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PARLIAMENTARY DEBATES
(HANSARD)

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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.

HER MAJESTY'S GOVERNMENT

PRINCIPAL OFFICERS OF STATE

THE CABINET

Prime Minister, First Lord of the Treasury, Minister for the Union and Minister for the Civil Service—The Rt Hon. Boris Johnson, MP
Deputy Prime Minister, Lord Chancellor and Secretary of State for Justice—The Rt Hon. Dominic Raab, MP
Chancellor of the Exchequer—The Rt Hon. Rishi Sunak, MP
Secretary of State for Foreign, Commonwealth and Development Affairs and Minister for Women and Equalities—The Rt Hon. Elizabeth Truss, MP
Secretary of State for the Home Department—The Rt Hon. Priti Patel, MP
Secretary of State for Defence—The Rt Hon. Ben Wallace, MP
Chancellor of the Duchy of Lancaster—The Rt Hon. Steve Barclay, MP
Secretary of State for Levelling Up, Housing and Communities, and Minister for Intergovernmental Relations—The Rt Hon. Michael Gove, MP
Secretary of State for Health and Social Care—The Rt Hon. Sajid Javid, MP
Secretary of State for Business, Energy and Industrial Strategy—The Rt Hon. Kwasi Kwarteng, MP
COP 26 President—The Rt Hon. Alok Sharma, MP
Secretary of State for International Trade and President of the Board of Trade—The Rt Hon. Anne-Marie Trevelyan, MP
Secretary of State for Work and Pensions—The Rt Hon. Dr Thérèse Coffey, MP
Secretary of State for Education—The Rt Hon. Nadhim Zahawi, MP
Secretary of State for Environment, Food and Rural Affairs—The Rt Hon. George Eustice, MP
Secretary of State for Transport—The Rt Hon. Grant Shapps, MP
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Minister without Portfolio—The Rt Hon. Oliver Dowden, CBE, MP
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Minister for the the Cabinet Office and Paymaster General—The Rt Hon. Michael Ellis, QC, MP §
Parliamentary Secretary to the Treasury and Chief Whip—The Rt Hon. Chris Heaton-Harris, MP
Chief Secretary to the Treasury—The Rt Hon. Simon Clarke, MP
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Attorney-General—The Rt Hon. Suella Braverman, QC, MP
Minister for Crime and Policing—The Rt Hon. Kit Malthouse, MP
Minister for Higher and Further Education—The Rt Hon. Michelle Donelan, MP
Minister without Portfolio—The Rt Hon. Nigel Adams, MP

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Ministers of State—
The Rt Hon. Greg Hands, MP (Minister for Energy, Clean Growth and Climate Change)
Lord Grimstone of Boscobel (Minister for Investment) §

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George Freeman, MP (Minister for Science, Research and Innovation)
Paul Scully, MP (Minister for Small Business, Consumers and Labour Markets)
Lee Rowley, MP (Minister for Industry) §
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Cabinet Office—

Prime Minister, First Lord of the Treasury, Minister for the Union and Minister for the Civil Service—The Rt Hon. Boris Johnson, MP

Chancellor of the Duchy of Lancaster— The Rt Hon. Steve Barclay, MP

Minister for the Cabinet Office and Paymaster-General—The Rt Hon. Michael Ellis, QC, MP §

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Lord President of the Council and Leader of the House of Commons—The Rt Hon. Mark Spencer, MP

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Lord True, CBE
The Rt Hon. Nigel Adams, MP (Minister without Portfolio)

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Andrew Griffith, MP (Minister for Policy and Head of the Prime Minister's Policy Unit)
Heather Wheeler, MP §

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Lord Parkinson of Whitley Bay (Minister for Arts) §

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Baroness Bloomfield of Hinton Waldrist
Baroness Penn

Lords in Waiting—
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Lord Sharpe of Epsom, OBE
Lord Parkinson of Whitley Bay §

§ Members of the Government listed under more than one department

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25 April 2022

THE
PARLIAMENTARY DEBATES
(HANSARD)

IN THE SECOND SESSION OF THE FIFTY-EIGHTH PARLIAMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
COMMENCING ON THE SEVENTEENTH DAY OF DECEMBER IN THE
SIXTY-EIGHTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

FIFTH SERIES **VOLUME DCCCXXI**

TENTH VOLUME OF SESSION 2021-22

House of Lords

Monday 25 April 2022

2.30 pm

Prayers—read by the Lord Bishop of Chelmsford.

Oaths and Affirmations

2.35 pm

Viscount Camrose took the oath, following the by-election under Standing Order 9, and signed an undertaking to abide by the Code of Conduct.

Deaths of Former Members
Announcement

2.36 pm

The Lord Speaker (Lord McFall of Alcluith): My Lords, I regret to inform the House of the death of the retired Member and former president of the European Parliament, the noble Lord, Lord Plumb, on 15 April. I also regret to inform the House of the death of the noble Baroness, Lady Knight of Collingtree, on 6 April. On behalf of the House, I extend our condolences to both noble Members' families and friends.

Vaccine Manufacturing and Innovation Centre
Question

2.37 pm

Asked by ***Baroness Bakewell***

To ask Her Majesty's Government whether they still intend to sell the Vaccine Manufacturing and Innovation Centre; and if so, what progress they have made.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, VMIC is a private company and, as such, decisions regarding the future of the facility were made by the VMIC board of directors, not the Government. As Minister Freeman set out in his letter to the noble Baroness, Lady Brown, Catalent announced that it had purchased the VMIC facility on 6 April. It plans to invest £120 million and envisages providing up to 400 additional jobs, which of course further strengthens the UK's life science ecosystem.

Baroness Bakewell (Lab): My Lords, within days of my tabling the Question, I discovered that this jewel in the crown of our vaccine policy had been sold off to a major American pharmaceutical company for a great deal of money. The process was not made public. Can the Government assure me that taxpayers will get a benefit from the £200 million that they invested in this enterprise? What safeguards exist against the exploitation of the UK talent and workforce by a company run according to the profit-led motives of American pharmaceuticals?

Lord Callanan (Con): I am sorry but a number of assumptions behind the noble Baroness's question are wrong. First, this is a private company that sold off its facilities to a very successful US manufacturer that produced virtually all the Moderna vaccine, with great success. The vast majority of the vaccines that we have used and successfully deployed were also rolled out by private companies. All the employees who work there are being guaranteed their jobs, on the same terms and conditions, and indeed the facility will be expanded. She needs to rethink her questions on this.

Lord Fox (LD): My Lords, I think that everyone across the House agrees that we were ill prepared when this pandemic arrived, and planning for future pandemics is very important. The security and investment Bill was intended to secure private facilities that might be needed to secure the future of this country. Was that legislation applied, and was this sale evaluated by the unit in the Minister's department? If not, why not?

Lord Callanan (Con): Of course the legislation applies, as it does to all transactions that have taken place in this country since 1 January, so we would bear any appropriate security considerations in mind in any potential call-in. I obviously cannot comment on any particular circumstances, as the noble Lord will understand, but we are happy for this transaction to proceed.

Baroness Watkins of Tavistock (CB): Could the noble Lord explain whether we would be able to contain vaccines in this country from the centre in the event of us needing mass inoculation again?

Lord Callanan (Con): The centre has not been completed —it is still under construction—so it has not produced any vaccines yet. Obviously whether it does so will be a matter for its new owners. But the Government have a wide range of emergency powers that we may need to deploy in the event of any future pandemic.

Baroness Blake of Leeds (Lab): My Lords, the sale of the Vaccine Manufacturing and Innovation Centre has been described as akin to defunding fire brigades after they have extinguished a major blaze. Can the Minister tell us in detail what steps the Government have taken with the sale to ensure that this is not the case and that the UK remains well prepared for any future pandemics?

Lord Callanan (Con): I assure the noble Baroness that this is indeed not the case. Her question is fundamentally misconstrued. The centre was originally set up a number of years ago to look at the development of vaccines for Ebola; it was a private company then and remains a private company now. It was grant-aided during the pandemic as a precautionary measure in case we needed additional facilities. All the facilities which delivered vaccines were also all delivered by private companies. I am not sure where the Opposition are going with this question. Of course, the facility remains in the UK. It will expand its production and another £120 million will be invested in the facility; it will be able to contribute to vaccine production in the future if we need it.

Lord Watts (Lab): My Lords, if the Government do this, can the Minister guarantee, first, that if there is a need for a mass vaccination programme, we will have the ability to do it? Secondly, can he guarantee that it will be in the same cost frame as we have seen recently? When compared with the Americans, it seems a very cost-effective way of delivering things.

Lord Callanan (Con): As I said, there are a number of other sites in the UK which also manufacture vaccines. If the Government need to procure vaccines for a future pandemic, I am sure that we will want to procure from this site, in addition to all the other sites which exist in the UK—all of which, I might add, are in private hands.

