to be alert to new forms of campaigning, but we are where we are; this Bill purports to be a way of dealing with digital campaigning, but it does not do the full job. That is exactly the point that we really need to be aware of.

I heard what the Minister had to say about "reasonably practicable" and so on, but the Electoral Commission guidance itself was not that clear for the Scottish parliamentary campaign. It was quite permissive, so as a result, the imprint appeared mostly either in the social media bio or on the website. It did not appear on the actual material itself, so the intent there was not achieved, and I doubt very much, if the guidance is the same—based on the same wording—that that will not be the case in the implementation of this particular provision. The leeway is too great, so it is not comprehensive.

As far as the other aspects go, I will look very carefully at what the Minister said, but, as far as advert libraries are concerned, she is repeating what the Government have said on a number of occasions: "Oh, fine, social media are already doing this." The whole purpose of regulation in this area, however, is to specify what needs to be contained in those advert libraries. It is not enough to say, "Oh, yes, Facebook is doing it here and Twitter is doing it there"—although Twitter is no longer doing political adverts, there are other platforms such as Instagram.

As far as foreign actors are concerned, the Minister has simply repeated my own words back to me about the £700 limit, so I do not think we advanced the argument very far. As for false information, misinformation, or disinformation, the example I gave in Amendment 212C was simply, in a sense, designed to elicit a response from the Government about their intentions. Clearly, they do not seem to have any particular intention, despite the fact that their White Paper on online harms actually dealt with the subject fairly comprehensively. The question comes back to the Government about misinformation and disinformation. Their response to a whole range of committees—the CSPL, the ISC, and the Electoral Commission itself—seems to be pretty blithe. The question increasingly is: if they are not prepared to regulate misinformation or disinformation, which are threats to our democracy, what are they going to wait for: until we have a clear electoral travesty? If not now, when? No doubt, we will return to this at some later stage, but in the meantime, I beg leave to withdraw my amendment.

Amendment 180A withdrawn.

Clause 39 agreed.

Clause 40: Electronic material to which section 39 applies: paid-for material

Amendments 181 to 183

Moved by ***Earl Howe***

181: Clause 40, page 49, line 25, leave out subsection (2) and insert—

"(2) The first condition is that the sole or primary purpose that the electronic material can reasonably be regarded as intended to achieve is a purpose within section 41."

Member's explanatory statement

This amendment provides that the condition in clause 40(2) is met only where the sole or primary purpose that the electronic material can reasonably be regarded as intended to achieve is a purpose within clause 41.

182: Clause 40, page 49, line 30, at end insert "as an advertisement"

Member's explanatory statement

This amendment provides that the condition in clause 40(3) is met only where the promoter of the relevant material, or the person on behalf of whom the relevant material is published, has paid for the material to be published as an advertisement.

183: Clause 40, page 49, line 33, at end insert—

"(5) Where the material is published on a website or mobile application of the promoter or the person on behalf of whom the material is published, the reference in subsection (3) to a person paying for material to be published does not include the person making payments related to setting up, operating or maintaining the website or mobile application.

(6) In subsection (5) "mobile application" means application software designed and developed for use by the general public on mobile devices such as smartphones and tablets."

Member's explanatory statement

This amendment provides that, in a case where electronic material is published on a website or mobile application of the promoter or person on behalf of whom the material is published, the reference in clause 40(3) to a person paying for material to be published does not include making payments related to setting up, operating or maintaining the website or mobile application.

Amendments 181 to 183 agreed.

Clause 40, as amended, agreed.

Clause 41: Purposes referred to in section 40

Amendments 184 to 188

Moved by ***Earl Howe***

184: Clause 41, page 50, line 1, after "future candidates" insert ", in their capacity as such,"

Member's explanatory statement

This amendment modifies the purpose in clause 41(2)(c) so that it refers to influencing the public, or any section of the public, to give support to or withhold support from a relevant candidate or future candidate only in their capacity as such a candidate or future candidate.

185: Clause 41, page 50, line 11, at end insert "in their capacity as such"

Member's explanatory statement

This amendment modifies the purpose in clause 41(4) so that it refers to influencing the public, or any section of the public, to give support to or withhold support from a particular candidate or particular future candidate only in their capacity as such a candidate or future candidate.

186: Clause 41, page 50, line 17, at end insert "in their capacity as such"

Member's explanatory statement

This amendment modifies the purpose in clause 41(6) so that it refers to influencing the public, or any section of the public, to give support to or withhold support from an elected office-holder only in their capacity as such an elected office-holder.

187: Clause 41, page 50, line 19, after "office-holders" insert ", in their capacity as such,"

Member's explanatory statement

This amendment modifies the purpose in clause 41(7) so that it refers to influencing the public, or any section of the public, to give support to or withhold support from a relevant elected office-holder only in their capacity as such an elected office-holder.

188: Clause 41, page 50, line 36, leave out subsection (11)

Member's explanatory statement

This amendment has the effect that references to a referendum in clause 41 include a poll held under section 64 of the Government of Wales Act 2006.

Amendments 184 to 188 agreed.

Clause 41, as amended, agreed.

Clause 42: Electronic material to which section 39 applies: other electronic material

Amendment 189

Moved by ***Earl Howe***

189: Clause 42, page 51, line 14, at end insert—

"(4) The third condition is that neither the promoter of the material, nor the person on behalf of whom the material is published, has paid for the material to be published as an advertisement.

(5) Subsections (4) to (6) of section 40 apply in relation to subsection (4) as they apply in relation to subsection (3) of that section."

Member's explanatory statement

This amendment provides that clause 42 does not apply in relation to electronic material where the promoter of the material or the person on behalf of whom the material is published has paid for the material to be published as an advertisement.

Amendment 189 agreed.

Clause 42, as amended, agreed.

Clauses 43 and 44 agreed.

Clause 45: Exceptions to section 39

Amendments 190 to 194

Moved by ***Earl Howe***

190: Clause 45, page 53, line 20, leave out "by a person ("A")"

Member's explanatory statement

This amendment, and the other amendments to clause 45 in the name of Lord True, clarify that the republication exception in clause 45 can apply where both the original publication and the later republication are carried out by the same person.

191: Clause 45, page 53, line 22, leave out paragraph (a)

Member's explanatory statement

Please see the first amendment to clause 45 in the name of Lord True.

192: Clause 45, page 53, line 23, leave out "published by B" and insert "previously published"

Member's explanatory statement

Please see the first amendment to clause 45 in the name of Lord True.

193: Clause 45, page 53, line 26, leave out "by A"

Member's explanatory statement

Please see the first amendment to clause 45 in the name of Lord True.

194: Clause 45, page 53, line 31, leave out "publication by B" and insert "previous publication"

Member's explanatory statement

Please see the first amendment to clause 45 in the name of Lord True.

Amendments 190 to 194 agreed.

Clause 45, as amended, agreed.

Amendments 194A and 194B not moved.

Clause 46: Offence of breaching section 39

Amendment 195

Moved by ***Earl Howe***

195: Clause 46, page 54, line 25, at end insert—

"(4A) It is a defence for a person charged with an offence under subsection (1) in relation to the republication of electronic material to prove that—

(a) the electronic material had previously been published,

(b) the person reasonably believed that when it was previously published—

(i) section 39 applied to it, and

(ii) it was published in compliance with that section, and

(c) it was not materially altered when it was republished.

(4B) In subsection (4A)(c) the reference to electronic material not being materially altered includes a reference to the electronic material retaining—

(a) the information within section 39(3), or

(b) the access to such information,

as a result of which the person reasonably believed its previous publication complied with section 39."

Member's explanatory statement

This amendment inserts an additional defence into clause 46 in relation to the republication of electronic material. The defence applies where material has previously been published, the person charged with the offence reasonably believes that, at the time of the original publication, clause 39 applied to the material and it was published in compliance with that section and the material was not materially altered when it was republished.

Amendment 195 agreed.

Clause 46, as amended, agreed.

Schedule 11 agreed.

Clause 47 agreed.

Clause 48: Enforcement by the Commission

Amendment 196

Moved by ***Earl Howe***

196: Clause 48, page 55, line 32, after "(referendums)" insert "where the referendum in question is a referendum to which Part 7 of PPERA applies and the electronic material is published during the referendum period (within the meaning of that Part) for that referendum"

Member's explanatory statement

This amendment provides that the Electoral Commission is able to enforce the offence in clause 46(1) in relation to the publication of electronic material which can reasonably be regarded as intended to achieve a purpose within clause 41(9)(referendums) only in relation to a referendum to which Part 7 of the Political Parties, Elections and Referendums Act 2000 applies and where the material is published during the relevant referendum period.

Amendment 196 agreed.

Clause 48, as amended, agreed.

Clauses 49 to 51 agreed.

Schedule 12 agreed.

Amendment 196A not moved.

Amendment 196B had been withdrawn from the Marshalled List.

Clauses 52 to 59 agreed.

House resumed. Committee to begin again not before 8.45 pm.

Code of Practice for Private Parking

Motion to Regret

8.01 pm

Moved by ***Lord Lucas***

That this House regrets the Code of Practice for Private Parking, laid before the House on 7 February, because Her Majesty's Government have not made adequate provision for swiftly improving the legislation if problems emerge.

Lord Lucas (Con): My Lords, I congratulate the Government on the introduction of this code of practice. I have long been a campaigner for the motorist in this and other areas and have served my time in the courts as a defendant against parking operators, so I am delighted to see this legislation reach the borders of becoming effective.

None the less, I wish that the Government had recognised that this is a difficult area, and that preparation should be included in this to amend in the light of the way that things turn out in practice. Otherwise, we will be waiting again for a chance of primary legislation before we can do anything about it, and it has taken a long time to get to this point. However, here we are, so I ask my noble friend—I do not expect him to reply in detail today, but I hope to have correspondence with him or his colleagues—whether we can set things up so that enough data is collected for us to tell quickly what is happening.

The data that I would particularly like to see collected is, first, on the volume of parking charges. That will be the best indicator of how parking operators' business models are changing. If we see a lot more parking charges being issued, we will know that something is not working. It would be a big alarm signal if the result of this code was to push operators towards a financial model that was dependent on parking charges. We ought to be seeing the volume of parking charges coming down. This ought to be the key bit of information that is being collected and reported to the department, and not casually at the end of a year. Such information ought to be coming in monthly, once the system is up and running, so that problems can be caught early and understood early.

The other big indicator I hope the Government will look at is the volume of county court judgments relating to parking issues. It is really important what happens to parking charges. What percentage are paid and what percentage are appealed? How are they chased up? What happens in the end? How are those percentages changing? If we see an increase in the number of county court judgments, that indicates that we are seeing operators moving outside the code. In other words, they are judging that the conditions of the code are so strict that their best option is to operate entirely outside it.

It is entirely possible to do that, because if you are operating a park outside the code and go around sticking parking charge notices on people's windscreens, about 30% of people pay them and another 20% appeal, which means the parking operator immediately knows who they are. Then there are vans with company names on them, and databases outside the DVLA collected by leasing companies and others and made available—quite how legally I do not know, but they are available—so that a parking operator outside the code can count on not a bad return on issuing parking charges.

That will show through in county court judgments because, without being able to collect through debt charges, there is none the less a way for unregistered operators to collect through solicitors who are able to obtain remuneration from the courts. To my mind, those are the two key indicators I would like to see the

[LORD LUCAS]
Government having regular information on and not, as is foreshadowed to the introduction to the code, waiting for a couple of years and then starting to look at what is happening.

There are other areas where I hope the Government will also collect data. What is the volume of appeals based on producing blue badges late? What are appeals based on? What is the pattern of appeals and what are their outcomes? What does that tell us about what is going on? How are the keeper/owner questions being resolved in general, in particular on railway land where the Protection of Freedoms Act does not apply—as it does not in some other circumstances too? What is happening in areas where tariffs exceed penalties, where it is in the motorists' interest not to pay because they end up paying the penalty, which is less than the tariff that they would have incurred anyway?

What practice is evolving on grace periods? How are they set and how is that changing? What percentage of operators are offering remote additional payments so that, rather than being done with a parking charge, you get a text saying that you are about to go over and asking if you would like to pay some more? What is evolving in payment methods? How much is becoming digital and how much are we enabling people to pay in different ways? How is this all working with—I know cross-ministerial boundaries are difficult—the national parking platform, which the DfT is evolving in Manchester? What is happening in the pattern of the parking offer? Are we seeing movement away from payment-per-hour to having to buy a whole day in order that the revenue of the parking operator is increased? Are we seeing increased use of parking barriers?

This is a complicated area with a wide range of operators in it. We need to sort out how we are going to approach it quickly and clearly. We need to define what is legitimate, to play the role of the shepherd keeping our flock safe from wolves, and, at night, counting our sheep. I beg to move.

Baroness Randerson (LD): My Lords, in principle I am very much of the same view as the noble Lord in supporting this code of practice, because there surely is plenty to improve in the operation of private parking. As he outlined, the key question is whether the code is fit for purpose and strong enough, as well as, of course, the issue about review once we have more information.

The tackling of this problem started in the Protection of Freedoms Act. That might surprise quite a lot of people because it is not an obvious topic for an Act about freedom, but it includes a section on the recovery of unpaid parking charges and the limits on powers to remove and immobilise vehicles. That was an important area of public concern about the use of excessive power by some parking companies and, in some cases, very sharp practice.

The Secondary Legislation Scrutiny Committee has criticised the code's lack of an impact assessment. Since this will have an impact on thousands of companies and millions of drivers, it is surprising that there is no formal impact assessment. The big question is how that lack of an impact assessment can be defended.

The Government apparently spoke to three companies and the British Parking Association. They predicted an apparently massive impact on the industry, which seems unlikely to me and, I believe, to the Government. If it will have a massive impact, that suggests that things are very much awry with the way the industry is being run at the moment, if it is saying that it will not be possible for it to run well and fairly within its current cost structure.

It is important to bear in mind that we are talking not just about fairness to drivers. Drivers are also people who run businesses, so the unfair organisation of private parking has a huge impact on the economy.

Of particular importance is the single appeals process. I very much welcome that concept, and the idea that there will be limits on additional charges levied on motorists. Many motorists, particularly those who travel around the country a lot, find the whole process very complex. One will not be surprised that trying to appeal a parking charge is a complex process designed to discourage one. The guidelines are welcome because parking operators are judge and jury to their own charges, so a single appeals process will be very welcome.