Lord Newby (LD): My Lords, in his response to my noble friend's question, the Minister said that he could not give us any explanation of the process which had been followed for reasons which we would all understand. I did not understand why the Minister could not answer that question. I wonder if he could answer it now, as it seems to me that there are no reasons, in terms of commercial confidentiality, why he cannot answer that question.

Lord Callanan (Con): The investment security unit looked at the transaction, as it does all transactions. Obviously, as the transaction has proceeded, we have decided not to intervene.

Baroness McIntosh of Hudnall (Lab): The UK has an unfortunately long history of investing in research, developing products and then selling them and not getting the benefit of their extensive exploitation. Can the Minister say whether he thinks that there is any danger of that happening on this occasion? What efforts are the Government making to protect the research facilities which are, after all, the most remarkable thing about the way in which the vaccines were developed in the first place?

Lord Callanan (Con): This received grant funding—as did a number of other R&D facilities. The noble Baroness makes an important point that we need to ensure that R&D funding is used to develop and benefit companies, individuals and employees in this country. This is one of a number of different vaccine manufacturing facilities and, as I said, it is not yet operational. When the additional investment goes in, I hope that it will be operational in the future. It will offer the UK another excellent, world-leading production platform for vaccines.

English Football: Independent Regulator

Question

2.44 pm

Asked by ***Lord Ravensdale***

To ask Her Majesty's Government when they plan to introduce legislation to create an independent regulator for English football.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Parkinson of Whitley Bay) (Con): My Lords, the Government have endorsed the principle that football requires a strong independent regulator to secure the future of our national game. I am pleased to say that we will publish the government response later today, where we will set out plans to reform radically the governance of men's football in England, accepting the 10 strategic recommendations of the fan-led review. Any legislation required to put an independent regulator on a statutory footing is of course subject to parliamentary time.

Lord Ravensdale (CB): My Lords, as a supporter of Derby County Football Club, who as a team have shown tremendous spirit again adversity in the past months, I followed the fan-led review closely. Does the Minister accept that the time to legislate for an independent

regulator is now, in the forthcoming Queen's Speech? Further delays will add to the risk that the proposals will be watered down or simply not happen. What plans do the Government have to introduce a shadow regulator before legislation takes effect, which was also one of the key recommendations in the fan-led review?

Lord Parkinson of Whitley Bay (Con): As the noble Lord will know, the Government continue to engage closely with the English Football League about Derby County Football Club. Speaking so close to the gracious Speech, I hope that he will forgive me if I do not anticipate that, but the full government response to the fan-led review—which the Government commissioned—is published this afternoon. We have accepted all 10 of the strategic recommendations put forward by Tracey Crouch and the review. My honourable friend the Sports Minister will be setting out further detail in another place.

Lord Austin of Dudley (Non-Afl): My Lords, as a supporter of Aston Villa, who beat Derby County to return to Premier League three years ago, I tell the House that the Premier League has accepted the need for reform of football. Can the Government therefore reassure the House that nothing will be implemented that could damage the global success of the Premier League and, in so doing, undermine the rest of the football pyramid?

Lord Parkinson of Whitley Bay (Con): The noble Lord makes an important point. We want to make sure that those who generously invest in football are able to continue to do so, and to make sure that this investment flows right down the football pyramid so that it can be enjoyed by people, because football clubs are important to their local communities, as noble Lords know. We think that the owner and director test needs to be looked at, but we want to encourage investment across the whole of football.

Lord Flight (Con): My Lords, does the Minister accept that history demonstrates the need for tough regulation? I am slightly worried about the wording here, which refers to creating an "independent regulator". We need something stronger.

Lord Parkinson of Whitley Bay (Con): My Lords, the independence of the regulator is an important aspect of its work. The Government see the two key problems in English football as the significant risk of financial failure and the risk of harm to the cultural heritage of clubs. That is why we agree with the recommendations of the fan-led review and are setting out our details in another place.

Lord Woodley (Lab): My Lords, today's announcement on football governance is of course a very welcome step forward. Fans, when you talk to us all, are demanding more than just consultation about club colours and stadiums. It is the day-to-day running and ownership of clubs that makes a difference to fans' real involvement, as with their counterparts in Germany, for example. Therefore, can the Minister give assurance that this first step is not the last, and that fans will at long last have real input and a say in the running of their clubs in their communities? As already mentioned, can he explain why we need a White Paper or another consultation when Tracey Crouch has already consulted so widely? The last thing that football needs is more dilly-dallying and delays on this really important matter for fans and clubs.

Lord Parkinson of Whitley Bay (Con): The noble Lord is right that the voices of fans need to be heard clearly. That is why this was a fan-led review and why we are grateful for all those who participated and gave their thoughts. The issues highlighted in the review are, in some areas, complex and the reforms need careful analysis to make sure that we get them right and safeguard the sustainable long-term future of the sector. My honourable friend the Sport Minister will set out further detail in another place.

Lord Addington (LD): My Lords, does the Minister agree that all professional sport has had problems? Community-based clubs representing us nationally in both forms of rugby, for example, have come under pressure and indeed collapsed or had to be reconstituted. Will the Government use this example as a way of making sure that all sports are better regulated? If they become successful, they become community assets, and all deserve to be looked after.

Lord Parkinson of Whitley Bay (Con): The noble Lord makes an important point. There are lessons to be learned for other sports from the work that is being done here. The fan-led review had its origins in some of the challenges facing a number of football clubs, which is why the Government set it up. We are grateful to Tracey Crouch and to everyone for their thoughts. This review does have a wider application.

Lord Watts (Lab): My Lords, I am grateful for this government initiative. It is overdue. Will Ministers talk to people in Europe and around the world? Given the problems we have seen in recent years, the same regulation is needed for both the European and international game.

Lord Parkinson of Whitley Bay (Con): The focus of the fan-led review is on men's football in England. This is where the Government's response, which is being set out today, is focused. There is work to be done internationally. We are discussing this with the international bodies, as well as with those at home.

Lord Faulkner of Worcester (Lab): My Lords, I hope that the noble Lord's ministerial colleagues will have heard the strength of feeling in this House about the need to legislate quickly and to include something in the Queen's Speech. I understand that the Minister cannot give an answer now. I accept the very welcome commitment in the response published today, but what assurance can the Minister give that the excellent report by Tracey Crouch does not suffer the same fate as that of the Football Task Force, on which I served

[Lord Faulkner of Worcester]
more than 20 years ago? Those recommendations were kicked into touch, in effect, by the Football Association and the Premier League. I urge the Minister not to listen to the noble Lord, Lord Austin. He certainly does not speak for fans on this matter; nor does he reflect the feeling in this House.

Lord Parkinson of Whitley Bay (Con): The noble Lord knows Tracey Crouch, the former Sport Minister, as well as I do. She has worked extremely hard in leading the review and is the greatest evidence that it will be followed through. She will see that action is taken. We are glad to accept all 10 strategic recommendations in her report.

Lord Trefgarne (Con): My Lords, will the activities of the regulator be confined to football or might other sports be included; for example, cricket?

Lord Parkinson of Whitley Bay (Con): This regulator is solely for football.

Baroness Merron (Lab): My Lords, at the end of March it was reported that DCMS had hired a New York consultancy firm, Oliver Wyman, to design the future independent regulator of English football. The department confirmed that but did not offer any further comment at the time. Can the Minister update your Lordships' House on this contract today? Can he provide further information about, for example, the length of the contract, the terms of reference and its estimated value?

Lord Parkinson of Whitley Bay (Con): I cannot give the noble Baroness all these details, not least because my honourable friend the Sport Minister is setting out further detail in another place. I shall be glad to write to the noble Baroness to follow up on all these points.

Lord Jones (Lab): My Lords, the running of the football league includes Welsh clubs. Under the new auspices, what do the Government intend regarding, for example, Swansea, Cardiff, Wrexham and Newport? In this sense the English football league is also the Welsh football league. Lastly, will the Minister use his considerable influence to persuade the Lords spiritual to pray hard for my own team, Everton FC? It is in trouble and may go down to a hotter place.

Lord Parkinson of Whitley Bay (Con): I cannot speak for the Lords spiritual, but I know that their prayers will be ecumenically directed. The noble Lord makes an important point. As with the application of the review to other sports, there are lessons to be learned for football internationally and elsewhere in the United Kingdom. We are discussing this with individual teams and with sports bodies.

Lord Hunt of Kings Heath (Lab): My Lords, is the Minister aware that one of the problems with the Football League is that it never seems to have enough resources to conduct a proper fitness test on prospective owners and directors of football clubs? I realise that the Statement is yet to come. Is this issue being taken seriously enough to ensure that the regulator will have sufficient resources to do an effective job?

Lord Parkinson of Whitley Bay (Con): As I said, the current tests for owners and directors do not go far enough in assessing the suitability for ownership of clubs. My honourable friend will set out more detail, following the recommendations made in Tracey Crouch's fan-led review. I hope that the noble Lord will forgive me if I do not anticipate what he will say.

Humanist Marriages

Question

2.55 pm

Asked by ***Baroness Burt of Solihull***

To ask Her Majesty's Government, further to the Written Statement by the Parliamentary Under-Secretary of State for Justice on 15 March (HCWS682) and the Written Answer on 24 March (142529), why they have legislated to permit religious and civil marriage ceremonies to take place outdoors, but not similarly legislated for humanist marriages.

The Advocate-General for Scotland (Lord Stewart of Dirleton) (Con): My Lords, legislating to allow outdoor civil weddings on existing approved premises was a long-standing commitment, accelerated to respond to the highly exceptional circumstances created by the Covid-19 pandemic. Following public consultation, this was made permanent in April. Humanists seek fundamental changes to marriage law, which requires more detailed consideration. The Law Commission is reviewing the matter and is due to report in July. The Government are awaiting the results of that consultation before deciding how to proceed.

Baroness Burt of Solihull (LD): My Lords, it is very important to humanists that they marry in a place that is meaningful to them. Not only can Quakers, Jews, Church of England and Church of Wales couples have their own religious celebrant, they can marry wherever they want. In 2020 the High Court ruled that when the Law Commission has reported, the Government must carry out the High Court ruling to legally recognise humanist marriage. Can the Minister confirm that when the Government implement this ruling, humanists will join the groups able to marry in a location of their choice?

Lord Stewart of Dirleton (Con): My Lords, at present in England and Wales, other groups—faith groups or secular people—cannot marry where they want: it is a matter of the venue, as opposed to the celebrant, and that, at present, restricts choice in that area. To establish where we go from here, we will, as I say, await the report of the Law Commission.

Baroness Whitaker (Lab): My Lords, the judge in the High Court also ruled that

"the present law gives rise to … discrimination."

For how much longer are the Government prepared to allow this apparent breach of the law without any guarantee that it will be resolved?

Lord Stewart of Dirleton (Con): My Lords, the High Court in its decision found that the Government were entitled to proceed by way of clarifying the law as it relates to all bodies, religious, secular or otherwise; albeit that there was a measure of discrimination against humanists, the Government's course was appropriate.

Lord Pickles (Con): My Lords, obviously we anticipate the advice of the Law Commission, but ultimately this is going to be a political decision made by the Government. Given the importance of humanism, in terms of both western civilisation and the British character, it would make enormous sense to end this rather silly discrimination and give humanists the right to get married in a ceremony and location of their choice.

Lord Stewart of Dirleton (Con): My Lords, I repeat the answer I gave to the previous question.

Baroness Meacher (CB): My Lords, the Marriage (Same Sex Couples) Act 2013 made provision for the Government to introduce legal recognition of humanist marriages by statutory instrument—as Quakers and Jews already have, in fact, despite the Minister's earlier answer. Later this year, I understand, the Government are likely to give legal recognition to outdoor religious marriages by changing primary legislation, a vastly more complex process. Will the Minister please meet me to discuss how this very simple objective can be achieved for humanist marriages without further delay, there already being nine years since the primary legislation was passed?

Lord Stewart of Dirleton (Con): My Lords, I am perfectly happy to arrange that someone from the relevant department should meet the noble Baroness—as, indeed, my colleague in the other place, Tom Pursglove MP, the Parliamentary Under-Secretary of State for Justice, has met representatives from Humanists UK, and Crispin Blunt MP. That took place on 24 March.

Lord Ponsonby of Shulbrede (Lab): My Lords, the Liberal Democrats clearly support this change; the Labour Party supports this change; the Government in Wales support this change; the Government in Scotland support this change; and, as we have heard from the noble Lord, Lord Pickles, it is ultimately going to be a political decision, so why are the Government waiting for the Law Commission's report?

Lord Stewart of Dirleton (Con): Because, my Lords, the question of marriage is a complex one and the Government do not wish to act prematurely where to do so may be to the prejudice of one group at the expense of others.

Baroness Featherstone: My Lords, will the Government give an estimate of the timescale for reform after the Law Commission has reported favourably?

Lord Stewart of Dirleton (Con): My Lords, that would again be premature until we see what the Law Commission recommends.

Lord Desai (Non-Afl): My Lords, what is it about the humanists that obstructs the Government from doing them justice? Scotland allows it; Northern Ireland allows it; the Channel Islands allow it. What is it about the humanists that means they are discriminated against in England and Wales? It is because they are not Christians?

Lord Stewart of Dirleton (Con): My Lords, precisely not. The situation is that in Scotland the rules of marriage are, as I said in an answer to another question, based on the identity of the celebrant. In England and Wales, they are based on the venue where the wedding ceremony is to take place. That is a complex matter that will take time to unpick; it is not a matter of prejudice against one group—and specifically not a matter of their not being Christians.

Baroness Blackstone (Ind Lab): My Lords, nothing the Minister has said so far explains why humanists should be denied the right to a legal marriage while other religious groups have that right. Please could he explain to the House why that is the case?

Lord Stewart of Dirleton (Con): My Lords, humanists advance a position as a belief system, as opposed to the simple negation of religious faith. We are advised that establishing a further category of wedding based on a belief system would be a profound change to the laws that bear on weddings. As a result, we are obliged to wait until the Law Commission has reported.

Lord Cashman (Lab): My Lords, I refer to my registered interests and ask the Minister a simple question: does he believe that the lack of legally recognised humanist marriages is unfair and discriminatory? If he does not agree that it is unfair and discriminatory, why not?

Lord Stewart of Dirleton (Con): My Lords, if the question is directed to the department that I represent from the Dispatch Box today, there is no question of consideration of a belief that any such discrimination is unfair. If it is directed to me, I decline to answer.

On the former point, as I said in answer to previous questions, there is an outstanding Law Commission report. There is a High Court decision which considered that the Government were correct and acting appropriately in awaiting the position from which a more fundamental reform could be properly considered.

Baroness Hayter of Kentish Town (Lab): My Lords, I feel for the Minister: he is struggling and I think he would just like to be able to say yes. The Minister is talking about a profound change. It is not a profound change for those of us with different beliefs who take marriage very seriously and want to be able to have our humanist views expressed. This is not profound; this is a human right. How about—just as with Covid,

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when outdoor marriages were allowed on an interim basis—we do this on an interim basis and then we can sort out the details after the Law Commission reports?

Lord Stewart of Dirleton (Con): My Lords, the Government consulted in 2014 on making provision for non-religious belief marriages, including a choice of location, using an order-making power. The consultation concluded that the matter raised a number of complex issues, including that by allowing humanists to solemnise marriages in unrestricted locations, the Government would create a provision for humanists that would not be available to all groups. Therefore, it was necessary to consider carefully the legal and technical requirements of marriage ceremonies before or at the same time as making a decision on whether to take forward the specific proposal to permit non-religious belief marriages. The loosening of restrictions on marriages taking place outdoors applied to venues within the existing provisions. Applying this to a humanist belief system could not be done within the existing framework; it would require innovation, which cannot be made.

Lord Cormack (Con): My Lords, I speak as a Christian, but my noble and learned friend seems to be making a proverbial mountain out of a molehill here. Surely, if two people wish to commit themselves for life to each other and do not have religious beliefs, they ought to have the opportunity to do so in a solemn and seemly way.

Lord Stewart of Dirleton (Con): My Lords, they do. My noble friend refers to the conduct of marriage in a solemn and seemly way. That is, of course, available outdoors, whether in a religious or civil setting. What is called for by reforming the law towards humanist weddings is a profound difference from that. Civil or religious marriages conducted indoors or outdoors can be as seemly as my noble friend wishes.

Malaria
Question

3.05 pm

Asked by ***Baroness Sugg***

To ask Her Majesty's Government what steps they are taking to tackle malaria globally; and what assessment they have made of the findings of the World Health Organization's *World Malaria Report 2021*, published on 6 December 2021, in particular that after years of steady progress towards elimination, malaria cases and deaths are rising.

Baroness Sugg (Con): My Lords, I beg leave to ask the Question standing in my name on the Order Paper and, in doing so, declare my interest as chair of the charity Malaria No More UK.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, first, I acknowledge and congratulate my noble friend on assuming the role of chair of Malaria No More UK, a charity we worked very closely with in the run-up to CHOGM in 2018. Turning to the specifics of the Question, the World Health Organization's 2021 *World Malaria Report* notes that the Covid-19 pandemic contributed to an estimated 6% increase in malaria cases and a 12% increase in malaria deaths in 2020. The UK remains a very strong supporter of the Global Fund to Fight AIDS, Tuberculosis and Malaria, providing £4.1 billion to date. We also invest in research to help people to access new malaria treatments and diagnostics and support countries to strengthen their health systems.