I also welcome some kind of concept of a standard grace period, and ask the Minister how that will be advertised, because there is talk of having a different grace period for different types of car park. The idea that someone might go in, park and be allowed only five minutes is, of course, completely unrealistic—if there is a queue to pay for parking, or if the person has three young children in the back of their car who have to be taken out and sorted into buggies, and the day's goods and chattels taken out as well. It is important that there is clarity on that.

I am very pleased that the noble Lord, Lord Lucas, has drawn our attention to the complexity of this and the inadequacy of the powers to review the provisions of the code. With modern technology, the problems of exploitation of the data are going to get only worse and more complicated to deal with, so it is important that there is a thorough review in a short period of time.

8.15 pm

Lord Khan of Burnley (Lab): My Lords, the Private Parking Code of Practice has been introduced in an effort to regulate the industry and respond to the evolving threat of rogue operators. This is an objective that I am sure the whole House will support, and I am pleased that steps such as these are being introduced to this end. I am concerned that the Government are, unfortunately, not going far enough. The noble Lord, Lord Lucas, is right to raise his concerns in today's debate.

The Minister will be aware that the Government have been obligated to introduce the code as a result of the Parking (Code of Practice) Act 2019. There is certainly some merit in the code that the Government have brought forward. I am particularly pleased that the code caps the amounts that should be charged for various parking charges. In practice, this will cut most fines at £50 and others at £100. However, it is unclear whether there are loopholes that could be exploited by this limit. There have been recent press reports of

individuals receiving multiple separate fines in one day, resulting in a total fine of many thousands of pounds. Can the Minister assure the House that this would not be possible under the new code?

I am also pleased that a new process will be developed that will allow drivers to appeal fines. Although I appreciate that this service will be independent, what mechanisms will Parliament have to evaluate its operation? The code is right to bring forward the possibility of banning rogue companies that act outside the rules. Will the Minister commit to transparency over this? Will he arrange for the department to publicise those who have been banned?

On the issue of clear signage and markings, while this is also welcome, I would appreciate it if the Minister would explain what steps have been taken to ensure that they are accessible for people with disabilities.

Ministers have previously stated that the code was developed in close consultation with private parking experts including consumer and industry groups. Can the Minister elaborate on the findings of that consultation, and whether this will feed into further regulations?

The noble Lord, Lord Lucas, and the noble Baroness, Lady Randerson, talked about the complexities of this area. I thought he talked well about indicators and, in particular, the volume of CCJs and statistical analysis of what has been happening. We welcome the opportunity to debate the code today. I hope the Minister will be able to provide assurances on the issues raised by this House. Regulations to confront rogue parking operators are long overdue, but the Government must go further to hold them to account.

The Minister of State, Home Office and Department for Levelling Up, Housing & Communities (Lord Greenhalgh) (Con): My Lords, I thank my noble friend Lord Lucas for his interest in the Private Parking Code of Practice and for securing this important, valuable and informative debate. I hope noble Lords will agree that the code of practice is a significant step towards creating a fair system for motorists, ending the poor practices and behaviour that have been widespread within the private parking industry for far too long, as raised by the noble Lord, Lord Khan. It will bring greater consistency and improve standards across Britain, boosting our high streets and town centres by making it easier for people to park without receiving unwarranted charges.

Noble Lords may be aware that the code is part of a wider regulatory framework that we are also putting into place to ensure a fair system for motorists. This includes a certification scheme, to which parking trade associations must adhere if their members wish to request access to DVLA data. It also includes the establishment of a scrutiny and oversight board to monitor the new system and the creation of a single, independent appeals service for motorists to turn to if they are unhappy with the handling of an appeal by an operator.

The certification scheme, based on the code, will outline how the requirements of the code should be measured, tested and assessed. It will provide an opportunity to clarify anything that proves to be unclear or confusing in the code itself for implementation by parking operators. The Government intend to finalise the scheme this spring. We will also appoint the scrutiny and oversight board this spring to oversee the operation of the new system and monitor its effectiveness. The board will advise the Government on the operation of the code and certification scheme, providing recommendations on whether these need to be updated. We anticipate that the code will be reviewed every two years, once it comes into full force at the end of 2023, and the scheme as required.

The governance of the code will include representatives from the department, the DVLA, industry and consumers. We also expect the new single appeals service to be represented in this governance to improve information and data flows, ensuring that the sector is monitored efficiently. In addition, we are preparing a data strategy and a robust monitoring and evaluation framework for the enforcement of the code. The strategy will provide an outline of relevant data and identify opportunities to maximise the value of that data, reflecting the principles of the National Data Strategy.

My noble friend Lord Lucas has a keen interest in ensuring that we track the data appropriately. I assure him that we will cover the data around the number or volume of parking charges issued by operators. The frequency of that will be determined by the data strategy in due course, but I note my noble friend's desire to see that on at least a monthly basis. In addition, we will be looking at the number of appeals accepted by operators and the number of appeals brought to the single appeals service. I note that my noble friend also wants us to track the number of county court judgments which come in where appeals are rejected and people are still not paying, which would obviously be much lower.

This will allow us to better understand and manage breaches of the code, identify any issues not adequately covered by it and spot patterns and trends across the sector. At the same time, it will provide motorists and the industry with an insight into how the system is working. The data will be collected by the trade associations and the single appeals service. It will be examined by the scrutiny and oversight board and used to make decisions on the operation of the system and the updates required to the code and the scheme. I hope noble Lords will agree that, altogether, these measures will ensure that the code is effectively implemented and monitored going forward, with the appropriate structures in place for important issues to be identified and resolved without impacting on the service received by motorists.

The noble Baroness, Lady Randerson, raised the issue of providing an impact assessment for the code, which I think is a question of timing. I hope I can reassure her that we do intend to undertake an impact assessment of the changes introduced by the code once the single appeals service has been designed, to ensure that we have all the necessary information to complete the assessments. It is about getting the impact assessment right at the right time. I hope that reassures the noble Baroness.

In response to the noble Lord, Lord Khan, who is quite an expert on private parking practice, I note that the code introduces a 10-minute grace period. It also

[Lord Greenhalgh]
introduces high requirements for signage. On loopholes—a very important point raised by noble Lord—we are working with the industry, including the two trade associations, to ensure that there are no loopholes. The noble Lord asked about a register for banning rogue operators. These will be monitored through the wider regulatory framework, including the scrutiny and oversight board already mentioned.

So, we know that the involvement of the private parking industry in this process is crucial to the success of the code. We look forward to working alongside the industry—as well as consumer and motorist organisations—as we move towards the full implementation of the code and its regulatory framework at the end of 2023. Finally, with the expertise and knowledge of my noble friend Lord Lucas, I am very keen that he does provide his input around getting the data framework and data frequency right. I thank him very much for securing this very important debate.

Lord Lucas (Con): My Lords, I am very grateful indeed to the noble Baroness, Lady Randerson, and to the noble Lord, Lord Khan of Burnley. I feel thoroughly supported around the House and, indeed, I feel supported by my noble friend the Minister in what he has said, for which I thank him very much. I would really like to take up his invitation to have a look at the data strategy and the other work surrounding that at an appropriate time of his choosing. I, therefore, take pleasure in seeking to withdraw my Motion.

Motion withdrawn.

House adjourned at 8.26 pm.

Elections Bill

Committee (6th Day) (Continued)

8.45 pm

Amendment 197

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

197: After Clause 59, insert the following new Clause—

"Unincorporated associations and permissible donors

(1) An unincorporated association required to notify the Electoral Commission of political contributions by paragraph 1 of Schedule 19A to PPERA must make permissibility checks on donations to the unincorporated association in accordance with subsection (2).

(2) An unincorporated association must take all reasonable steps to establish whether the donor of a relevant donation is a permissible donor under section 54 of PPERA.

(3) In this section, a "relevant donation" is any donation which is either intended for political purposes or might reasonably be assumed to be for political purposes.

(4) An unincorporated association must not accept a relevant donation from a person who is not a permissible donor."

Member's explanatory statement

This new Clause requires unincorporated associations to establish whether a person making a donation for political purposes is a permissible donor and, if not, reject that donation.

Baroness Hayman of Ullock (Lab): My Lords, there are quite a number of amendments in this group, of which Amendment 197 is mine. I want to pay attention to amendments specifically looking at foreign interference in our elections and some of the consequences of the provisions to extend the overseas elector franchise. Under the previous group of amendments tabled in the name of the noble Lord, Lord Clement-Jones, we discussed foreign interference, but looked specifically at digital materials, whereas this is wider.

By way of introduction, I say that voters deserve to know that elections in the UK are free and fair, and that laws are in place to safeguard them from unlawful influence. The Bill is an opportunity to make that tighter and better. The Electoral Commission recommended introducing new duties on parties, based on existing money laundering regulations, to enhance the due diligence and risk assessment of donations. The reasons behind this are to protect parties further and to build confidence among voters that sources of party funding are thoroughly scrutinised.

Unfortunately, we do not believe that the Bill takes this into account or does enough, as the Electoral Commission recommends. We need an effective regulatory and enforcement regime that ensures that foreign and dark money cannot enter our political system through donations to political parties. We believe there is the risk not only of money coming into the system that should not be there but of losing the level playing field that we have always striven to achieve in our election law. It is disappointing that the Bill so far does not address these problems. Our amendments and those of other noble Lords aim to address this.

As it stands, the Bill creates a paradox, because it opens the floodgates for a potentially large influx of foreign-based money into our democracy while making it harder for civil society organisations, charities and trade unions to have their say—as we heard during the debates on previous days on Clauses 24, 25 and 27—despite the massive contribution they make to British life. We have tabled amendments that would protect our democracy from this foreign money that is already impacting our politics. We believe that this Bill threatens to make the situation much worse.

Concerns about how our democracy is being affected by malign foreign influences have been highlighted in the Russia report and were mentioned in the previous debate. I am sure we will hear more about this from the noble Lord, Lord Wallace of Saltaire, when he speaks to his amendment on this specifically, so I will not go into any more details about the Russia report.

Why are we concerned that the Bill will allow even more foreign interference in our democracy? The system created by the Bill is more vulnerable to overseas interference. It allows a person to call up any and every local authority to say that they were resident in the area 30 or 40 years ago and provide what we think is fairly flimsy proof; I am sure that it will not be a photographic identification, as would be the case for other electors. Having done that, they would then be able to donate enormous sums of money, if they wished. I am sure that the Minister will say that that is

not the intention but, if he accepts our amendments, he can be sure that the possibility of this happening is strictly safeguarded.

We have a number of amendments. Amendment 197 specifically looks at whether a person making a donation for political purposes is a "permissible donor"—if not, that is then rejected. My noble friend Lady Smith of Basildon has an amendment that would require donors to be based in the UK, and one that would prevent overseas electors from donating. My noble friend Lord Collins has an amendment about the Secretary of State publishing

"draft legislation to regulate expenditure deriving from donations by non-UK nationals."

We also support other amendments in this group that have been tabled to provide better security against overseas donations. If the Minister has understood our genuine concerns and intends to close this loophole that will weaken our democracy, he can choose from plenty of amendments that will greatly improve the Bill. We believe that this is a serious matter and that these amendments bring proportionate safeguards.

However, if the Government do not accept these amendments or commit to introducing their own in a similar vein, it will look as if the real motivation behind these changes to overseas voting is to create a loophole in donation law that would allow donors to bankroll Conservative Party campaigns from their offshore tax havens. What other justification is there for changing the law in this way, without closing this loophole?

Let us look at some of the evidence. Research from the *Times* shows that, through existing methods, the Conservative Party was able to accept about £1 million from UK citizens living in tax havens ahead of the 2017 general election. The Bill takes away the barriers that kept this at just £1 million. With the situation in Ukraine, it is more important than ever to end the flow of dirty Russian money flooding into our country—and that must include political donations, to block the threat of foreign interference in our politics.

We appreciate that it is impossible for someone with only Russian nationality, however rich they are, to donate legally to a UK 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 Conservative Party in recent years. Questions about Russian donors that warrant further investigation have been raised in the media during the current Prime Minister's tenure. For example, Lubov Chernukhin has given the Conservative Party over £2 million, £1.9 million of which was given after her husband, Vladimir, received money from Suleiman Kerimov, a man who was later sanctioned by the United States Treasury, not only for being a Russian government official: he was arrested in France for smuggling in hundreds of millions of euros in suitcases.

Then there is Mr Temerko, who has donated £1.2 million to the Conservative Party. The problem is that he used to operate at the very top of the Russian arms industry, with connections high up in the Kremlin. He works with Mr Fedotov, who is a key shareholder in Aquind Ltd, which the *Guardian* reports has donated £700,000 to the Conservative Party, along with another firm. This is unfortunately the same Mr Fedotov who, according to the Pandora papers, has revealed that his fortune was made through an offshore financial structure in the mid-2000s, at about the time that he was allegedly siphoning funds from the Russian state pipeline company, Transneft.

Another big Tory donor in the Johnson era is the businessman Mohamed Amersi, who has given £258,000 over the period. He advised on a lucrative telecom deal in Russia in 2005, with a company that a Swiss tribunal subsequently found to be controlled by an associate of Russian President Vladimir Putin. We consider this extremely concerning. One reason for this is that the *Sunday Times* recently reported that high-value Conservative donors were invited to participate in an "advisory" group, during which they were allowed to bend the ear of the Prime Minister, senior Ministers and officials.

Members of the public have a pretty low opinion of politicians much of the time. Reports of outside influence that threatens to undermine our democracy serve only to further drive down trust. The Bill provides an opportunity to increase trust in our political system, but, unless this loophole is closed and political donations are cleaned up and given proper scrutiny, trust will continue to fall. If we are to open up our system by allowing far more overseas electors to vote, we must at the same time ban them from making donations to individual politicians and parties. That is the only way to ensure that our system does not receive unwarranted donations and influence from outside. I beg to move.

Lord Wallace of Saltaire (LD): My Lords, my name is on several of the amendments in this group, and I will therefore speak to some of them.

Amendment 197 would tighten the rules on permissible donors and incorporated associations. Amendments 198 and 199 would limit permissible donations to companies and individuals resident in the UK, as would Amendments 204, 212D and 212E. Amendments 200 and 212G, the longest in this group, offer different language on the need for much more careful scrutiny of donations. Amendments 212A, 212B and 212DA, with the reference to the CSPL, would put caps on donations. The Minister will have noticed that, among other things, we are concerned that people who do not live in the United Kingdom should not be allowed to donate to political parties, even if they are on the electoral register.