Baroness Sugg (Con): My Lords, today is World Malaria Day. It is possible to end malaria within this generation, but we need continued UK leadership to do so, so I thank my noble friend the Minister for that Answer. My noble friend mentioned the Global Fund; does he agree that it is one of the most effective and best value for money investments we can make with UK aid? This year will see the Global Fund replenishment. Can my noble friend give me any reassurance that the UK will make an ambitious pledge, as the United States has just done, to help get progress back on track?

Lord Ahmad of Wimbledon (Con): My Lords, as I have said, the United Kingdom has invested £4.1 billion in the Global Fund to date and during the last replenishment. My noble friend is correct: the Global Fund's investment case for the seventh replenishment has been presented to the Government. We are looking at this and reviewing our support in line with our published approaches to health systems and our commitment to strengthen work to end preventable deaths. We will announce our commitment in the near future.

Lord Collins of Highbury (Lab): My Lords, may I put the question in another way? In the last replenishment of the Global Fund, we were the third biggest contributor. We have been its founder and strongest supporter, and what we need now is an early and strong pledge to show leadership. Will the Minister confirm that "global Britain"—as the Government put it—will keep its leadership position in support of the Global Fund?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Lord mentioned our commitment and our support and leadership. Whether we are second or third, depending on which criteria are used, we remain very much committed to the Global Fund. As I said, I cannot pre-empt the announcement that we will make about the current replenishment because that decision is being finalised, but I can reassure the noble Lord and your Lordships' House that we remain very much committed to fighting malaria and to the Global Fund.

Lord Purvis of Tweed (LD): My Lords, I was in Washington last week, and I met the US representative and board member of the Global Fund. She stressed to me very clearly that the Biden Administration's earmark of $6 billion is part of the American approach of matching up to 30% as a percentage cap of the remainder of the contributions. So, if the UK cuts its support for the Global Fund, that will automatically

cut American support, which would be devastating and a tragedy. The Americans have earmarked the funds—why can the British Government not state that they will not cut support for this crucial fund? It is over a number of years and the Government say they want to return to 0.7%, so why do they not make that announcement now?

Lord Ahmad of Wimbledon (Con): My Lords, I appreciate that the noble Lord is tempting me to make a specific commitment, but as I said already, I cannot give a commitment in terms of the actual amount. I can again reassure the noble Lord that we are committed to the fund. I agree, as my noble friend has illustrated and the noble Lord knows well himself, on the real impact the Global Fund has had in tackling malaria. Regrettably and tragically, the Covid-19 pandemic has seen a rise in cases—though not to pre-pandemic levels. Frankly, there has been a real challenge, particularly looking at young children and pregnant mothers, with the rise of cases of malaria, and these are preventable deaths. That is why we remain committed to fighting malaria.

Baroness Hayman (CB): My Lords, I draw attention to my interests in the register. The Minister is quite right to point out what has gone backwards during Covid in terms of malaria, but today there have been extremely promising results from the Jenner Institute in terms of the new R21 vaccine. Does the Minister agree with me that our investment in science is equally important and bore huge results in terms of Covid? Will the investment case for the Global Fund look at the possibilities of reversing that decline in progress through the new vaccine?

Lord Ahmad of Wimbledon (Con): My Lords, again, I pay tribute to the noble Baroness's work on this issue, but I share her commitment on the importance of the vaccine. She will be aware of recent trials that have taken place, including the World Health Organization's approval of specific vaccines in key pilot countries. We are looking at that very closely. She is also right to point out the R21 vaccine being developed by the Jenner Institute in Oxford. As part of our focus on vaccines, I am also pleased that it now has an association with the Serum Institute to look at upscaling manufacturing of that vaccine once it has been tested. We are looking at working very closely with both those institutes.

Baroness Ritchie of Downpatrick (Lab): My Lords, malaria deaths have risen year on year to the highest level in nearly a decade: 627,000 lives were lost to malaria in 2020. Could the Minister ensure that funding to the overseas aid budget is restored to 0.7% of GNI and that there is a successful seventh replenishment of the Global Fund? Could he indicate today when that announcement about the seventh replenishment will be made?

Lord Ahmad of Wimbledon (Con): The noble Baroness is right to make the point about the increases in deaths from malaria. We did see a real reduction from the estimated 896,000 to around 560,000 in 2015, but we have seen a rise in cases under Covid, so I accept that point. As I said earlier, I cannot give a commitment on the amount, but it will be during the course of this year, as we look to the deadline of the seventh replenishment, to ensure we make a sizeable contribution that reflects our continuing commitment to fighting malaria around the world.

Lord Lexden (Con): My Lords, is it not imperative that, at this year's summit, Commonwealth countries renew the commitment that they gave in 2018 to reduce malaria by half?

Lord Ahmad of Wimbledon (Con): My Lords, as the Minister of State for the Commonwealth, I am working closely with our colleagues in Rwanda. Certainly, the United Kingdom was and is the biggest Commonwealth donor in fighting malaria, and we will be working closely with Rwanda to ensure this remains on the agenda for CHOGM in June.

Lord Turnberg (Lab): My Lords, I am sure the noble Lord saw the encouraging report by Adrian Hill in the *Times* today about the vaccine trials. One of the things he said was that if the vaccine trial is successful, as it seems to be, it will cost a mere $3 per person to vaccinate the African population. That would require $600 million per year. Is the Minister aware of the cost of this scheme? Are the Government going to come forward with a response?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Lord is of course right to point out the impact of malaria, particularly on Africa. Indeed, when you look at the statistics, they are very stark: 95% of cases and 96% of deaths from malaria are on the African continent. I have not read the specific article, but I am aware of the support and the issue of having effective costs. I think the real progress will be made through the World Health Organization and ensuring that vaccines are made available to all those who need them at a cost which is acceptable, reasonable and sensible for those who require them.

Baroness Sheehan (LD): My Lords, in October 2021, the WHO recommended the first malaria vaccine for children living in areas of high to moderate risk of malaria. The demand for the RTS,S malaria vaccine is estimated to be far greater than supply over the next few years. What is the FCDO doing to speed up equitable access to the vaccine?

Lord Ahmad of Wimbledon (Con): The specific vaccine that the noble Baroness refers to, the RTS,S malaria vaccine, is one of those which has just gone through the World Health Organization's approval process. This was based on trials in three countries, I believe: Ghana, Kenya and Malawi. Some 800,000 children received that vaccine. The conclusions of that—this is why it is important to continue research on the vaccines, which we are certainly committed to—is that the vaccine supply is limited and there are costs, as was pointed out just now by the noble Lord, to ensuring equitable access. The noble Baroness is right to point this out and, as I said earlier, we will work with the World Health Organization on equitable and fair access to

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the vaccines once they are scaled up. We should be encouraged that the Covid experience, through partnerships such as those with the Serum Institute, lends itself to a proper scaling up of the vaccines once those initial trials have been proven.

UK-Rwanda Asylum Partnership Arrangement

Private Notice Question

3.16 pm

Asked by ***Baroness Hayter of Kentish Town***

To ask Her Majesty's Government why the UK-Rwanda asylum partnership arrangement was concluded by a Memorandum of Understanding and was not therefore subject to parliamentary scrutiny requirements under the Constitutional Reform and Governance Act 2010.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the UK has entered into a memorandum of understanding with Rwanda, which has now been published on GOV.UK, for the provision of an asylum partnership arrangement and to address the shared challenge of illegal migration. The duty to lay before Parliament under the Constitutional Reform and Governance Act 2010 applies only to treaties. However, the safety, security and dignity of and respect for those relocated is assured through the agreement and will be subject to monitoring. We comply fully with our legal and international obligations.

Baroness Hayter of Kentish Town (Lab): The agreement will not be a treaty and it will not be enforceable. Given that the deal would end the Government's legal obligation to certain refugee claimants and therefore reduce their rights, surely such a significant international agreement should be disclosed, debated and agreed by Parliament. Why have the Government tried to slip this agreement out as a memorandum of understanding, hindering Parliament's ability to scrutinise it adequately? Does the Minister accept that important MoUs such as this with Rwanda that affect human rights should be routinely disclosed and debated by Parliament under the terms of the Ponsonby rule?

Baroness Williams of Trafford (Con): My Lords, as your Lordships' House does, there will be ample opportunity to discuss the aspects of this agreement. It complies with our international and other obligations. There will be ongoing monitoring of the agreement, and there is nothing in the United Nations refugee convention that prevents this happening.

Viscount Hailsham (Con): Does my noble friend confirm that, in the face of legal challenge, the Government have withdrawn their turnabout policies? Does this not suggest that the legal advice from the Home Office that the Rwanda policy accords with our international obligations should be treated with a degree of caution?

Baroness Williams of Trafford (Con): My Lords, this provision has been in place since 1999. I do not know if it has been challenged before, but it is certainly a long-standing provision that we think meets our international obligations.

Lord Paddick (LD): My Lords, the Government have clauses in the Nationality and Borders Bill to enable offshoring, which this House continues to oppose. If this legislation is necessary, why have the Government signed a memorandum with Rwanda before Parliament has approved it? If it is not necessary, why did the Government put it in the Bill in the first place?

Baroness Williams of Trafford (Con): I think I have explained the provisions in the Bill. They are underpinned by legislation going back over 20 years but, as I explained to the House during the passage of the Bill, it is the certification process that is now in play in the Bill.

Lord Hannay of Chiswick (CB): If, as they say, the Government see the need for new and innovative means of dealing with the migration crisis now, did they have any contact with any of the other signatories to the refugee convention about these new and innovative methods before taking action on their own?

Baroness Williams of Trafford (Con): My Lords, I think it is quite clear why we are taking action now.

Viscount Hailsham (Con): Because of the May elections.

Baroness Williams of Trafford (Con): No, absolutely not. This Bill has been going through both Houses of Parliament for some time. I am sure that noble Lords have observed that people are dying at sea because of the actions of criminals facilitating journeys to the UK.

Lord Cormack (Con): My Lords, are the Government accountable to Parliament or not? If they are, why should an issue as important as this, the deporting of asylum seekers to a third country, not be subject to an affirmative vote in each House of Parliament?

Baroness Williams of Trafford (Con): My Lords, I do not believe that MoUs are subject to a vote in both Houses of Parliament.

Noble Lords: Oh!

Baroness Williams of Trafford (Con): My Lords, I am just going on what has been the convention over many years. Usually, the CRaG Act process that the noble Baroness, Lady Hayter, talked about is for treaties.

Baroness Chakrabarti (Lab): My Lords, first, why an MoU and not a treaty? I did not hear the answer to that. Secondly, why do the Government seek public interest immunity to protect the secrecy of the pushbacks policy and the fact that the policy could never have been used against asylum seekers? Finally, we hear from parts of the press that the Home Secretary thinks that criticism of the Rwandan deal is xenophobic.

Therefore, can the Minister comment on the US State Department's report on Rwanda of just last year? It reported significant human rights issues, including credible reports of unlawful or arbitrary killings by the Government, forced disappearance by the Government, torture or cruel, inhuman or degrading treatment or punishment by the Government, and 10 other violations of that magnitude.

Baroness Williams of Trafford (Con): My Lords, I acknowledge the US country report last year on Rwanda. Our own country policy and information team carried out an assessment on safety in Rwanda before we entered an agreement. That report is expected to be completed in the near future. I cannot remember the other questions that the noble Baroness asked because it was quite a long question.

The Earl of Kinnoull (CB): My Lords, Section 25 of the CRaG Act defines the meaning of "treaty" and says that it is a "written agreement … between States", as long as it is "binding under international law". Given that the Minister has said that this is a written agreement between states, is she suggesting that the agreement with Rwanda is not binding in international law?

Baroness Williams of Trafford (Con): My Lords, it is an agreement which both parties have agreed to be bound by. I will leave it to greater heads to unpick the meaning of that.

I have now remembered one of the questions asked by the noble Baroness, Lady Chakrabarti, which was, "why not a treaty?" I do not know why, but it seems that it was appropriate to have an MoU. I am very happy to write to noble Lords with further detail on that. I hope that they will appreciate that I have not had much notice of this Question and am not going to be blag my way through it; I will write to the noble Baroness.

The Lord Bishop of Chelmsford: My Lords, Amnesty International's latest annual report sets out that, in Rwanda:

"Violations of the rights to a fair trial, freedom of expression and privacy continued, alongside enforced disappearances, allegations of torture and excessive use of force."

This came following the UK Government's own concerns, raised in July 2021 at the UN Human Rights Council. In the context of these human rights concerns in respect of Rwanda, it is deeply worrying that the UK Government have now decided that it is a safe third country to which they can offshore asylum seekers. Can the Minister please set out how these conflicting descriptions of Rwanda's human rights situation have been reconciled?

Baroness Williams of Trafford (Con): Obviously, Rwanda has come on a very upward, positive trajectory since the genocide way back when. It is one of the fastest-growing economies in the world; it has a great equality record at the moment—certainly in its parliament—and it houses 130,000 asylum seekers. It also engages with both the EU and the UNHCR in placing asylum seekers.

Lord Coaker (Lab): My Lords, is not the real reason that the Minister is facing such anger in this Chamber today that, as everyone knows, the Government did it as a memorandum of understanding—not as a treaty—because they knew that the Rwanda deal would be extremely controversial, and that it would be raised by a number of noble Lords across this Chamber? It is of such significance that it should have been fully debated and discussed in both Chambers. Has it not come to something when a former Conservative Prime Minister stands up and says that this policy would have been found wanting on the grounds of legality, practicality, and efficacy? If the Minister will not listen to noble Lords in here, will she listen to the former Prime Minister? That is why people are so angry: there is a need for proper discussion and not for the Government to find some way of by-passing the process to slip through controversial policies.

Baroness Williams of Trafford (Con): My Lords, I do not think that anyone would accuse me of trying to stifle debate or of not trying to answer noble Lords' questions. I do try to answer them and, if I cannot, I will get back to them. As I said earlier, we are abiding by our international obligations. The EU and the UNHCR work with Rwanda to relocate refugees there.

Lord Lansley (Con): My Lords, further to the question of the noble Earl, Lord Kinnoull, I do not think that my noble friend has responded to that point. A memorandum of understanding can be defined as a treaty under CRaG if it is a written agreement between states and it is binding in international law. Why does the Minister not say that the Government will lay this memorandum of understanding before Parliament under CRaG?

Baroness Williams of Trafford (Con): I think I said to the noble Earl that I would clarify the point.

Lord Kerr of Kinlochard (CB): Will the Minister comment on another possible reason, in addition to the one advanced by the noble Lord, Lord Coaker, for this not being a treaty? If it were a treaty, it would have to be registered at the United Nations, and there might be some embarrassment in seeking to register a memorandum of understanding governing an arrangement that is clearly totally inconsistent with the refugee convention, for which the United Nations is responsible. Can the Minister tell us in addition, since the agreement says that it is not justiciable in international law, how is it to be justiciable?

Baroness Williams of Trafford (Con): My Lords, I am sure that people will find ways and means of doing that should they be motivated to do so. I go back to the point about both the EU and UNHCR engaging with Rwanda on the relocation of asylum seekers and refugees.

Lord Dubs (Lab): My Lords, the Minister said that there would be ample opportunity to debate this issue. We do not have any ample opportunity; what assurance can we have? There are so many questions of detail to which we do not know the answer. It is just a con trick by the Government, and they should come clean on the details before they remove a single person to Rwanda.

Baroness Williams of Trafford (Con): My Lords, I am not trying to con anyone. The beauty of your Lordships' House is that it is self-governing. Debates can be brought to your Lordships' House for full discussion.

Lord Roberts of Llandudno (LD): My Lords, as we are struggling to defend democracy and democratic decisions, is it not totally opposed to that to try to sneak through an agreement without it being discussed and decided on in this Parliament? Why are the Government so adamant and reluctant to put such matters to a vote of Parliament?

Baroness Williams of Trafford (Con): My Lords, the Prime Minister announced it last week; I do not think that there was an attempt to sneak anything through. The Home Secretary stood in the House of Commons last week and made a Statement about it.

Lord Kirkhope of Harrogate (Con): My Lords, my noble friend knows that this is a very controversial area of the Nationality and Borders Bill. I have moved amendments to the Bill, and we have had long debates on this subject. Another Minister indicated that no further legislation would be required to proceed with these arrangements. Can my noble friend confirm that that is the case? Is she saying that the Nationality and Borders Bill is required, or is it the Government's position that no legislation is required?

Baroness Williams of Trafford (Con): My noble friend is right on two counts. First, the provision is in long-standing legislation dating from 1999, 2002 and 2004. Under the Bill, the certification process would not be needed, so essentially the policy could proceed with or without the legislation.

Lord Purvis of Tweed (LD): My Lords, the Minister has said that some people will find ways and means to make this agreement justiciable. Under our dual system in our constitution, any agreement made by government has to be underpinned by domestic legislation. If this is to be a binding agreement, as the Minister said at the Dispatch Box, it will require ratification by Parliament. How will this agreement be ratified?

Baroness Williams of Trafford (Con): It is a memorandum of understanding, as opposed to a treaty, which has been the subject of debate today.

The Deputy Speaker (Lord Haskel) (Lab): My Lords, the time allowed for this Question has elapsed.

Arrangement of Business

Announcement

3.32 pm

Lord Ashton of Hyde (Con): My Lords, I would like to update the House on the arrangements for consideration of Commons amendments to Bills tomorrow. We have already announced consideration of Commons amendments to the Nationality and Borders Bill and the Building Safety Bill. It is also expected that the Commons will send back a message this evening on the Health and Care Bill and the Police, Crime, Sentencing and Courts Bill. We will also consider amendments to those Bills tomorrow. The deadline for noble Lords to table amendments relating to those Bills will be noon tomorrow. Peers can speak to the Public Bill Office for further advice. I will continue to make announcements on the approach to further consideration of Commons amendments throughout the week.