In a facetious moment, I wondered whether I might table a separate amendment banning British citizens who live in Monaco or the Channel Islands from donating to political parties. Since the major motive of British citizens moving to those places is to avoid tax, that would be a way of saying that we do not want people who are deliberately avoiding paying tax in Britain to be funding political parties here, which we know happens. Some people believe that the main factor in extending overseas voting in the slipshod way it is being done is to make it easier for tax exiles to make major donations to the Conservative Party. "Perish the thought", the Minister may say—but not everyone in the Conservative Party is as honest as he is.

[Lord Wallace of Saltaire]

I will talk mainly about Amendment 200, which some noble Lords may have noticed makes a reference to the ISC report on Russia. I remind the Minister that the Intelligence and Security Committee specifically recommended that the evidence it had collected on foreign interference in British politics should be published as fully as possible, and that the Government have said that they see no need to do so because, in their opinion, foreign interference has not been successful. That seems to be a mistake, and I hope that the Government will come to their senses and publish that evidence. So long as it remains unpublished, it will look as though the Government have something embarrassing that they are trying to hide.

The noble Baroness, Lady Hayman, mentioned a number of major donors. One has to say in passing that it is astounding that we are now six years after the 2016 referendum and we still do not know where the largest single donation to the Brexit campaign came from. I was told by a senior figure in the City that everyone in the City knew exactly where it came from and that it had come from a foreign state. I do not know that—but we ought to be informed and we ought to have had some ability to discover where that £8 million came from.

9 pm

Amendment 200 therefore includes, as do one or two others, the insistence that a

"company or limited liability partnership's profits generated and taxable within the United Kingdom over the previous 12 months are greater than the value of the donation given."

That is a clear reference to AQUIND and others, and the ability to create, in effect, fake companies that conduct almost no business in the United Kingdom but which serve as vehicles to provide large funds to one party or another—unfortunately, it is almost entirely one party. Restrictions on donations, foreign-influenced or foreign, must include stricter limits on unincorporated associations, limited liability partnerships and companies within the United Kingdom, and the amendment sets out various conditions and how to satisfy them.

It then moves on to the issue of donations which provide, or are thought to provide, a potential national security risk—the subject of several paragraphs of the ISC *Russia* report, which the Government appear not to have taken sufficiently seriously. On the risks to national security, it talks about those that may be linked

"to entities which may seek to undermine or threaten the interests of the"

UK, or have a distant and hostile ultimate controller, or are involved in criminal or illicit activities, and states that all donations above £25,000 should be treated in this way.

I will leave it to the noble Lord, Lord Hodgson, who kindly rolled Amendments 201 to 203 into this amendment, to talk about the fit and proper test, which it goes on to cover. I suggest to the Government that we need to strengthen this part of the Bill substantially and that it would do their reputation a great deal of good if they accepted that. I also support Amendment 210 in the name of the noble Lord, Lord Hodgson, on public contracts, because there is a not entirely unjustified fear that a nexus between external contractors and the Government could also quite easily become a corrupt two-way street.

At a slight tangent, I will add that I am also concerned by foreign influence on think tanks and contractors funding them. I was asked by a think tank to contribute not that long ago on the question of the future of public service. It was very unhappy with what I wrote for it. I discovered that it at least published on its website its major donors, which were almost entirely outsourcing companies. I thought it was very difficult to be a neutral think tank writing about the future of public service if you are funded by outsourcing companies. I had the same worry about Policy Exchange when I read its papers on freedom of speech and universities, which had a large number of footnotes to American rather than British sources, and to publications of some extremely right-wing foundations in the United States. Policy Exchange does not publish its sources of income, and there is no way, therefore, that we can discover whether it received money from those right-wing American foundations for that sort of publication. That would also be improper—but I leave that to one side.

We need to strengthen controls over public finance in the Bill: involving both major domestic donors and, much more importantly, donors with foreign influence. It is already a problem; it has contributed to a loss of confidence in public life. I hope, therefore, that the Minister will be willing to accept, in some revised form or other, some of the overlapping language that appears in several of these amendments, including the ones which have my name on them.

Lord Sikka (Lab): My Lords, I will speak to Amendment 212. It is a great pleasure to follow the noble Lord, Lord Wallace, and I also fully support the position taken by my noble friend Lady Hayman on this Bill. There are a number of amendments here which all have a common concern with preventing abuse and ensuring that there is a level playing field, and my amendment is a contribution to that. Amendment 212 seeks to end abuse of "permissible donors" and prevent the flow of foreign money into UK political parties.

The Political Parties, Elections and Referendums Act 2000 was really shaped by the Committee on Standards in Public Life's fifth report, which was published in October 1998 under the chairmanship of Lord Neill of Bladen. In developing its recommendations, the committee invited evidence and considered the issue of foreign donations at some considerable length—chapter 5 of the report covers that. In its evidence to the committee, the Conversative Party stated:

"in the future we will not accept foreign donations."

That appears on page 69 of the report. There was concern about abuse, and on page 74 the Neill committee report said:

"It is possible to imagine that a foreign corporation wishing to evade the underlying purpose of the provisions which we advocate might cause to be brought into being a UK subsidiary, the sole function of which would be to receive money from the foreign corporation and then channel it to the political party of its choice. This would clearly be an abuse of the system".

That is a very powerful statement. The committee recommended that the legislation should consider:

"making it a criminal offence to attempt to evade or to render nugatory the statutory provisions limiting donations to those coming from 'permissible sources'. It would, for example, be a crime for an individual in the United Kingdom, who did not, himself or herself, have the resources to make a large donation, to become a mere conduit pipe through which foreign money was channeled to a particular party."

The legislation has been grossly circumvented and exploited. I will give a couple of examples of this—that is all I will have time for, although I am sure that the Ministers may be able to add more examples, given their experience and knowledge of the party. The first example relates to Lord Ashcroft, who was once upon a time a treasurer of the party. Around 2008 and 2009, I was asked by a number of media outlets to investigate his donations to the Conservative Party, which added up to £5,137,785. These donations were made by a company called Bearwood Corporate Services, a limited company registered in the UK. However, it never had sufficient profits to be able to pay the donations. My investigations uncovered a complex network of corporations behind it, and the aim of this network was to obfuscate the money trail.

The trail of money began with a company called Stargate Holdings Ltd, which was based in Belize and controlled by Lord Ashcroft. The moneys went in various packages from there to a UK-based company called Astraporta (UK) Ltd. From there, the moneys went to another company called Bearwood Holdings Ltd, and then from there to Bearwood Corporate Services Ltd, and then from there to the Conservative Party. The attempt was to disguise the origins. None of the companies disclosed the payment of political donations. They were all carefully constructed to ensure that they met the definition of a small company, because small companies do not need to disclose political donations. The UK companies involved in this chain either did not trade at all or had insufficient profits to enable them to make the donations. For all practical purposes, the moneys came from Belize and were finally handed over to the Conversative Party. I am sure that a lot of legal advice would have been taken in order to complete that particular route. Clearly, the moneys originated from abroad.

I reported the matter to the Electoral Commission. I told the commission that I was investigating it and what I had initially found. At the minutes of a meeting, the commission noted that it had heard from me. However, in the end, no action was taken by the Electoral Commission.

The second example, which has already been cited, relates to the company called Aquind. This company was incorporated in the UK in 2008, and over many years it remained dormant, but it has paid large sums of money to the Conservative Party. As recently as 2019-20—I have looked at its accounts—the company had no turnover. Indeed, it had no turnover at all at any time in its life. It never made any profit. So, the donations made by the company to the Conservative Party did not originate from any trade or profit in the UK; they obviously came from abroad. The company says that it is ultimately controlled from Luxembourg. I have not looked into who controls the Luxembourg entity, because there is not sufficient time, but I would be happy to take that assignment for the Conservative Party if it wished.

These two examples show how determined donors have been able to play our legal system and bypass it by carefully constructing transactions, and that is not helpful. My suggestion is that companies that make political donations should be able to make them only if they have sufficient realised profits. The term "realised profits" is well understood in the Companies Act. It is nothing new, so I am connecting to it. It generally means the company must generate profits that must result in cash or cash equivalent. If it is not trading, it cannot generate realised profits. This is a way of ensuring our legal system is not abused.

Lord Hodgson of Astley Abbotts (Con): My Lords, I put my name to Amendment 200 of the noble Lord, Lord Wallace, and I have Amendment 210 of my own. The noble Lord, Lord Wallace, has done most of the heavy lifting on Amendment 200, as he explained. I joined with him because I thought that, where we dealt with donations and national security risk, an additional power for the Electoral Commission—the fit and proper test—might be helpful. I tabled the amendment separately, and then, as the noble Lord explained, we wound them together so they are now one amendment.

The concept of a fit and proper test is well developed. Importantly, it lies at the heart of the powers of the Financial Conduct Authority and other financial regulators. It is important because it can put under the microscope the behaviour of individuals, not just a company itself. It has been found that, when people find that they themselves are going to go under the microscope as opposed to the company they work for, that tends to concentrate the mind rather wonderfully. The fit and proper test has a number of aspects to it that might usefully form part of the Electoral Commission's armoury: honesty, integrity, reputation, competence and capability and financial soundness, all of which would be helpful for the Electoral Commission to have.

What I was seeking to do with the amendments here was propose a similar arrangement in respect of donations from overseas where there was a security risk. This amendment is not going to try and lay down what the fit and proper test should be in respect of this area, because that will need to be done specifically. I just gave the examples from the financial regulator to show the sorts of areas I think the Electoral Commission could usefully focus its activities on. This amendment, along with the broader amendment that the noble Lord, Lord Wallace, tabled, will give the Electoral Commission a full set of tools to police this important part of our national life.

I briefly turn to Amendment 210, which is also in this group. It is a probing amendment—it is not in a final form by any manner of means—but it would prohibit individuals or companies donating to registered political parties where they have been awarded government contracts of more than £100,000. The broad purposes would be to prevent conflicts of interest, to mitigate any appearance of impropriety relating to the awarding

[Lord Hodgson of Astley Abbotts]
of an individual contract, and to contribute towards maintaining public trust and confidence after a number of scandals—Greensill springs to mind.

9.15 pm

The amendment would also bring the UK into line with some foreign jurisdictions, in particular the United States, where it is prohibited for any person who enters into a contract with a US department or agency directly or indirectly to contribute to any political party, committee or candidate for public office, or to any person for a political purpose. Importantly, it is also unlawful to solicit any such donation, so it stretches both ways.

As I said, I do not suggest that these amendments in their present form cover all aspects of the issue, but when my noble friend comes to reply I would be grateful if he could tell the Committee whether this is an area of policy that could usefully be explored further with a view to stopping the sort of impropriety that I think we all agree disfigures our national scene.

Lord Rooker (Lab): My Lords, I will say a few words about Amendment 212G, which is in my name and that of the noble Lord, Lord Butler of Brockwell. It concerns risk assessment and due diligence policies, controls and procedures by political parties. This would be a major change for political parties, and is very strongly suggested by the Committee on Standards in Public Life, particularly in chapter 4 of its report published in July last year. This contains several recommendations and is a very powerful case for anti-money laundering style checks. Like others, it specifically cites the Intelligence and Security Committee's Russia report at paragraph 4.24. I shall give some examples later.

Dirty money in UK political finance leaves parties exposed to malign influence, fosters dependence on the proceeds of crime and other dubious sources as a source of party finance, and, as my noble friend said, risks undermining the integrity of the electoral system. Under PPERA 2000, political parties are not required to run anti-money laundering checks on donors. There is no indication that UK political parties do robust checks on the source of donations, nor that parties ever reject donations after such checks have been made. I would very much welcome being contradicted on this.

As the UK's anti-money laundering framework has progressively tightened over the last decade—I applaud the Government for the changes they have made—the checks that political parties should undertake have stayed largely unchanged since 2001. Examples from the media suggest that if parties check the source of donations at all they are woefully inadequate and fail to prevent the flow of tainted money into UK politics, with damaging effects on the health of our democracy.

The Electoral Commission, which the Government clearly do not like, has argued since 2018 that risk management principles from anti-money laundering checks by business could apply to election finance. This would greatly increase transparency for voters. The Committee on Standards in Public Life has also recommended that.

As I was listening to a CD in the car the other week, the present system reminded me of the song "Money, Money, Money". I will misquote Tim Rice's lyrics from "Evita"; I have changed only one word, and I will not try to sing it: "When the money keeps rolling in, you don't keep books. You can tell you've done well by the happy, grateful looks. Accountants only slow things down, figures get in the way". That is the reality of our political parties at present: they do not do the checks.

So how does this amendment address the problem? It would update PPERA to require political parties to develop and publish a reasonable and proportionate risk-based policy for identifying the true source of donations above the figure of £7,500. Parties would need to have reasonable and proportionate risk assessment and due diligence controls and procedures in respect of those policies; the framework of the policies could be set out in statutory instruments.

For any donation or aggregated amount within a year exceeding that figure, parties would need to

"undertake enhanced risk assessment and due diligence checks"

to identify

"the donor's principal place of business if different from its registered office … the nature of the donor's business … the people with significant control of the donor's business, and … the names of the donor's directors or senior persons responsible for its operations."

Donors giving more than £7,500 would need to give a written declaration as to whether their business is in a high-risk sector—these are listed in proposed new Section 54C(13) of PPERA—and whether they have been

"under formal investigation by a regulator or law enforcement body for, or convicted of,"

a range of offences; these offences broadly reflect the mandatory grounds of exclusion in the Public Contracts Regulations. Further, a political party would need to

"include a statement of risk management in its annual accounts that identifies how risks relating to the true source of funds have been managed."

All major UK political parties have accepted potentially suspect donations, including from individuals and companies that have later been found to be involved in economic crimes.

I want be fair and clear on this; I will give one example from the Labour Party. However, as the party in government since 2010—although it constantly forgets this—the Conservative Party has accepted the majority of such donations in recent years. Russia's brutal invasion of Ukraine has increased scrutiny on the large sums that the Conservative Party has received from donors with links to the Russian state. I will deal not just with links to the Russian state but with those who have been involved in criminal activity and economic crime, and I will use media and official sources to do so.