I also take the opportunity to remind the House that there will be a rehearsal of the new pass-reader voting system at 12.30 pm tomorrow. It will start in the Chamber, and it would help if as many Members as possible could attend in order to provide a robust and realistic test of how the new system will work.

Cultural Objects (Protection from Seizure) Bill

Third Reading

3.33 pm

Motion

Moved by ***Lord Vaizey of Didcot***

That the Bill do now pass.

Lord Vaizey of Didcot (Con): My Lords, I will keep my remarks extremely brief. The Cultural Objects (Protection from Seizure) Bill amends Part 6 of the Tribunals, Courts and Enforcement Act 2007, which provides immunity from seizure for cultural objects on loan from abroad in temporary exhibitions in public museums and galleries in the UK. Cultural objects on loan from abroad featuring in exhibitions held in UK museums and galleries approved under the Act are at the moment protected from a court order seizure for a period of 12 months from the time when the object comes into the UK.

The Secretary of State for Digital, Culture, Media and Sport is responsible for approving these institutions in England, which can come under this regime, and the devolved Administrations have similar powers in other parts of the UK. To gain approval under the Act, the institutions must demonstrate that their procedures for establishing the provenance and ownership of objects are of a high standard.

When this Act was passed, 12 months was considered to be a very adequate period for objects to arrive in the UK and to be returned. During the Bill's Second Reading, I mentioned that unforeseen travel delays can now result in works not being returned on time, and that risks undermining the confidence of foreign lenders to lend their art treasures to the UK.

The measures in the Bill would allow the current period, therefore, to be extended beyond 12 months at the discretion of the Secretary of State for Digital, Culture, Media and Sport, or indeed Scottish Ministers when it comes to Scotland. That will ensure that this protection remains fit for purpose. The new power to

extend would only apply following an application from the approved museum or gallery. Extensions would be granted for a further three months initially, with a possibility of a further extension if considered necessary.

I am pleased to inform noble Lords that guidance for approved museums and galleries on how they can submit an application for extension has now been published in draft by the department, so the process and the guidance to support it are now ready to go.

I am delighted that the Bill has received such strong support, and I thank everyone who has contributed, including the Member for Central Devon, Mel Stride, for his work steering the Bill through, and the civil servants in the Department for Digital, Culture, Media and Sport. As the department's Secretary of State pointed out in the newspapers only today, they are knocking it out of the park in DCMS—whether they are present at their desks or not. Finally, I thank my favourite cultural object, who is, of course, our wonderful Minister, my noble friend Lord Parkinson. I am delighted that, after his successful visit to the Venice Biennale, he was protected from seizure and has returned to our shores to give the Bill the final seal of approval.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Parkinson of Whitley Bay) (Con): My Lords, I am very grateful to my noble friend not just for bringing forward this Bill but for his kind words. I would like to take this opportunity to congratulate Sonia Boyce, who represented the United Kingdom at the UK Pavilion at the Venice Biennale, as well as Emma Ridgway, the curator, and everyone at the British Council who commissioned her work, which I am very pleased to report won the coveted Golden Lion for the first time since 1993. It is a tremendous achievement and everyone in the UK is very proud of them all.

I am pleased to reiterate the support of Her Majesty's Government for this Bill. It is short and straightforward but will be of great benefit to the many approved museums and galleries in England and Scotland that rely on immunity from seizure protection when they borrow cultural objects from abroad. It will add an appropriate layer of flexibility to the existing legislation covering immunity from seizure. Currently, as my noble friend says, the maximum length of time an object can be protected from seizure while on loan is 12 months. As we learn and move on from the unprecedented challenges that museums and galleries have faced over the past two years in particular, the Bill rightly recognises that unpredictable delays do sometimes happen and that it may not always be possible for objects to be returned within that existing timeframe. The ability to extend the protection afforded to cultural objects is a sensible option to have. I am very grateful to my noble friend for presenting these helpful measures and for all his work in guiding the Bill through your Lordships' House, to all noble Lords who have supported it, from all corners of the House, and, as my noble friend says, to the DCMS officials who have supported it.

As my noble friend says, the guidance for approved museums and galleries on how and when to apply for an extended period of protection has now been published in draft. The policy is therefore ready to be put into effect, subject to Royal Assent being granted. I am grateful to all those who helped the Bill speed on its way to the statute book.

3.39 pm

Bill passed.

Motor Vehicles (Compulsory Insurance) Bill

Third Reading

3.39 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 Motor Vehicles (Compulsory Insurance) 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.

Motion

Moved by ***Lord Robathan***

That the Bill do now pass.

Lord Robathan (Con): My Lords, I beg to move that the Bill do now pass, and that is probably quite enough from me.

3.40 pm

Bill passed.

Elections Bill

Report (2nd Day)

Relevant documents: 13th Report from the Constitution Cttee, 5th Report from the Joint Committee on Human Rights, 21st and 27th Reports from the Delegated Powers Committee.

3.40 pm

Clause 15: Strategy and policy statement

Amendment 45

Moved by ***Lord Judge***

45: Clause 15, leave out Clause 15

Lord Judge (CB): My Lords—oh dear, I am sorry your Lordships are all departing. Maybe the Conservatives who are departing do not want to hear what I have to say.

Viscount Hailsham (Con): No, no, we are here.

Lord Judge (CB): It is a very strange thing but, quite by accident—I promise it is by accident—I happen to have my copy of the Bill open at a part I have not really studied, called "Undue Influence". Suddenly I find myself thinking, "What a very good thing to prevent that happening in this Bill."

I have addressed your Lordships on a number of occasions about the Bill, particularly these clauses, including Clause 15, which we are discussing now. Noble Lords have listened with patience and courtesy

[Lord Judge]
and I have listened to the Minister with great patience. I regret that I am unconvinced by what he has said in the House so I intend to seek the opinion of the House at the end of this debate, but I intend to be brief.

I really do not think that anyone in your Lordships' House can have the slightest doubt about the constitutional imperative that the Electoral Commission should be politically independent—independent of all political influence, whether direct or indirect, over the electoral process. If anyone disagrees with that, would they please say so? Any possibility that the party in government may have influence over the electoral process should be rejected.

Clauses 15 and 16 are repugnant to that foundational principle. They require the commission to have regard, at the very lowest, to pay close attention to the strategy and policy principles, and to follow the guidance, of the Government of the day. The importance of this feature of the language, which is tucked away but needs emphasis, is that the Electoral Commission will exercise its responsibilities in relation to the strategy and policy statement to enable Her Majesty's Government to meet those priorities. If we rephrase that, it says that the Electoral Commission must enable the strategic and policy priorities of the Government to be met. That does not sound like independence. These are directive provisions. The word "duty" is used, imposing unequivocal statutory obligations on the commission that will govern—or, if not govern, will certainly influence—its own performance of its responsibility, and perhaps, dare I say it, is meant to influence it.

The commission, which everyone agrees—so far, at any rate—should be independent of government, is to be subject to a statutory duty to enable the Government to achieve their priorities: that is to say, their priorities, strategies and guidance to the extent that they relate to the electoral system. That is what the Bill says. This proposal came out of the blue without reference, consultation or, astonishingly—to me, at any rate, as someone who does not have a political background—for a proposal that has a constitutional impact, without cross-party discussion of any kind.

There is a problem with the Electoral Commission, as I have heard from all sides: it does not work as well as it should; it is inefficient; it does not do this, it does do this and it was wrong to do that. I have heard them all. Fine, but this proposal is not an answer to that problem. I simply ask us all to think: if this proposal had been included in the original Bill in 2000, outrage would have been expressed on all sides of the House of Commons. That is the problem.

3.45 pm

What protections are we being offered? Before the Secretary of State produces the statement with his priorities and strategies, he must consult—not have anyone's agreement or consent, but consult. He must consult the Electoral Commission. Fine, but the Electoral Commission can give us some evidence of how the consultation process is likely to be treated. It made a submission proposing that these clauses should not be applied. Okay, one might say that the Electoral Commission is biased, but I have seen nothing to suggest that the Secretary of State took any notice whatever of what it said.

The second group to be consulted is the Speaker's Committee, a body which includes two government Ministers. I know that there are other members, including Back-Benchers; there are a total of nine members, but two are government Ministers. That is described in a system I come from as someone being a judge in his own cause. More important, perhaps, is that the power of checking whether the Electoral Commission has followed the guidance and strategy, and so on, is vested in the Speaker's Committee. In other words, the judgment on the Electoral Commission is being made by a body which includes two government Ministers.