My noble friend referred to the £1.9 million from Lubov Chernukhin so I will not go into detail on that, but my source for the following example is the *Guardian*. Between May 2018 and May 2021, the Conservative

Party accepted £366,765 from Aquind. It was first reported in January 2021 that Aquind's major shareholder, Viktor Fedotov—a Russian-born oil tycoon—was alleged to have been involved in a major fraud in Russia during the 2000s involving the siphoning of funds from the Russian state pipeline monopoly Transneft.

My source for this example is the *Financial Times*. Between September 2018 and January 2021, the Conservative Party accepted £484,570 from Mohammed Amersi; he figures in a lot of examples but this one is worth going over, even though my noble friend alluded to it. In 2006—well before that time—a Swiss tribunal found that Amersi was closely involved in a business deal involving one of Russia's largest telecommunications companies, which was later revealed to have been controlled via Cyprus by Leonid Reiman, then Vladimir Putin's telecoms Minister. Reports in the press claim that Amersi acted as an adviser for a Swedish telecoms company on a transaction that was later accepted by the company as a bribe to the first daughter of Uzbekistan's ruler, Islam Karimov. Despite the existence of an internal Conservative Party memo circulating in late 2020 warning of Amersi's business dealings circulating, the party accepted an additional £50,000 in January 2021. Naturally, Mr Amersi has denied any wrongdoing.

My sources for this example are the *Daily Mail*, the *Financial Times*, the *Independent* and the *Guardian*. The Conservative Party accepted £202,540 from New Century Media Ltd, which represents

"an extensive list of state-connected Russian clients."

Whichever way you check, it is basically a Russian front organisation. These clients include the Firtash Foundation, which is run by Dmitri Firtash,

"a Ukrainian gas and chemicals oligarch wanted by the US for bribery".

He still is wanted; I think he is locked away in Austria. Of course, as I said in a recent speech, Ministers at the Ministry of Defence did business with him regarding the selling of a property to him while he hides from the United States.

New Century Media's £900,000 a year contract with Firtash includes reputational management, personal introductions to individuals within politics, and support for his passport application. The firm has other notable—or should we say, in its terms, successful—dealings, introducing figures close to the Putin regime to Conservative politicians via donations. This included the introduction of Russian MP Vasily Shestakov and billionaire oligarch Andrei Klyamko, both close friends of Putin, to then Prime Minister David Cameron at a donors' ball in 2014. New Century's owner had already arranged for Shestakov to meet Prime Minister Cameron at the previous year's ball in 2013. New Century also arranged for Sergey Nalobin, a senior diplomat at the Russian embassy, to meet Prime Minister Cameron at a Tory donor dinner in 2012. Nalobin, the son of a senior FSB spy, was expelled from the UK by the Home Office in 2015.

These Russian meetings with Cameron when he was Prime Minister take on a really new shape after the astonishing letter in the *Financial Times* last Wednesday, 23 March, from Carl Scott, a retired air commodore. He was the UK defence attaché in Moscow between 2011 and 2016, sending back regular reports, pointing out Putin's long march to war in report after report to the Government. At exactly the same time, Cameron was Prime Minister and being nobbled and cossetted by these Russian interests.

The *Independent* noted in 2014 that:

"Unlike the vast majority of lobbying firms, New Century fails to provide details of its clients to the industry's voluntary register of interests."

While New Century Media did subsequently register with the Registrar of Consultant Lobbyists in November 2019, it has still never declared a single client.

As I was preparing to speak when I thought this might come up last Thursday, I was casting around with respect to my own party. All I had to do was open the *Times* last Wednesday, 23 March, to see pages 20 and 21 devoted to the "king of bling", one Peter Virdee. The opening paragraph stated that:

"One of Europe's most wanted men was welcomed as a donor by the Conservatives and Labour despite being under investigation for bribery and fraud."

Even after his arrest by the NCA, both parties continued to take his money. It does appear from the figures given in the *Times* that he favoured Labour somewhat less than the Conservatives, but we still took the money. He lied about his membership of charity trusts, the ENO and NSPCC. It is not a good story for Labour, and even less so for the Conservatives.

There are other dubious donations from sources not connected necessarily to the Russian state. I will just give one, because of time: £726,300 from Javad Marandi, an Iranian businessman with close links to the kleptocratic Azeri regime. Marandi's business relationship with individuals reportedly connected to the Azerbaijani laundromat was first identified in 2017, after which the Conservative Party accepted the majority of his total donations of £520,000. The source there was the *Guardian* and the OCCRP, the Organized Crime and Corruption Reporting Project.

These are just a few examples. There are more I am not going to use, and other Members of the Committee will have their own. It is a simple process: political parties and other voluntary organisations—I fully accept that they are voluntary, but they are not charities—are more regulated now than they used to be, and it is just as well. Given the importance of the money, I cannot see any reason why the approach of anti-money laundering regulations that the Government have used over the last decade for other companies cannot be used for political parties. I would be interested in due course to know the views of the Government.

9.30 pm

Lord Butler of Brockwell (CB): My Lords, I put my name to the amendment that has just been introduced by the noble Lord, Lord Rooker, because this is an important subject. The disinterested recommendations of the Committee on Standards in Public Life need to be taken seriously, and this is probably the last opportunity to do so before the general election. By the way, I apologise to the noble Baroness, Lady Hayman, for missing the first few sentences of her speech.

The amendments in this group seem to have three common themes. The first and most important is integrity. Political parties need finance to support their

[Lord Butler of Brockwell]
operations, but money should be given to meet their expenses because the donor believes in our electoral system and in the principles of a particular party, not because he or she has an ulterior motive of self-interest. The second theme is transparency. The integrity of a donation can be judged only if its source is known. If its source is unknown—and, more especially, if it is disguised—it is very likely that the motive for the donation is an ulterior one. The third theme is to ensure that the money is clean and does not derive from activities contrary to the public interest or even criminal—what is often called dirty money. Those themes are interwoven. Dirty money can be detected only if there is transparency so that the source of the donation is known, and dirty money will almost always have an ulterior motive.

Some of the previous amendments spoken to in this group have been concerned with transparency, and in general I support them. Amendment 212G, to which I have put my name, is principally concerned with the third theme, the detection and prevention of dirty money discrediting our electoral politics. The amendment, which is very long—I did not draft it myself; I owe it to the organisation Spotlight on Corruption—can be best summed up by its opening words: it would impose a duty on political parties to

"develop and publish a reasonable and proportionate risk-based policy for identifying the true source of donations"

above £7,500.

The point that I want to emphasise is that this amendment should be pushing at an open door. All political parties want and need financial support for their activities, but all political parties are discredited if it turns out that in one way or another the money is tainted. The amendment might be described as helping political parties to protect themselves—not least to prevent the embarrassment that comes later, on a scale that very often entirely undoes the benefit of the donations that they have received.

All parties have fallen on their faces over this issue. A great deal of reference has been made to the Conservative Party but I remember, as will many noble Lords, the fuss in the early days of the 1997 Labour Government about a donation of £1 million that the party had received from Bernie Ecclestone. He had a vested interest in the use of tobacco advertising on Formula 1 cars, while the Government were thinking of banning such advertisements. Mr Ecclestone had given the Labour Party one substantial donation and was offering a further one.

Prime Minister Blair asked Sir Patrick Neill, then chairman of the Committee on Standards in Public Life, whether the party could accept the further donation. Sir Patrick Neill advised that, not only should the party decline the further donation, but that it should give back the earlier one. To his credit, I believe Mr Blair accepted that. Nevertheless, there was a great fuss and Tony Blair was severely embarrassed. Some may remember that he had to give a television interview in which he defended himself by saying that most people thought that he was a "pretty straight guy". I think most people did think that. I am sure he wished he had not been put in that position.

I can see no conceivable reason why political parties should be opposed to having a protective machinery of the sort proposed in Amendment 212G. It implements, as the noble Lord, Lord Rooker, has said, three specific recommendations in the July 2021 report by the Committee on Standards in Public Life. It reduces the risk of damage to the reputations of all political parties. Above all, it helps to protect our country's electoral system and safeguard the integrity of our political life.

Lord Rennard (LD): My Lords, Amendment 212E, in my name, seeks to draw attention to a principle Parliament has previously agreed and that should now be brought into force. The Political Parties and Elections Act 2009 was discussed, and agreed, in much more consensual debates than is the case with the current Elections Bill. Parliament then agreed that donations and loans from an individual that are worth over £7,500—either individually or in aggregate over a calendar year—would have to be accompanied by a new declaration confirming that the donor is resident and domiciled in the UK for income tax purposes.

The Electoral Commission explained that donors would have to make the new declarations, and that those it regulates would have to ensure that they receive a declaration in respect of each relevant donation and add up donations they receive below £7,500 to check whether a declaration is needed. But this provision was not subsequently introduced. The consequences of this failure, and the real reasons for it, soon became clear. All the main parties have received donations from people who are not domiciled here and do not pay taxes here. The scale of the funding involved seriously distorts our democracy. After the 2015 general election, the *Guardian* reported:

"The Conservatives have raised more than £18m from wealthy donors who were domiciled abroad for tax purposes, research shows. Labour have also benefited from non-dom donors and accepted gifts of at least £8.55m. The family that controls the Lib Dem's biggest corporate donor is also domiciled abroad".

The provisions of the 2009 legislation should probably have been brought in before the 2010 general election, because the relative sums raised indicate why Governments since 2010 have not seen it as being in their interest to introduce these provisions. Ministers since then have tried to maintain that that the 2009 legislation approved by Parliament is unworkable, which is very convenient. But this is not the case as the Electoral Commission produced proposals nine years ago to make it workable. It is time that we insisted that all the parties—and simultaneously—are unable to take donations from those who are abroad simply to avoid paying taxes here. Only when no party can accept donations from people who may be tax exiles can all parties be expected to adhere to this principle. This amendment would bring that 2009 legislation into effect. We should not have a political system which might be described as "the best that money can buy".

Lord Grocott (Lab): My Lords, I agree with much of what has been said so far, although I think an obvious connection—an obvious debate that we still need to have—between this question of donations from overseas and the massive extension of the electorate

living overseas has been missing. The two issues are related and they raise matters of very similar principle. This extension of the franchise would be a massive change: it is an increase in the potential electorate of around 2.5 million people over a couple of years.

Of course, it will be argued that, in practice, most of those who could register as electors would not. In 2019, when the rule was that only people who had been domiciled abroad for 15 years could vote, I think about 204,000 people actually voted, which represents a turnout of about 17%, but there is absolutely no guarantee that that low turnout will persist. I say this particularly to the noble Lord, Lord Wallace, who argued about the importance of connecting different aspects of the Bill, which I agree with. If we move to a system of automatic voter registration—which I am personally in favour of, but I do not expect it to come about as a result of this Bill—you have a potential additional electorate of 2.5 million people.

Once you concede the argument that it is okay for people with virtually no practical connection with this country who have lived abroad for 40, 50 or 60 years to get on the register by "attestation"—that is the word—if there is no way in which you can establish as a matter of fact that they once lived or voted in a particular constituency, albeit 50 years ago, they can get on the register by means of someone else who does qualify attesting on their behalf that they are in fact the person who lived there and they are entitled to vote. It is much easier to get on the electoral register from abroad in many respects than it is at home, particularly when we have voter ID established in the way being proposed.

But, to me, the principle at stake is about individual constituencies. To remind the House, at the last election the figures for the proportion of overseas electors in some constituencies were small. The figures are small at the moment. For example, in London and Westminster it was 2.43%, in Hammersmith it was 2.12%, and in Islington it was 2.36%. They are relatively low figures, but, of course, if you increase the electorate by potentially 2 million, even if the turnout is low, you could end up with 5,000 or 6,000 people in individual constituencies who have no connection with the area worth speaking of at all being able to vote. This could result in particular decisions being made, as they can be at elections, of crucial importance to the people living there. The most dramatic example would be a proposed hospital closure, involving very strong views on either side of the debate. The 5,000 or 6,000 people who have never lived in the constituency and who will never have to cope with the circumstance of the hospital closing could be the determining factor in the election. I am opposed to that; I just think it is wrong. It damages our democracy if there is no residence, no contact and, in truth, no responsibility for the decisions that are made.

I think what is true of voting is also true of money: if you have a situation where people who are on the register are also permitted donors, there can be a totally distorting effect—I am not going to go into the various figures that have already been given—possibly on the outcome of the election itself. If huge sums of money come from a potentially very large number of overseas electors—or even someone who is not particularly interested in voting but thinks "Well, as soon as I become someone on the electoral register, I'll be able to donate with impunity and I've only got get someone to attest that I once lived in a particular area and away we go"—you have a situation where it is now money that might determine the outcome of an election. This is money from people with nothing but a slender and tenuous connection with the country, in this case, in which they are not going to be living with the consequences of their money having a significant effect on the outcome of a general election.

9.45 pm

Simply put, if you think as I do—let us leave all the specific allegations about specific donors at specific times—there is surely no argument but that these two issues of ability to vote and ability to donate are closely related issues that, in their different ways, can distort the outcome of a general election. I certainly, for one, think that something needs to be done about it.

Lord Wallace of Saltaire (LD): My Lords, before the noble Lord sits down, I remind him of the third link in this, which is that campaigning for overseas voters is going to be very expensive and the advantage will go to the party that has the most money, in terms of contacting them and soliciting their vote. So, in terms of a level playing field, the addition of another 2.5 million overseas voters tips the balance even further in favour of the richest party.

Lord Grocott (Lab): I absolutely agree with that.

Baroness Bennett of Manor Castle (GP): My Lords, this has been a hugely interesting and terribly important debate. I am now going to take what you might describe as the traditional Green role of going much further than anyone has gone before in seeking to deliver what the noble Baroness, Lady Hayman, called for in introducing this group: free and fair elections. That is what I think we are all aiming for. Before I do that, I think perhaps I should—given the direction the debate in group one today took—declare in retrospect my position as vice-president of the LGA, and apologise for not doing that earlier.

Given the hour, I am going to restrict myself to commenting on Amendments 212A and 212B, which appear in my name. They do bear some relationship to Amendment 212DA in the name of the noble Lord, Lord Stunell, which goes in a similar direction but in a more limited way. Like many noble Lords, I am drawing particularly on the 13th report of the Committee on Standards in Public Life entitled *Political Party Finance: Ending the Big Donor Culture*—which is what my amendment seeks to do.

Amendment 212A amends the Political Parties, Elections and Referendums Act to set a donation cap of £500 from any individual donor or corporation to each party or candidate, either with a single donation or cumulatively by multiple donations through a calendar year. Clause 1(2) specifically excludes trade unions from that cap, which I think deserves some explanation. One of the Green Party's policies for a sustainable society states:

[Baroness Bennett of Manor Castle]

"Donations from democratic membership organisations (such as trade unions) provide a useful method for ordinary people to pool resources in order to exert influence".

It could be argued that there may be other organisations similar to that—I think of the RSPB, perhaps, as an example—that might choose, as a group, to give a larger donation. But the practical reality is that most of those are charities, and our charity law means that is not practically going to be an issue.

I would like to acknowledge that there is potential flaw in the way this amendment is written—and it certainly needs some more work—in that it does allow a donor to give £500 to potentially every single candidate, which would obviously come to a very large sum of money, which is not the intention of the amendment. This was done because the donation rules apply separately to parties and to individual candidates—but this is something I will work on in terms of this amendment.

With that proviso, this is an amendment that could truly revolutionise our elections. Indeed, it could go a long way to making the United Kingdom a democracy. Currently, very large donations are a major factor, perhaps a deciding factor, in our elections and other votes. The dictionary definition of an oligarchy is "a small group of people having control of a country or organisation". I might add "party". There is a strong case for saying that that fits the UK better than the definition of a democracy. Perhaps that has always been the case, but certainly now, since we have a situation where technology allows huge online spending to reach voters in a targeted way—far more than anyone using up their shoe leather to knock on doors and deliver leaflets possibly could.

I am not really expecting the Government to say, "Yes, we want to transform our elections and make them wonderfully democratic and set a £500 maximum donation limit in a year". But I have a real question which I would very much appreciate an answer to from the Minister. I note that, responding to the Committee on Standards in Public Life report in 2011, the then coalition Government said:

"The amount any one individual, organisation or institution can give in political donations should be limited."

So I ask the Minister: do the Government accept that there should be a limit, whatever that limit is, on how much one organisation or individual can give? Should it really be the case, as it is now, that there is no limit?

I note that a political party's spending is capped at £30,000 for each constituency that it contests in a general election. So if a party stood a candidate in each of 650 UK constituencies, its maximum spend would total £19.5 million. Indeed, I am indebted to the Library for some very rapid research this afternoon. The figures have not yet been fully published, but it would appear that the Conservatives spent not very far off £16.5 million in the 2019 election and about the same in 2017, according to the published figures.

That might seem to be a kind of limit. One donor could fund an entire general election campaign. But, of course, that spending covers only the regulated period and only the regulated spending, which is far from everything that political parties spend. Funding outside election periods would, so far as I can see, be utterly unlimited.

If you think I am talking in terms of theoretical possibilities here, you might want to look across the channel to the United States of America whose political direction, for many ills, we very often follow. A useful report produced last year by Issue One, a non-partisan group that seeks to reduce the influence of money in politics, totalled some of the contributions from what it called "megadonors"—multiple Wall Street billionaires and investors, a Facebook cofounder, a shipping magnate and an heir to a family fortune dating back more than a century. If you look at those figures, you see that at the top of the list is Michael Bloomberg, the former mayor of New York City, who spent $1.3 billion, which is about £1 billion. Of that, $1 billion went towards his own failed campaign for president in 2020.

This is a pattern that we are increasingly seeing around the world, where money can buy you the politics you want—or at least you can make a very effort at it. It seems that the natural conclusion is to buy yourself, or the party created or reshaped in your own image, office. In my native land, the United Australia Party has said that in the forthcoming federal election it plans to spend more than it did in 2019, when the figure topped 80 million Australian dollars, which is about £45 million. It was previously known as Clive Palmer's United Australia Party and the Palmer United Party, and it was formed and overwhelmingly funded by the mining magnate Clive Palmer.

I would be very interested in anyone's answer to the question of why people should be able to buy the politics they want and why people can make serious efforts to buy control of the whole country. That is what is happening and we have nothing in our law to stop it. A lot of our discussion in this group has focused on foreign money in politics and we have heard many powerful accounts of why that should be so. For example, the wife of President Putin's former deputy Finance Minister, a British citizen acting legally, has donated almost £2 million to the Conservative Party since 2012, making her the largest female donor in history, but if we focus on foreign donors, that only partially addresses this issue.

Why should anybody, whatever their residence, status or citizenship history, be able to buy our politics? If they are a businessperson or an inheritor of family wealth, surely they are likely to influence politics in the direction of maintaining that wealth. Why should they be able to do that? I am sure there is many a nurse tonight, struggling hard to do his best for his patients in the NHS, who would love to influence our politics to improve its resourcing. A farmer might have very strong thoughts about the direction of UK trade policy and its impact on food, health and environmental standards. A family carer, struggling along on an allowance of £87 a week, might have strong views on the adequacy of that. Why should their voice be any less than anyone else's?

I was discussing this amendment with a Member of your Lordships' House who I will not identify, because it was a private conversation. They exclaimed in a tone that I think could best be described as horror, "But we

couldn't run an election on that!"—noble Lords might guess that they were not from the Green Party. I invite your Lordships' House to consider a different kind of election, one based on passion, ideas, commitment and genuine engagement with the public, rather than a continual bombardment of slogans—which would probably consist of three words—endlessly, from every media source, as a replacement for actual politics and policies.

I understand that there are some ways of reaching voters that quite reasonably cost money, such as leaflet or video production, so I agree that Amendment 212A implies state funding for political parties. We collectively get the politics that we fund. If we all paid for politics, it would be our politics—what a refreshing idea. I think we will get to those points in the ninth group, with the very interesting amendment from the noble Lord, Lord Sikka, so I will leave my comments on that till then.

Amendment 212B is rather more technical. There will be people in your Lordships' House who know a great deal more about this than I do, and I would be very interested in any comments. This amendment would revive Section 68 of PPERA, requiring declaration of multiple small donations by an individual which total £5,000 or more in any year. The figure of £5,000 is what was used in Section 68 of PPERA originally. I have tabled this amendment because, when I had some experts look at the donation rules for Amendment 212A, we realised that Section 68 of PPERA had been repealed, but neither our team, nor the House of Lords Library, could find any justification recorded for the repeal. It does not seem to have been discussed in any parliamentary debates.

It ought to be revived because of the online nature of many political donations now. It is possible and easy to make many small donations that could total a very large figure. This perhaps sounds theoretical, but a person could donate £1 billion by making 1 billion donations of £1. None of those donations would have to be declared to the Electoral Commission and none of the verification that is done with larger donations would have to be made. That is obviously wrong. Questions have been asked about recent election donations. I will not go into those, but I have identified a clear risk here. Indeed, both of my amendments identify very clear risks that have to be addressed.

10 pm

Viscount Stansgate (Lab): My Lords, I support the amendments tabled by my noble friend Lady Hayman.

In view of the lateness of the hour, the Committee will not welcome my repeating the arguments that have already been made, but the noble Lord, Lord Butler, correctly identifies the qualities which are needed for what we all want: an electoral process that has integrity. Whatever our differences around the Chamber, none of us would want to live in a world where you can, to put it bluntly, buy an election. The noble Baroness, Lady Bennett of Manor Castle, referred to the United States. In its constitution, under the definition of "free speech", people can spend as much money as they like in furtherance of their own beliefs, which is why billionaires can buy their way into public office. We do not want that system here.

Amendment 212C has not been moved yet, but I want to refer to it because it seeks to make it an offence for anyone who

"makes false statements about the integrity of the electoral process."

I would call that the Donald J Trump amendment, because I cannot think of a single person in history who has made more false statements about the integrity of any political process than the former President of the United States. However superficially attractive Amendment 212C may be, the better safeguard to protect the integrity of our system is that outlined by the noble Lord, Lord Butler.

Lord Stunell (LD): My Lords, I think that I am now the 11th Peer to tell the Minister that the legislation is not strong enough when it comes to protecting our elections from the financial bigwigs. Indeed, there was a report from the Committee on Standards in Public Life last July. I hope that the noble Lord, Lord True, is back with us for the next stage of this Bill, but we have had some discussions with him about how many of those recommendations in last year's report the Government believe that they have incorporated in this Bill. He has been a little bit coy about that; I might perhaps try to tempt the noble Baroness or the noble Earl to try a little harder on which of the 47 recommendations in last July's report by the Committee on Standards in Public Life the Government believe that they have incorporated in this Bill, and which ones they are positively rejecting.

However, I want to speak about a preceding report from the Committee on Standards in Public Life in 2011. I thought that maybe if it had a 10-year run-in, there might be a better chance that we would achieve success in this Bill from some of its recommendations. Noble Lords will know that I am a member of CSPL, but I certainly was not in 2011—I was fulfilling a different role then. That report reviewed the case for having any kind of financial limits on elections. The top risk is the risk of capture of a political party by donors, capture of its policy, its practice and its personnel. Regarding policy, some of us have been frustrated for a long time by the inability of successive Governments to get to grips with tax havens around the world. I am sure that it is completely unconnected that a number of donors live in tax havens, but it could be something which the public would be suspicious about, even if we are far too knowing to believe that a party might be influenced by that.

What about the difficulty in bringing offshore banking onshore? Could that have anything to do with where donors are starting from and where they are banking? What about getting a beneficial ownership register of all companies and making Companies House work properly? Again, we find very little progress, which is very much in the interests of people who make big donations to political parties.

So policy can be affected, perhaps by slowing it down or perhaps by driving it slowly into the sand. Some of us think that this Bill is a victim of that, with so many proposals not grasped but avoided. My noble friend Lord Clement-Jones gave some powerful evidence about the way in which there has been a failure, in this

[LORD STUNELL]
Bill, to confront electronic campaigning, as has been recommended to the Government by many bodies and persons.

There is a risk of capture of policy and of practice, and that is in how government acts and what happens. I point to the free market for high-end property purchasing in London, which has suddenly come to a grinding halt, at least as far as some purchasers are concerned. Obviously, it serves the economy of the UK fine to sell hugely overpriced houses and leave them empty, while various dictators in the former Soviet Union sit on their extracted wealth, but it is not all about foreign donors.

I bring to your Lordships another situation where government practice has been distorted by motives that are not necessarily in the best interests of public service. I refer to the company PPE Medpro, reported in the *Guardian* this morning as having secured a contract for the supply of 25 million sterilised surgical gowns during the pandemic. Those gowns were bought by PPE Medpro for £46 million and sold to the Government for £122 million. In this case, the money is going in the opposite direction to the one we have been talking about for most of this group of amendments. According to the *Guardian* report, it turns out that those sterilised surgical gowns were, in fact, unsterilised; they were not double-wrapped and they a had false or misleading BSI test number on them. I understand the Department of Health is trying to get its money back, but the mindset that led to that fiasco unfolding is part of the capture, by big donors and big-donor thinking, of a political party.

Then there is personnel—policy, practice and personnel. It is almost embarrassing to say it, but recommendation 19 of the 2011 report of the Committee on Standards in Public Life was that there should be full publication of the criteria for political appointments to the House of Lords. I plead guilty as a political appointment to the House of Lords, as probably should a number of other noble Lords here, but it makes the point that there is an unhealthy connection between money, donations and preferment. It is not simply the House of Lords that is in scope.

Amendment 212DA in my name repeats two of the recommendations from that 2011 CSPL report. In fact, the noble Baroness, Lady Bennett of Manor Castle, quoted from it but, for the purposes of time, left out some words beyond the end of that quote. Recommendation 1 states that there should be a limit of £10,000, which is the figure I have included in this amendment. There should be a democracy of donors, as was spelled out by the noble Baroness, Lady Bennett.

Recommendation 6 of that report figures in the second part of my amendment, in that there should be a reduction in national election spending limits of 15%. That was from the CSPL in 2011; the election spending limits had been in place for five years, at that time, and the committee thought they should be reduced by 15%. Fair enough—they have not been increased, but it has now been proposed that they should be increased by over 60%. Far from the 15% reduction that the CSPL thought was sensible 10 years ago, the Government now propose that they are increased by 60%.

I would put in a case for CSPL's proposals and recommendations and therefore for my amendment. I also strongly support the other amendments that have been put forward. Perhaps the most powerful—not to decry any of the others—is what I have chosen to call the Rooker-Butler amendment, Amendment 212G, which should put the wind up every political party if it comes into force. It proposes that there should be a "risk assessment" for all donations over £7,500. It seems to me that, as a basis for proceeding further, it can hardly be beaten. But I cannot leave out the amendment of my noble friend Lord Wallace and the noble Baroness, Lady Hayman, that would capture "unincorporated associations" as well—this is recommendation 10 of the Committee on Standards in Public Life's report of 2011.

I finish by simply saying that the Government may or not be ready to take on the recommendations of the Committee on Standards in Public Life's report from last year, but, for goodness' sake, will they please agree to take on those that it made 10 years ago and that have still not been implemented?

Earl Howe (Con): My Lords, this group of amendments brings us to the subject of political donations, and I am grateful for the contributions from all sides of the House on this topic. I have listened carefully and noted the strength of feeling that clearly exists around it.

I will start with a word of general reassurance: the integrity of our political system is of the utmost importance to Her Majesty's Government and, without doubt, all parliamentarians—the noble Lord, Lord Butler, was quite right in what he said on that score. Therefore, it is vital that the rules on political donations are kept continually under review. We must ensure that they continue to provide an effective safeguard to protect that system integrity.

Therefore, it is right that, as a matter of principle and practice, UK electoral law already sets out a stringent regime of controls on political donations to ensure that only those with a legitimate interest in UK elections can make political donations—and that political donations are transparent. This includes registered UK electors, registered overseas electors, UK-registered companies that are carrying out business in the UK, trade unions and other UK-based entities. Donations from individuals not on the UK electoral register, such as foreign donors, are not permitted. There is only a very limited exception to this, whereby, for political parties registered in Northern Ireland, permissible donors also include Irish citizens and organisations, provided that they meet prescribed conditions. This special arrangement reflects the specific context in Northern Ireland.