The third group to be addressed was the Public Administration and Constitutional Affairs Committee, or PACAC, a cross-party committee of the House. The consultation process has now been changed; I understand that the removal followed a recent machinery of government change, and it is now the Levelling Up, Housing and Communities Committee. However, when this Bill was first promulgated, PACAC was the consultee. I shall return to PACAC in a moment, but it responded in the most unequivocal language after a close analysis of the whole of these provisions by suggesting that they should not be included in the Bill. For this purpose, I shall come back to it. Is there any evidence to suggest that the Government took the slightest bit of notice of that recommendation by a unanimous, cross-party House of Commons committee? Not that I have seen or that has been drawn to my attention.

What is this protective system? It is a consultation process, but there is nothing in statute requiring the Secretary of State to pay attention. No doubt they will be read; no doubt somebody will read them to the Minister and he will discuss them, but there is absolutely nothing in the Bill which says that the Minister must attend to the committee and that it should at least have some power to say that this is wrong. As it is, we end up with a situation in which the protection system is simply this: the Secretary of State asks these three bodies, they tell him what they like and then he does what he thinks. That is the full extent—apart from, ultimately, the provision coming to Parliament—of the protection given against what looks like, as I have submitted to your Lordships, something completely repugnant to the independence of the Electoral Commission.

It gets worse. There is a review provision, not dealing with typos and so on, but there the consultation process is reduced to one body. I do not think that three are very impressive but three are more important than one, and exactly the same position applies. Ultimately this has to be seen as the most important concern. A quinquennial review is required. In fact, a review can take place at any time: after an election or after a new Government have been put in power. Whenever it takes place, the powers that are currently being invested in the Secretary of State with this Government will be invested—and one day it will happen—in the Secretary of State chosen by a Labour Government.

What will the consequence of that be? Naturally enough, the Secretary of State will look at the way the powers have been exercised by the party formerly in power. He or she will decide that that is not agreeable, or appropriate, or has not worked. Suddenly, we will have a new system—a new statement—with new strategies,

priorities and guidance being issued by the new Government to the same Electoral Commission. I do not know; it is a very strange independent body that can be tossed around like a football. That is what it comes to.

I come back to PACAC, because PACAC, having ceased to be a consultee under this process, nevertheless wrote to the Secretary of State for Levelling Up, urging the Government to accept this amendment, as it had recommended in the first place. A few words from that report sum up everything that I want to say today. It rejects the purported government explanation to justify these clauses. It said it was "extremely concerned" about the potential impact of these provisions, and concluded:

"The risk inherent in these provisions is evident for all to see. This is an unacceptable risk to the functioning of our democracy".

That is a cross-party view in the other place and of course I agree with it. I urge the House that we should protect the Electoral Commission from this proposed newly minted augmentation of executive power. I beg to move.

Lord Blunkett (Lab): My Lords, I support the noble and learned Lord in his amendments, to which I have added my name. We have a cross-party understanding, I believe, that, whatever their intentions, the Government have got this wrong. When the House has the kind of unanimity that it has in relation to the Electoral Commission's powers and the strategy and policy statement process, it is incumbent on any Government to listen and to learn.

The noble Lord, Lord Wolfson, in his dignified and honourable resignation from the Front Bench—I believe we unanimously regret that he felt he needed to resign—said in his resignation letter that we have to take into account how others see us.

The noble and learned Lord referred to the legislation in 2000. I was a Member of the Cabinet at the time. We had a majority of 179. We could have pushed anything through, but the outrage which would have emerged universally across our media, as well as from the Benches opposite, would have driven us back inevitably to a situation where we would have had to think again. I ask the Government, with less than half that majority, to think again. It is not what might be intended, it is how that intention might be perceived—as well as the real outcome. There is the potential for a Trojan horse to lead us down a path which could be regretted at length as part of our constitution. Crucially, this will be seen from outside the country in the way that the noble Lord, Lord Wolfson, perceived in relation to the rule of law.

Gideon Rachman from the *Financial Times* has written a book called *The Age of The Strongman*. In it, like many others who have written on this subject, he poses the real and present challenge of the international democratic process being undermined by the clash between the strong autocratic leadership of those outside the democratic fold; those within the purview of the democratic fold who are leading their nations into autocracy and the diktat of the centre; and the participative democratic world, which involves people being listened to, not just in parliaments but across the nations, and taken notice of.

I am afraid to say that the clauses with which we are dealing this afternoon are a measure of a Government who have not understood that they should be on the side of the participative democratic processes which defend us against the creeping autocracy we see internationally at the moment. It is as serious as that. The Electoral Commission and the electorate as a whole, who were polled over the weekend, have demonstrated their concern. Most people will not understand the detail of the Electoral Commission—why would they? However, they do understand when a Government start to believe that their party and their place in government are one and the same thing—they are not.

I tried to put this across in recent legislation in other areas of public policy. The Government govern for the nation as a whole; they do not govern for a particular political party. Of course, they will want to implement their manifesto and the mandate they have been given by the electorate. By the way, there is no mandate at all on this; there is no suggestion, as there has been in other parts of the Bill, that the Government had indicated, in their manifesto and during the election, that they wished to deal with the Electoral Commission in this way. There have been suggestions from one or two Members of this House at Second Reading and at Committee that somehow the Electoral Commission attracted the notice of the Government—or the Conservative Party, I should say—in terms of what happened in the 2016 referendum. This was backed up by the noble Baroness, Lady Fox; I was sat next to her at the time, and it was a rather half-hearted effort to defend the Government on this particular set of clauses.

There is no argument for it; there is no problem, as the noble and learned Lord explained. What we have is a solution in pursuit of a problem which does not really exist. Fundamentally, we have a vision and message going out from this legislation that will be rued by us all if we do not get this right. I have a very simple appeal to the Government: take these amendments and accept them when they go back to the Commons tomorrow; withdraw the proposal because it does not have support anywhere in this House, in the other House, other than the three-line Whip, or across the country; and allow us to unify on consulting properly on whatever perceived problems the Government—or the Conservative Party—Labour, the Lib Dems or the Cross Benches might have about the operation of the Electoral Commission. Consult properly, undertake this in a democratic fashion, understand how we are seen as a country and get it right.

I ask the Government to please understand this afternoon that some of us, at least, will go to the wire on this one. So let us be prepared to go into next week if we have to, to ensure that we defend our democratic processes and practices. If we do not, somewhere in years to come, someone should ask each of us, "Where were you? What did you do? Did you understand what you were passing? Were you in favour of it? If you were not, why did you not vote against it?"

4 pm

Lord Young of Cookham (Con): My Lords, I will make three brief points in support of the amendments of the noble and learned Lord, Lord Judge. The first follows a point made by the noble Lord, Lord Blunkett,

[Lord Young of Cookham]
who has just made a forceful speech. As my noble friend Lord Cormack mentioned in an earlier debate, I was my party's spokesman and I was in the shadow Cabinet of William Hague, now my noble friend Lord Hague, when the Bill establishing the Electoral Commission went through. As the noble and learned Lord, Lord Judge, implied, had the Blair Government sought to include these two clauses in that Bill, my party would have strongly opposed that. They conflict with the recommendation of the Neill commission's report that

"An Election Commission in a democracy like ours could not function properly, or indeed at all, unless it were scrupulously impartial and believed to be so by everyone seriously involved and by the public at large."

If it was right for my party to oppose those clauses then, it is right to oppose them today.

Secondly, I respectfully disagree with the argument in defence of the Government's position put forward by my noble friend the Minister on March 10:

"It is entirely appropriate for the Government and Parliament to provide a steer on electoral policy … By increasing policy emphasis on electoral integrity … the Government are seeking to prevent interference in our democracy from fraud, foreign money and hostile state actors."—[*Official Report*, 10/3/22; col. 1643.]

It is not the Electoral Commission that requires a steer, for example, on the importance of protecting our democracy from foreign money; it is the Government. The steer that my noble friend described—the statutory requirement to

"have regard to the statement"—

should be in precisely the opposite direction to the one in the Bill.

My third and final reason is related to the first. I have left the Government five times, which is more than anyone else in the Chamber—even the noble Lord, Lord Blunkett. Once was at the request of the electorate in 1997 and three times were, sadly, at the request of the then Prime Minister, but the last was of my own volition, one month after the current Prime Minister took office, when he illegally prorogued Parliament. That was the first of a number of steps that injure out democratic institutions—in that case the House of Commons. It was followed by the failure to defend the judiciary from the "Enemies of the People" attack by the *Daily Mail*, the attempted interference with the verdict on Owen Paterson, the resignation of the Prime Minister's independent adviser Alex Allan—instead of the Home Secretary—and the evident disregard, shown from time to time, for the role of your Lordships' House and the Ministerial Code. These clauses are another step in the same direction; they are disrespectful of the ground rules of our constitution, and they should not be in the Bill.

Lord Grocott (Lab): My Lords, we have heard three splendid speeches, and I intend to be very brief. I will pick up on a comment made by my noble friend Lord Blunkett, who is of course quite right that the public will not be interested or involved in the details of this legislation. But I have no doubt whatever that they have an acute sense of fairness. In Committee, I suggested that, for the Government to give instructions to the Electoral Commission is akin to a party in a football match—one of the two teams—giving instructions and guidance to the referee prior to the match. I do not think that anyone in Britain would think that that was a fair situation. I do not think that anyone could seriously contend that that is not what would happen if these two clauses become law.