In order to address the tabled amendments and contributions as fully as I can, I propose to frame my response thematically. I turn first to Amendments 198,199, 204, 212D and 212E, all of which make reference to alleged "foreign donations". I am afraid that this group of amendments does not find favour with the Government because they seek to remove the rights of overseas electors to make political donations as well as to remove the right to make donations from non-UK nationals who are registered to vote in the UK. Overseas

electors are British citizens who have the right to vote; they are important participants in our democracy, as are non-UK nationals on the electoral register. We intend to uphold the long-standing principle that, if you are eligible to vote for a party, you are also eligible to donate to that party. Amendments 198, 199, 204 and 212D would ignore that principle by removing the rights of overseas electors entirely.

I must repudiate the suggestion of the noble Baroness, Lady Hayman of Ullock, that this is all about increasing political donations to the Conservative Party. The Bill delivers the Government's manifesto commitment to remove the arbitrary 15-year limit on the voting rights of British expatriates, broadening their participation in our democracy.

The issues at stake here are matters of principle. Supporters of many parties back votes for life. The Liberal Democrats pledged in their two most recent manifestos to scrap the 15-year rule. In addition, one of the most passionate and high-profile campaigns for votes for life has been led by Harry Shindler, who lives in Italy and is 100 years old, a World War II veteran and the longest serving member of the Labour Party. I say to the noble Lord, Lord Sikka, that this measure will not open the floodgates to foreign political donations. Registered overseas electors are eligible to make political donations as important participants in our democracy. It is only right that they should be able to donate in the same way as other UK citizens registered on the electoral roll. I say again: the changes within this Bill will simply scrap the arbitrary 15-year limit on these rights.

10.15 pm

Lord Wallace of Saltaire (LD): Would that be without any cap on the size of the donation offered? Would the Minister consider that a cap on the size of a donation offered by, for example, Sir Philip Green might be appropriate?

Earl Howe (Con): I will come to the subject of caps on donations in a moment.

On Amendment 212E, the noble Lord, Lord Rennard, recently tabled a Question for Written Answer about the uncommenced provision in the 2009 Act. This provision, Section 10, refers to residence and domicile for income tax purposes as a criterion for permissible political donations. Although a response was issued to him by my noble friend Lord Greenhalgh on 14 March, I hope that it will be helpful if I repeat it briefly for the benefit of the Committee.

The Government have no current plans to bring into force the uncommenced provision, Section 10 of the Political Parties and Elections Act 2009, regarding donations from non-resident donors. There is a very good reason for this: the provision is not workable given that an individual's tax status is subject to confidentiality. It may therefore be difficult or even impossible for the Electoral Commission, political parties and other campaigners to accurately determine whether a donor meets the test set out in Section 10.

Furthermore, as a matter of principle, taxation is not connected to enfranchisement in the UK. If a British citizen is able to vote in an election for a political party, they should be able to donate to that political party subject to the requirements for transparency on donations. There is clear precedent here. Full-time students are legally exempt from paying council tax but still have the right to vote. Likewise, those who do not pay income tax rightly remain entitled to vote. For these reasons, the Government cannot support these amendments.

The other key theme that this debate has focused on is that of donations made by companies or other entities such as unincorporated associations. I will address Amendments 197, 198, 200, 210, 212 and 212G in the remarks that follow. As I have said before, only those with a legitimate interest in UK elections can make political donations, such as UK-registered companies which are carrying out business in the UK, trade unions and other UK-based entities. There is only a very limited exception to this, whereby, as I indicated earlier, for political parties registered in Northern Ireland permissible donors are a wider category.

The law is already clear that, if a company wants to donate to a party or fund a campaign, it must be a permissible donor. The recipient of a donation is responsible for checking that the donor is eligible; that is to say that it is registered in the UK and carrying out business in the UK. The recipient must also report the relevant donations to the Electoral Commission quarterly, and weekly during election periods. To ensure transparency about party funding, donation reports are published by the Electoral Commission on its online database.

Unincorporated associations are permissible donors only where they carry on business or other activities wholly or mainly in the United Kingdom and where their main office is in the UK. Further to this, any unincorporated associations making political contributions of more than £25,000 in a calendar year must notify the Electoral Commission and are subsequently subject to various reporting requirements relating to their own funding. Members' associations, many of which are unincorporated associations, are separately regulated as regulated donees and must report on donations and loans that they receive.

Amendment 197 would introduce a new obligation on unincorporated associations to take all reasonable steps to check whether donations they receive intended for political purposes come from a permissible donor. At first glance, "all reasonable steps" appears perfectly reasonable. However, this would represent a significant change for unincorporated associations which, as I outlined previously, are already subject to significant reporting requirements. It singles them out from other types of donors and puts them instead closer to the level of political parties in their due diligence obligations. This could mean many voluntary groups and local sports clubs and societies all facing a significant extra due diligence cost simply because they fall into an unlucky category. That does not strike me as fair, and I would be concerned about the possible chilling effect on democratic participation of those groups.

Amendment 198 is an attempt to restrict donations from organisations. As drafted, it would exclude UK-based companies with fewer than five employees from making donations. Furthermore, it is unclear how one would determine who has "significant control" of an

[Earl Howe]
unincorporated association, as their governance structures are not regulated in the same way as other legal entities. Although I am sure this was not the intention, it demonstrates quite well the risk of serious unintended consequences if amendments which place restrictions on who can participate in our democracy are made with haste and without consultation. Furthermore, Amendment 198 would make it an offence for an ineligible company to even offer a donation, regardless of whether it is accepted and regardless of whether it was aware the donation it was offering is impermissible. This is unnecessary.

Donations from impermissible donors are already illegal, and it is the political parties and campaign groups receiving the money, the ones which better know and understand this area of law, which are accountable and responsible for checking, returning and reporting impermissible donations. In addition—this point has been highlighted previously—it is an offence for a donor knowingly to facilitate the making of an impermissible donation.

I am grateful to my noble friend Lord Hodgson for his Amendment 210, which would prohibit donations from individuals or companies that hold public contracts with a value equal to or exceeding £100,000. The complexities of procurement frameworks are slightly beyond the scope of this debate, but let me say that, while well-intentioned, it is not clear how this amendment would operate in practice. Seemingly, there is no limitation on a person making a donation to a party prior to entering into a contract with a public body, and it is unclear whether the prohibition extends beyond the lifetime of the contract and, if so, for how long. It is important to note that the existing legislation already provides for publication of donations to political parties, regulated donees and recognised third-party campaigners, therefore enabling any discerning citizen and our free press to scrutinise any large donations.

I also thank the noble Lord, Lord Sikka, for his Amendment 212. As he explained, the intention of this amendment is to prevent shell companies being used to make large donations. Similar concerns on source of donations underpin Amendment 200 and the substantial Amendment 212G from the noble Lords, Lord Rooker and Lord Butler, which would introduce requirements for registered parties to carry out risk assessments and due diligence checks on donations.

However, as I have already outlined, there are strict rules requiring companies making donations to be incorporated and carrying out business in the UK. Existing rules also prohibit circumventing the rules through proxy donors. That is on top of a legal requirement for political parties and other recipients to conduct permissibility checks and report to the Electoral Commission.

The principle of strengthening the system to provide greater levels of assurance on the sources of donations to ensure they are permissible and legitimate is important. We take seriously the risk of donors seeking to evade the rules. Indeed, the Government recently set out their final position on the reforms to the corporate registration framework, ahead of introducing legislation, in the *Corporate Transparency and Register Reform* White Paper.

The introduction of mandatory identity verification for those incorporating and filing with Companies House will be essential for making information on the companies register more reliable. It will mean that those with the intention of fraudulently misusing the UK corporate registration framework will have their activities traced and challenged. For example, all directors of UK limited companies will be required to verify their identity in order to be registered, and overseas companies will be required to verify the identity of all their directors. This, in combination with a new power for the Companies House registrar to proactively pass on relevant information to law enforcement and other public and regulatory bodies, including the Electoral Commission, will help ensure that any company making political donations is properly trading in the United Kingdom.

However, we do not want to impose disproportionate legal obligations that hinder the ability of parties and other campaigners to generate funds against the cost of carrying out checks on donations to ensure that they come from permissible sources. To do so would risk it not being cost effective for parties to accept smaller donations and therefore exclude some people from being able to participate in our democracy in this way. The current rules are proportionate and achieve this balance.

Lord Rooker (Lab): I am listening carefully to the Minister. Going back, say, a decade before the Government started to tighten up the anti-money laundering rules, companies, accountants, company secretaries and company lawyers all said, "Our professional obligations and institutions require us to do all these checks." But they were not doing them, hence the Government had to bring in some anti-money laundering rules. Why are political parties any different?

Earl Howe (Con): My Lords, I hope I have already explained how the Government intend to legislate in the future to create greater transparency of companies. As I said at the beginning, all we can do is keep the rules under review. I am suggesting that in this particular area, the balance is about right.

Lord Stunell (LD): I understand that the Government have a point of view on this, but it is clearly in contradiction to that of the Committee on Standards in Public Life, the Electoral Commission and others. Can the Minister expand on his reasoning for rejecting their proposals?

Earl Howe (Con): I will answer the noble Lord's point about the Committee on Standards in Public Life in a moment, if he will allow. First, I turn to Amendment 200, jointly tabled by the noble Lord, Lord Wallace, and my noble friend Lord Hodgson, which seeks to introduce new restrictions on donations. The amendment seeks to confer additional powers on the Electoral Commission to identify donations that the commission considers to be a risk to national security or that do not meet a "fit and proper test", to be determined by the Secretary of State.

This is not the commission's role or area of expertise, and it would therefore be entirely inappropriate to give it this responsibility to assess risks to national security. The commission is simply not equipped to make some of the judgments proposed by this amendment. The commission has said of this proposal that it

"would be a significant change to our current remit and is not a role we are seeking, as the benefits of this proposal over and above the work of the established security agencies are not clear".

Put simply, countering foreign interference is the responsibility of the Government, the appropriate law enforcement agencies and the intelligence services, not the Electoral Commission.

The Government already work closely with a range of partners, including the Electoral Commission, to maintain the integrity of democratic processes and take the necessary steps to tackle the risk of foreign interference. The cross-government Defending Democracy programme brings together capabilities and expertise from across departments, security and intelligence agencies and other partners to ensure that democracy remains open, vibrant and secure. In support of this, the Government have set out their intention to bring forward separate legislation to counter state threats. This will give our security services and law enforcement agencies the additional tools they need to tackle the evolving and full range of state threats.

The amendment would also require the Electoral Commission to determine whether a donor meets a "fit and proper" test in respect of the integrity and reputation of the person, based on criteria set out by the Secretary of State. It is our view that the rules are already clear about who is a permissible donor. Beyond this, any further judgments about the appropriateness of receiving a particular legal donation are for the recipient of the donation to judge, and for those recipients to justify their decision through scrutiny enabled by the transparency in our system. It should not be for the Electoral Commission to make these judgments on behalf of others.

10.30 pm

Transparency of electoral funding is a key cornerstone of the UK's electoral system. As drafted, the amendment would add unnecessary complexity to electoral regulation and task the Electoral Commission with national security responsibilities beyond its regulatory remit.

Finally, I will address the series of amendments tabled by the noble Lord, Lord Stunell, and the noble Baroness, Lady Bennett, relating to the values of donations. Amendment 212A, from the noble Baroness, Lady Bennett, seeks to cap donations that any one individual or organisation can make to a party or candidate at £500 a year. It provides for one exception: donations from trade unions. If this measure was adopted, it would mean that trade unions would be the only donor group capable of making significant contributions to political parties and campaigners. It seems quite an uneven approach, to say the least, to restrict everyone except trade unions from making political contributions.

Lord Collins of Highbury (Lab): Would the noble Earl acknowledge that trade unions are different? They are highly regulated and the law was changed to ensure that every individual who makes a contribution to a political fund has to approve it. It is contracting in now—a change this Government made without consultation with other parties. So to put trade unions in the category of a millionaire or a corporate company is totally wrong.

Earl Howe (Con): My Lords, I am not casting aspersions on trade unions. I was seeking to suggest that making them a unique case, as the amendment seeks to do—

Lord Collins of Highbury (Lab): I have explained why they are a unique case: you have already changed the law without consultation with any party. You changed the rules, forcing individual trade union members to contract in to their political funds. Their political funds are highly regulated and highly controlled, and were subject to a change in the law—so they are different.

Earl Howe (Con): I do not contradict the noble Lord in any respect as to what he said about trade unions. I say again that I cast no aspersions on trade unions or their practices at all. I am simply saying that it seems unfair and undemocratic to have this distinction made in the way the noble Baroness seeks to do in her amendment.

Fundraising is a legitimate part of the democratic process. There is no cap on political donations because parties, candidates and other types of campaigner have strict limits on what they can spend on regulated campaign activities during elections.

The other amendment in the noble Baroness's name—

Baroness Bennett of Manor Castle (GP): Before the Minister goes on to the next amendment, I asked whether he agreed that there should be any limit. If we imagine an election campaign, one party's spending limit is about £20 million. Does the Minister think it appropriate that one person can donate £20 million for an entire election campaign? What does he think that would do to our democracy?

Earl Howe (Con): My Lords, there are two issues there: one is the question that the noble Baroness seems to be asking, which is whether there should be a limit on donations, and the other is whether there should be a limit on spending. There is a limit on spending in general elections, as she well knows. If she is asking whether I think there should be a cap on donations, I have to say that I do not.

Baroness Bennett of Manor Castle (GP): Sorry, perhaps I was not clear. To put it another way, should there be a maximum percentage that one person can donate to one party's campaign? If a campaign is funded to the maximum spending limit by one person, it is one person's campaign. Does the Minister think that would be appropriate?

Earl Howe (Con): That is a highly hypothetical question. I would be happy to give it consideration. For the moment I have to say that the answer is no, but I will reflect on it.

The other amendment in the noble Baroness's name, Amendment 212B, seeks to place new obligations on donors to report donations to the Electoral Commission where the aggregate total for the year is over £5,000.

[Earl Howe]
Yes, there should be transparency around any significant amount of money funding parties and election campaigns, but that does not mean putting the burden on donors. It is for political parties and candidates—the recipients of the donations, who are familiar with the rules—to keep accounting records and report donations over the relevant thresholds to the Electoral Commission. Placing any unnecessarily bureaucratic responsibility on donors such as individual citizens could lead to a chilling effect and discourage people from making donations.

Amendment 212DA, tabled by the noble Lord, Lord Stunell, seeks to cap donations to political parties at £10,000 per calendar year. Perhaps inadvertently, it would require that every penny in a collection box be recorded and attributed to someone, effectively spelling an end to small donations. Even more significantly, the Government cannot, on principle, support caps on donations as this would only lead to taxpayers footing the bill for the inevitable funding shortfall. There is absolutely no public support for expanding the level of public funding already available to political parties. Public funds should be focused on delivering world-class public services and levelling up communities across our country.

The noble Lord asked about the recommendations in the report from the Committee on Standards in Public Life. The Government responded to the report published by the CSPL on regulating election finance in September last year. The Elections Bill already contains measures that closely link to recommendations made in that report, such as the new requirement on political parties to declare their assets and liabilities over £500 on registration, and a restriction of third-party campaigning to UK-based or otherwise eligible campaigners. However, as the Government response stated, the recommendations in the report deserve full consideration, and more work must be done to consider the implications and practicalities, which, I hope the noble Lord will acknowledge, are very considerable.

In conclusion, controls on electoral funding and transparency of electoral funding are a key cornerstone of the UK's electoral system and contribute to a healthy democracy. UK electoral law sets out a stringent regime of donations controls to ensure that only those with a legitimate interest in UK elections can make political donations and that political donations are transparent. The Government absolutely recognise the risk posed by those who wish to evade the rules on donations. That is why there are existing provisions which explicitly prohibit money being funnelled through permissible donors by impermissible donors, and why it is an offence for donors and campaigners to purposefully evade the rules.

It is right that voters and organisations with a legitimate interest in UK elections be able to donate to political parties, candidates and campaigns. Our democracy is strengthened by people donating to campaigns that they believe in. I am, of course, aware that stories about political donations are never far from the newspapers, but rather than being indicative of a broken system, I firmly believe that this is a sign of the system working. The checks that parties and other campaigners are required to carry out and the reports published by the Electoral Commission allow the press and the public to scrutinise political donations. It is very important to balance the need for parties and other campaigners to generate funds against the cost of actually carrying out checks on donations to ensure they come from permissible sources. The current rules are proportionate and achieve that balance. I hope that, on that basis, noble Lords will feel able not to move their amendments when they are reached, and that the noble Baroness, Lady Hayman, feels able to withdraw her amendment.

Baroness Hayman of Ullock (Lab): My Lords, I thank the Minister for his response to this large group of amendments. In responding to my amendment, he said that there was a Conservative Party manifesto commitment to extend the franchise for overseas electors. My amendment was not about that manifesto commitment; it was about the donations that could then come in through that action. I was not saying that that should not happen. The amendment was specifically related to donations, and that is what I want to come back to now.

I think we can say that we disagree as to whether excessive foreign donations being allowed to come into our politics is a good thing and whether there should be a cap on them. If the Government feel that stopping overseas donations is not an option, in my opinion, we should certainly look at whether we can cap the amounts.

I agree strongly with the first thing the Minister said: the integrity of our electoral law is of the utmost importance. This is why there has been so much concern in this debate over whether that integrity is being undermined by the way in which political donations currently work. I know that the Minister said that the current laws manage this, but it is really disappointing that he does not accept the great concerns that have been raised about how donations can ultimately buy political influence. We must be very careful in our country that we do not tip into the way in which other countries have operated when donations get very large. I just wish that the Government would accept that there is a problem and that it needs to be nipped in the bud. This is an opportunity to legislate for that.

I will finish by saying that a lot of strength of feeling on this issue has been expressed in Committee today. I am sure that we will return to this on Report but, in the meantime, I beg leave to withdraw the amendment.

Amendment 197 withdrawn.

Amendments 198 to 200 not moved.

Amendments 201 to 203 had been withdrawn from the Marshalled List.

Amendment 204 not moved.

Amendment 205

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

205: After Clause 59, insert the following new Clause—

"Review and consolidation of electoral law

Within 12 months of the passing of this Act, the Secretary of State must publish a timetable for undertaking a wholesale review and consolidation of electoral law."

Member's explanatory statement

This amendment would implement a recommendation of the House of Commons Public Administration and Constitutional Affairs Committee in its report on the Elections Bill.

Baroness Hayman of Ullock (Lab): My Lords, the hour is late, so I shall be brief in introducing my amendments in this group. I have spoken previously in Committee and in the House about the fact that I used to work in consultation—that was my profession—and was an associate of the Consultation Institute. So these amendments are around my concern about the lack of pre-legislative scrutiny and consultation on significant parts of the Bill.

My Amendment 205 looks to implement a recommendation of the PACA Committee, which referred to the lack of pre-legislative consultation and scrutiny. Basically, it recommended that, once the Bill had been introduced and Second Reading had taken place, the Government should introduce in the Bill a statutory commitment to post-legislative scrutiny of it. This is what my amendment aims to achieve; and my Amendment 206 would also implement a statutory committee for that purpose.

I also have two amendments in my name about provisions not coming into force, one until

"seven days after the Secretary of State has published a consultation on the provisions"

and the other until

"seven days after the Secretary of State has published an equalities impact assessment".

We are concerned that no impact assessments have been done on all the impacts of this Bill.

There is a long tradition of cross-party working and consensus when we make changes to our law on our democratic and electoral systems. There has always been agreement that we should come together when we change such laws. It is disappointing that this Elections Bill represents a notable exception to this tradition. The lack of cross-party working and pre-legislative scrutiny ahead of bringing the Bill forward was very disappointing; for me, it is a worrying change. I beg to move.

10.45 pm

Lord Wallace of Saltaire (LD): My Lords, in this overfull House at this late hour, I will be extremely brief. I note that the noble Lord, Lord Hodgson, who said to me earlier that he thought that this is one of the more important groups to which we had yet to come, has felt it necessary to go. So I will simply say that it is important that we come back to this issue given that this Bill is such a mess and has failed to do so many of the things which several committees recommended it should do. It has also been sharply criticised by a Commons committee.

I would choose Amendment 205; if the Labour Front Benches were minded to bring that back at Report stage, I would certainly give it support and there would be others around the House who would too. Having missed—or refused to take—this opportunity, we had better try to get it right again soon. The integrity of British elections is a very important principle. The questions of how our elections are regulated are fundamental. This is a very unsatisfactory Bill, and Amendment 205 would ensure that we have another go to deal with many of the things which it has been suggested that we need but which this Bill does not provide.

Baroness Scott of Bybrook (Con): My Lords, these amendments seek to require the Government to commit to a timetable for wholesale review and consolidation of electoral law and to further consultations to be conducted on the Bill. The Government remain committed to ensuring that our electoral law is fit for purpose, now and into the future. We agree that electoral law should be revised and improved, but a wholesale review takes significant consideration and policy development is not something that we should rush at and potentially get wrong. The Government's immediate priority will be the implementation of our manifesto commitments, which this Elections Bill delivers. This would allow us to update our electoral law in important ways, strengthening our current framework by addressing known vulnerabilities in our systems.

Amendment 206 would oblige the Secretary of State to establish a committee consisting of members of both Houses of Parliament to conduct post-legislative scrutiny of this Bill within five years of its passing. I have heard the arguments at Second Reading, and in previous Committee sessions, over perceived potential future impacts, and I understand the desire to ensure that any such legislation has the impact intended. It is already the settled will of noble Members that significant pieces of primary legislation should be subject to post-legislative scrutiny. Indeed, it was only a couple of years ago that the Government published a post-legislative assessment of the Electoral Registration and Administration Act 2013. Things would not be any different when it comes to the legislation before us today. It is the Government's view that to include an obligation in the legislation is not necessary in light of our plans to conduct scrutiny and evaluation of the measures in the Bill in due course.

I note the purpose of Amendments 214 and 215: to require the Secretary of State to publish a consultation and an impact assessment before measures are commenced. The measures in this Bill deliver not only on recommendations by parliamentarians, Select Committees, international observers and electoral stakeholders but also on a range of consultations. This includes the overseas electors policy statement issued in October 2016, the Government's 2017 call for evidence on the accessibility of elections and the *Protecting the Debate: Intimidation, Influence and Information* consultation of July 2018. My officials have consulted with administrators and civil society groups throughout the policy development, and they are continuing to do so in our implementation planning. We have also published both an equality impact assessment and an economic impact assessment before introducing these measures, and we will continue to monitor impacts, as I have said. I can assure the noble Baroness that the Government are listening but, at this time, do not consider these amendments necessary.

Lord Scriven (LD): The Minister will know that I am quite astute at reading impact assessments. I have also read the equality impact assessment. The amendment

[Lord Scriven]
from the noble Baroness, Lady Hayman, is important because the equality impact assessment relies mainly on a 2021 telephone survey, and it indicates that there will be indirect discrimination based on some of the provisions in the Bill. The impact assessment says further on that mitigation ideas will show how the mitigation will take place, but there are no mitigation provisions in the equality impact assessment; there are only the issues that the 2021 telephone survey has revealed. Why are there no mitigation provisions in the equality impact assessment?

Baroness Scott of Bybrook (Con): I do not know, but what I can say is that it is a continuing process, as I have said. We will monitor any future impacts, and I will get a fuller answer for the noble Lord.

Viscount Stansgate (Lab): Before the Minister completes her remarks, her argument is that Amendment 206 is not necessary because the Government will do it anyway, while in respect of Amendment 205 she has indicated that the Government are minded to consider the question of consolidating electoral law but gives no idea of the timescale on which they might undertake that. Is that correct?

Baroness Scott of Bybrook (Con): No, I did not say that we were minded to consolidate at all. I go back to what I said: the Government's immediate priority will be the implementation of our manifesto commitments, which the Bill delivers. I have not given any undertaking that we will do another Bill to consolidate, as was set out in that group of amendments.

Amendment 213 would prevent Schedule 8 coming into force until a time when the Secretary of State has made a statement to Parliament on the voting and candidacy rights of EU citizens. The Government's position on this policy is clear and settled and was set out in detail in a Written Ministerial Statement in the other place on 17 June 2021. Now that we have left the EU, there should not be a continued automatic right to vote and stand in local elections solely by virtue of being an EU citizen. We have made provision to protect the rights of those who made their home here before our exit and preserved rights where that can be done on a bilateral basis, protecting UK citizens living in those countries in turn. A statement of clear intent on this matter has already been made to Parliament and I can see no purpose in restating our position. I therefore urge the noble Baroness to withdraw her amendment.

Baroness Hayman of Ullock (Lab): My Lords, I thank the Minister for her response. However, there seems to be a difference of opinion as to whether suitable consultation has been carried out on the Bill. The Consultation Institute states in its response:

"Many of the proposed changes in the Bill are not accompanied by evidence detailing why they are necessary or desirable. Where evidence in support of changes is cited, it has generally involved little consultation and engagement with the public, particularly with the general public as opposed to institutional or organisational stakeholders."

So in the institute's opinion, as well as mine and others', including PACAC, there simply has not been sufficient scrutiny or consultation on the Bill. I thank the noble Lord, Lord Wallace of Saltaire, for his strong support, and I am sure we will be returning to this on Report. In the meantime, I beg leave to withdraw the amendment.

Amendment 205 withdrawn.

Amendment 206 not moved.

Amendment 207

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

207: After Clause 59, insert the following new Clause—

"Registration of party emblems

(1) Section 29 of PPERA (registration of parties) is amended as follows.

(2) After paragraph (d) insert—

"(e) closely resembles the emblem of a proscribed terrorist group or organisation.""

Member's explanatory statement

This amendment would prevent the registration of Party emblems which closely resemble the emblem of a proscribed terrorist group or organisation.

Lord Collins of Highbury (Lab): My Lords, I will be very brief. This is a probing amendment with which we are seeking to better understand the powers we may currently have, and I hope the noble Baroness will be able to reassure us that we do have powers to address this issue.

Baroness Scott of Bybrook (Con): I thank the noble Lord for being very brief, and I will try to be nearly as brief. I am sure that it is a very well-intentioned amendment, but its effect would be minimal. I can assure the noble Lord that Section 29 of the Political Parties, Elections and Referendums Act 2000 already gives the commission the discretion to refuse the registration of an emblem where it is in its opinion obscene or offensive. According to the commission's guidance on emblems, which is available online, all applications to register an emblem are assessed on a case-by-case basis, but are likely to be rejected if the emblem contains offensive language or terminology or links to something generally accepted as offensive with a relevant group of people.

On a more general note, Section 29 provides the commission with an appropriate and practical level of discretion to refuse or allow the registration of party emblems. Therefore, the Government consider that Section 29 already sufficiently provides for the effect of the noble Lord's amendment, Therefore, I respectfully ask him to withdraw it.

Lord Collins of Highbury (Lab): In the light of those comments, I beg leave to withdraw the amendment.

Amendment 207 withdrawn.

Amendments 208 to 212G not moved.

Clauses 60 to 63 agreed.

Clause 64: Commencement

Amendments 213 to 215 not moved.

Clause 64 agreed.

Clause 65 agreed.

House resumed.

Bill reported with amendments.

House adjourned at 10.58 pm.

Grand Committee

Monday 28 March 2022

3.45 pm

Arrangement of Business

Announcement

3.45 pm

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): My Lords, Members are encouraged to leave some distance between themselves and others, which I do not think will be too difficult today. If there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells are rung and resume after a few minutes.

Social Security (Contributions) (Amendment No. 2) Regulations 2022

Considered in Grand Committee

3.45 pm

Moved by ***Baroness Penn***

That the Grand Committee do consider the Social Security (Contributions) (Amendment No. 2) Regulations 2022.

Relevant document: 34th Report from the Secondary Legislation Scrutiny Committee

Baroness Penn (Con): My Lords, this measure will deliver a small but important element of the health and social care levy. The health and social care levy will create a long-term, sustainable source of revenue for healthcare. This extra funding will help the health and care system recover from the pandemic and implement reform to social care as soon as possible. The levy will operate as an increase to NICs rates in 2022-23 before becoming a stand-alone tax from 2023-24 onwards.

National insurance is a progressive basis on which to raise revenue. The primary threshold means that the lowest earners do not pay any national insurance contributions. Last week's announcement that the Government are aligning the annual primary threshold and lower profits limit, the point at which employees and the self-employed respectively start paying national insurance contributions, with the income tax personal allowance at £12,570 from July 2022 will reduce NICs by more than £330 for a typical employee in the year from July and will mean that around 2.2 million working-age people will be taken out of paying class 1 and class 4 NICs altogether, on top of the 6.1 million who already do not pay national insurance.

These small but important regulations will ensure that the 2022-23 NICs increase is also applied to the married women's reduced rate, as has been made clear in government communications and as is anticipated by stakeholders. The married women's reduced rate was introduced to allow women to use their husband's NI contributions to qualify for a state pension. This rate was removed by the Social Security Pensions Act 1975 and the circumstances in which it continues to apply are relatively unusual.

To qualify for this rate now, a woman must have opted into the scheme before May 1977, have been married at the time and not divorced since, currently be under state pension age and not have had a break of two years in her employment. As such, the rate applies to only a very small number of individuals. A 2019 scan showed between 250 and 1,000 such employments still qualify for this rate. Due to the qualifying conditions, we expect that fewer such employments, and fewer individuals, will qualify in 2022. Legislation is already in place so that, from April 2023 onwards, these individuals will be subject to the stand-alone health and social care levy in the same way as other individuals. However, in order for the 2022-23 NICs increase to apply to this group, further legislation is required. This has led to these regulations.

This measure will, for 2022-23, increase the married women's reduced rate by 1.25 percentage points from its current rate of 5.85% to a temporary rate of 7.1%. This cohort will still benefit from a reduced rate of NICs compared with the main rate of class 1 NICs, which will be 13.25% for the 2022-23 tax year. Noble Lords should note that stakeholders are expecting this rate to increase. The 2022-23 NICs rates have been publicly communicated on GOV.UK. Employers and software and payroll providers have updated their systems to reflect this increased rate. Failing to increase the married women's reduced rate for the 2022-23 tax year would mean that this group is unfairly advantaged compared with others. This group will, like others subject to the new levy, benefit from increased spending on health and social care. It is only right that they also contribute to its funding.

Exempting this group from the NICs increase would undermine the principle of the health and social care levy, which has been designed to apply consistently and fairly across the population. Although these regulations will apply to only a small number of individuals, the changes they make are therefore critical to ensuring that the health and social care levy operates correctly.

I understand that noble Lords may have concern with the speed at which these regulations have been provided. I recognise that this is not ideal and apologise for the delay in laying these regulations. I very much appreciate noble Lords' co-operation and efforts to ensure that these regulations are properly scrutinised. The health and social care levy, and the temporary increase to NICs, have been thoroughly scrutinised and debated in recent months. I welcome this further engagement to ensure that the levy can apply as intended. I therefore beg to move.

Lord Davies of Brixton (Lab): My Lords, I could not resist coming to this debate. It is akin to social policy archaeology. I very much thank the Minister for her clear, straightforward and unarguable introduction. In fact, she addressed the two points which I was going to raise. She mentioned that this was small—a word she used two or three times—and my first question was, "How small?" She came up with the pretty broad figures of 250 to 1,000. This sounds a bit vague. I have seen another figure elsewhere of 200, so it is certainly of that order. I do not know whether the officials can

[Lord Davies of Brixton]
tell us, but do we simply not know because there are so few that they do not get picked up in the sample survey which is undertaken? As the Minister said, it is relatively unusual.

The second question I had was: why are we getting this too late? It leaves us with the suspicion that someone forgot it and was desperately trying to make it up before the deadline.

My final point is that women who chose the married women's option probably got a poor deal. I have always been surprised that this has not been pursued. You only need to reflect on the level of attention which was given to the increase in the women's retirement age issue. In some ways, it could be argued that the women who opted for the married women's option have had an equally bad deal. If you actually look at their contributions, they have paid as much as someone who is contracted out of the state earnings-related scheme, yet the latter group has been treated very much better. However, we have a Treasury team on this occasion, so maybe this is something I need to take up with the DWP.

With those few remarks, I thank the Minister. I will not be objecting to the regulations.

Baroness McIntosh of Pickering (Con): I am grateful to my noble friend for introducing the regulations before us this afternoon. I spent a year in the other place shadowing the Department for Work and Pensions, with specific responsibility for women's pensions at the time. However, it was a source of some disappointment. I spent that year trying to look at ways in which women's pensions could be improved, if ever the opportunity arose for us to come into government—which then happened in 2010—so we would actually do something to improve the lot of women's pensions. Therefore, it was a huge blow to me when we kept what a previous Labour Government had decided, with WASPI, that women's eligibility for state pension would rise to the age of 65 and then 66 in subsequent years without, at the time, giving women 10 years to prepare. That was a matter of regret to me. I would have welcomed if, for once, women were unfairly disadvantaged in this case, if we had not passed—or if we were not to pass—the regulations before us this afternoon. However, that is not my intention.

I think it was our noble friend Lady Morrissey, who is very experienced in financial matters, who flagged this up to us after the Spring Statement in a tweet—which I now cannot find, unfortunately—alerting us to the fact that, as my noble friend set out today, the national insurance threshold is going up to £12,570. The point that our noble friend Lady Morrissey made was that we have to be very careful to ensure that working women are not left out of being able to contribute to their pension and of having their employers contribute at that time. I ask my noble friend to assure us that that, as was so astutely flagged up by our noble friend Lady Morrissey, is not going to be the case.

We are told that this is going to raise a sizeable amount of money—£12 billion, I think—and I assume my noble friend will explain that that is the total amount that the increase in national insurance contributions to which the Government are committed through the health and social care levy will deliver. My noble friend said that the regulations have been produced at speed. We recognise the great burden that has been placed on her department, but can she assure us that there are no errors in this albeit small statutory instrument? Just about every statutory instrument I have debated over the past two to three weeks has contained an error of some sort.

Finally, I ask for confirmation that the rate applying to men in the same bracket will be in the same order—the increase of 1.25% in this regard—or were men already paying a higher rate?

It is my understanding that many working women have lost their jobs through the Covid pandemic, particularly those in retail positions, in shops especially, as opposed to online and others. I would like to pause for a moment and acknowledge what a difficult time those women will be having at the moment, given the pressures if there is only one income coming into a family or if they are in the unfortunate position of being a single mother.

With those few questions, I support the regulations before us.

Lord Jones (Lab): My Lords, I thank the Minister for her cogent exposition and acknowledge the expertise of my noble friend Lord Davies. I will be very brief.

The Explanatory Note refers, in relation to Regulation 2, to
"certain married women and widows".
What is the estimate of how many married women and widows these regulations impact upon?

My second question is that, since we read in the Explanatory Memorandum that these regulations refer to the United Kingdom, can the numbers of the people affected be broken down to matters concerning England, Scotland, Wales and Northern Ireland?

Finally, the Explanatory Memorandum refers in paragraph 13 to small businesses. Is the Minister able to say what consultation there has been with the business community? For example, was the Federation of Small Businesses involved in the consultation, should it have taken place? If I have asked a question that it is not possible to answer now, the Minister might offer to write.

Baroness Kramer (LD): My Lords, my expertise in the field of pensions is absolutely de minimis, so my questions may sound very basic. I am not going to raise any particular objection to this SI, but can the Minister explain to us what impact the increase in the threshold amount, which will come in later this week, will have on the women who are impacted by this statutory instrument? I am struggling to see how the two pieces interweave, and it might be quite helpful to understand the overall picture—I would appreciate that.

4 pm

Secondly, with the coming increase in the threshold—which we will speak about later this week—I wonder whether the Minister is at this point able to tell me the consequences for the National Insurance Fund, which will be receiving less money than it anticipated. Is

there any knock-on effect to the contribution that the National Insurance Fund then makes initially to the NHS and, presumably, eventually to social care, if that day ever dawns? I am just trying to see how the various pieces of all this fit together, and I wonder whether the Minister can be a little helpful on that point.

Like the noble Baroness, Lady McIntosh, I do not think it would hurt to have been rather more generous to a group that is in a particularly awkward place when it comes to state pensions. We would not have insisted on absolute parallels between every recipient, particularly when we have a group that is fundamentally in a more disadvantaged situation.

This brings me to my final point. One of the endless irritations in trying to deal with these issues is that change comes in various Bills and statutory instruments and, frankly, for anyone other than an extreme specialist, it is nearly always impossible to see how all the various pieces tie together. I honestly do not know how employers manage to deal with all this, and I do not know how individuals manage to keep on top of the various pieces of information. Government websites help, but they also do not pull all the strands together. I have a feeling that is why we have this SI, because somebody missed this bit and suddenly realised it would need a separate piece of legislation.

This is an issue that I have raised over and over again with almost everything that we get from the Treasury. There needs to be some sort of coherent published tracking system. Indeed, it would help officials as well if they had a place to go to where essentially everything was marked up to date and they could see the history and the process of change. I have said before that this was done in the European Union in a far more complicated and complex setting—and done extremely successfully. I know that there is a government feeling that anything that was done well by the European Union needs to be disparaged and that we cannot follow or adopt it, but can we make an exception in this case, which is leaving so many people, frankly, confused?

Lord Tunnicliffe (Lab): My Lords, I start by supporting the point that the noble Baroness has just made. The practical access to legislation in this country—somebody may say it happens in every other country—is dreadful. It is almost impossible to follow all the tracking, know what the documents say and understand how they relate to each other. I understand that the National Archives are trying to remedy this situation—I wish them luck; they will certainly have my support.

I am grateful to the Minister for introducing this measure, albeit at the 11th hour. She knows that the Labour Party does not agree with the health and social care levy. Following last week's Spring Statement, it seems the Chancellor is not entirely on board with it either. We were told that the additional funds would be used to solve the social care crisis. However, we know that most of the money raised will go to the NHS rather than social care.

Addressing the record NHS backlog is a worthy cause, but it should not come at the expense of social care reform. Indeed, the Prime Minister has still not produced his long-promised plan for solving the challenges around social care, despite his promise on the steps of Downing Street in July 2019 to publish a plan within days. When we debated the fast-tracked Health and Social Care Levy Bill, we were told that full parliamentary scrutiny was simply not possible, as HMRC needed the maximum available time to implement the changes.

That Bill was introduced in another place on 8 September 2021, with this House taking all stages on 11 October. It has been the law of the land since 20 October, which is more than five months. Why, then, has it taken until now for somebody to notice that the married women's reduced rate has not been increased in line with the requirements of that Act? The number of beneficiaries of the reduced rate will be only a small proportion of the overall number who pay national insurance. When she responds, perhaps the Minister could cite the figure; she has done so already, but she might be able to home in on a more precise figure—you never know. Could she cite the figures so that they are on record?

The numbers are not huge, but we understand the need for a consistent approach. On that basis, we do not oppose the passing of these regulations. However, let me say to the noble Baroness that this is not how government is supposed to do business. We should not be fast-tracking legislation for political purposes and using delegated legislation to correct the deficiencies at a later date. Later this week, we will debate another fast-tracked Bill, and we expect also to support that legislation's passage, but this experience does not instil confidence in the process. Let us hope that the Government do better in the next parliamentary Session.

Baroness Penn (Con): I thank all noble Lords for their engagement on these regulations, and indulging in what the noble Lord, Lord Davies of Brixton, referred to as a piece of social policy archaeology. It is important that we have been able to bring forward these regulations, and I therefore completely acknowledge the points made by the noble Baroness, Lady Kramer, the noble Lord, Lord Tunnicliffe, and others about the complications in our approach, and the speed with regard to these particular regulations.

Just by way of a bit of a further explanation for this set of regulations, HMRC had previously identified a different legislative vehicle to provide for this measure. However, that legislative vehicle was not a viable option once it had been confirmed that there was no longer sufficient time for scrutiny to take place within the usual timeframe. That was an oversight, and HMRC has moved quickly to prepare this piece of relevant legislation. It is with regret that we had to expedite the consideration for this measure. However, to ensure that the levy is applied fairly, these regulations need to come into force ahead of 6 April. We have written to both the JSCI and the SLSC to explain the reasons for this delay and to ensure appropriate scrutiny.

I heard the point made by my noble friend Lady McIntosh of Pickering, echoed by the noble Baroness, Lady Kramer, about the need to extend this measure to this particular cohort. While that may be debated, when the measure was announced it was included in that cohort, and now payroll and others are expecting it to go ahead. That is why it is important that we have been able to provide for it.

[Baroness Penn]

In response to the question from the noble Lord, Lord Jones, about engagement with business, especially small businesses, we have engaged with payroll providers to ensure that the new rates, including the married women's reduced rate, are updated.

A number of noble Lords asked for further zoning in on the numbers affected. As I said, in 2019 we reviewed the number of eligible women who could apply for this rate and compared this against multiple data sources. We recently conducted a scan of NICs records in the 2020-21 tax year, which looks at around 2% of employees. We found two individuals qualifying for the married women's reduced rate. Extrapolating from this would suggest that there are currently around 100 cases, but I remind noble Lords that these are not actual figures but estimates. Due to both the fact that this is an estimate and the small numbers involved, it is not possible to break down those affected into England, Wales, Scotland and Northern Ireland, et cetera.

Lord Jones (Lab): Shall there be an answer to the specific question on numbers, on which I gave a quote?

Baroness Penn (Con): I believe there were two specific questions on numbers. The first was on the number of people who may be affected by this change. Our best estimate from an updated scan indicates around 100 cases, but that is an extrapolation rather than a specific figure. Secondly, the breakdown for the different nations of the United Kingdom is not possible to provide. Even if I were to write, we would not have that figure.

My noble friend asked whether the increase in the thresholds announced at the Spring Statement will impact state pension entitlement. It will not. The lower earnings limit has not changed, so that is not impacted.

I say to the noble Baroness, Lady Kramer, that this cohort will benefit from the increase in the primary threshold limit announced at the Spring Statement and being legislated for later this week. The noble Baroness also asked about the impact on the NIF. For this measure we would not be able to score it; because of the small numbers involved, it would be classed as a negligible impact. I take her point when she also asked more broadly about the impact on the NIF of the increase in the thresholds. We might come back to that on Wednesday.

I think I have covered most of the points raised in this debate. My noble friend mentioned that she shadowed the Department for Work and Pensions when she was in the Commons. That was also one of my first jobs in opposition. My knowledge does not date back to the 1970s but is certainly a little out of date for a debate on pensions today. I hope I have covered all noble Lords' questions.

Motion agreed.

Committee adjourned at 4.13 pm.