What I find particularly persuasive is that this letter from the Electoral Commission, which many of us have, is, unsurprisingly, signed by every single member bar the Conservative nominee—I make no criticism of the fact that he did not sign it, but it was signed by everyone else. It argues against these two clauses. As they say,

"It is our firm and shared view that the introduction of a Strategy and Policy Statement – enabling the Government to guide the work of the Commission – is inconsistent with the role"

of an "independent electoral commission". If anyone is wavering on this, just substitute the words "Conservative Party" for "Government". It is nothing to be ashamed of, and I strongly support political parties; I have been in one all my life and I would go as far as to say that they are the lifeblood of our democracy. I do not regard as superior human beings those people who have not joined political parties. If we substitute the word "Government" with "Conservative Party"—because of course Governments consist, in the main, of one political party—it reads as follows: "It is our firm and shared view that the introduction of a Strategy and Policy Statement – enabling the Conservative Party to guide the work of the Commission – is inconsistent with the role of an independent electoral commission." Is there anyone here who could possibly dispute that statement? Forgetting about the Government for a moment, for one political party in a contested situation—which is precisely what elections are, which is why they can get fraught and need adjudicators—to give an instruction to the referee, or the Electoral Commission in this case, is clearly inconsistent and unacceptable as part of our electoral procedures. I urge everyone to see the fairness of that argument and to support the amendment from the noble and learned Lord, Lord Judge.

Viscount Hailsham (Con): My Lords, I rise very briefly to support the amendment put forward by the noble and learned Lord, which has, if I may say so, attracted very wide support on all Benches of this House.

Others have already identified some of the aspects of Clause 15 that are truly objectionable, so I will not go into any great detail, save to say that, on any view, the powers given to the Secretary of State are very extensive. They are, as has been said by a number of your Lordships, designed to make the commission an implementer of government policy. The requirement on the Government to consult is extraordinarily limited, and the obligation on the commission to report compliance will expose the commission to the cry "Enemies of the People", as happened in 2016 when the judges held that Brexit required the consent of Parliament. I might remember, too, that the Lord Chancellor of the day did not push back on that criticism. I acknowledge that the substantive statement is subject to the affirmative resolution procedure, but I also point out that, in the House of Commons at least, that will be the subject of the most strenuous whipping. In any event, of course, the statutory instrument procedure is not subject to amendment.

I have been in public life for 40 years—not as long as my noble friend Lord Cormack, but perhaps long enough—and I have come to a very settled conclusion: if you give powers to the Executive or to officials, in time they are certain to be abused or misused. That will certainly happen. As my noble friend Lord Young of Cookham—I have known him for over 60 years—rightly pointed out, the present Prime Minister illegally thought to prorogue Parliament. I am told by reading the newspapers that, at this moment, the Government are thinking of simply abrogating the Northern Ireland protocol—a treaty obligation to which the Prime Minister signed up very recently and on which, at the time, he incorrectly stated that it did not create a hard border between Northern Ireland and the rest of the United Kingdom.

As has been rightly said, in particular by the noble Lord, Lord Grocott, election law is extraordinarily sensitive. I for one am not prepared to give powers to a Government that, if used, misused or abused, will certainly damage yet further the respect for our democratic institutions. It is for that reason that if, as I hope, the noble and learned Lord moves to test the opinion of the House, I shall support him.

Baroness Jones of Moulsecoomb (GP): My Lords, I would like to join in on all these comments about the Prime Minister's failings, but I just do not think there is time in this debate.

I support the noble and learned Lord, Lord Judge, and will obviously support the amendments, but before I speak to those specifically, I hope noble Lords will not mind if I speak briefly about what we are facing this week—and possibly next week—because the Government have created a legislative deadlock. This was not the fault of your Lordships' House; it was the fault of the Government, and if this legislation is not passed in the next few days, it falls completely. I have no problem with that—I would like to see it all fall—but the fact is that that probably is not a position your Lordships' House can take. However, we can obtain very significant concessions from the Government. They will not want to lose all these Bills, and this is an opportunity for us to throw out the worst bits of the legislation that we have all argued about over the past few months.

I make a plea to the Labour Front Bench and the Cross-Benchers that we maintain the maximum amount of toughness in the face of what the Government are trying to push through this House. We should not fumble this opportunity to improve Bills that we have tried to improve, only for almost all those amendments to be ripped out by the other place. So, I am looking forward to today. I have sat here and listened to the speeches with a real smile on my face; it has been wonderful.

Amendments 45 and 46 are a perfect example of why we should not back down. We have to insist that we will not pass the Bill if Clauses 15 and 16 remain in it. The Electoral Commission, as we have heard, said it best, and I agree. It says that the proposals are

"inconsistent with the role that an independent commission plays in a healthy democratic system."

This Government are trying to reduce the amount of democracy we have in Britain, and that is a terrible failing for a democratically elected Government.

The Greens are very grateful to the noble and learned Lord, Lord Judge, for leading on these essential amendments. I am sure he is going to carry the House with him, and we will obviously vote for them again and again—as many times as it takes to force the Government to drop them or lose the Bill entirely.

Lord Cormack (Con): My Lords, it is always a great pleasure to follow the noble Baroness. I frequently do not agree with her; today, I most certainly do and I think, to use the words of the noble Lord, Lord Blunkett, this is one that we take to the wire, because this is completely unacceptable in a Bill of this nature. In no circumstances could I possibly condone the Bill if it goes forward with these clauses in it.

As I was listening this afternoon to some excellent speeches, I thought of those famous words of Acton: "Power corrupts; absolute power corrupts absolutely." I am afraid we are in danger of our Government being corrupted. I use those words deliberately and slowly, but it is a real risk, because the arrogance that we see from this Government—my noble friend Lord Hailsham referred to this—is something that, in my 52 years in Parliament, I have not seen before. Coupled with it is a disinclination to disagree agreeably, and in a democracy it is very important to be able to do that.

For a Government to take these powers to themselves is something up with which we should not put. I referred to this in previous debates, at Second Reading and in Committee. We have here a potential seizure of power that, as my noble friend Lord Young of Cookham said, we would not have countenanced from the Labour Government, with their massive majority, 22 years ago, when he and I—he was leading—were dealing from the Front Bench with the Bill that established the Electoral Commission.

4.15 pm

Of course, there are things wrong with the Electoral Commission. If they are so very wrong, if would not have been a dishonest thing to say that we will abolish it. I would not have favoured that, but to say that we will subvert it—that we will place ourselves in a position where we can undermine it—is an arrogance that defies belief. We just cannot have this in a Parliament, and the trouble is that if a sea change happens, it tends to stay.

One of the reasons why your Lordships' House has such an excessive legislative burden on its shoulders is that in 1998, the then Labour Government—I was talking to the noble Lord, Lord Coaker, about this this morning—provoked by some Conservatives who kept Labour up late night after late night, decided that every Bill would be timetabled. When the Conservative spokesman said, "We, of course, will reverse this", we all thought that that was absolutely right. And when Conservatives came into government, did they? No, because it was convenient for government. But the result of that convenience for government has created a situation where legislation is not scrutinised in the other place, hence the excessive workload in your Lordships' House.

We should beware of going down slippery slopes. The noble and learned Lord, Lord Judge, has performed a signal service in putting down these two amendments. I believe it is our duty, it is incumbent upon us, to curb

[Lord Cormack]
that arrogance of power and to make sure that these clauses are deleted from the Bill, or that the Bill—for all that it contains some things that are entirely acceptable—falls. That is the ultimatum we must place before the Government, and I hope they will see sense.

Lord Stunell (LD): My Lords—

Lord Hodgson of Astley Abbotts (Con): My Lords, it is difficult when—

Lord Stunell (LD): I thank the noble Lord for giving me a turn.

The case for removing these two clauses has been very powerfully made already and my point is a very simple one which will not take very long. These two clauses, if they remain in the Bill, will put in the hands of a successor Government the essential tools to immediately deliver the very first task set out in the autocrat's playbook, which is, when you take power, make sure you keep it. In the UK, that means making sure that you have the Electoral Commission under your thumb.

I have only one question for the Minister. Taking him fully at his word that this Government would never in a million years use these powers to distort the actions of the Electoral Commission or to raise the bar for opposition candidates or opposition parties in any future election, what happens when the million years is up? What happens when another Government, less imbued with the deep ethical principles so clearly exhibited by the present Administration, less scrupulous about fair play and with less commitment to truth and accuracy, take office? Can the Minister say to your Lordships, in all honesty, that it will be safe to put these clauses on the statute book, just waiting for that ruthless successor Government to exploit? It could be an ultra-left Government with little regard for constitutional conventions, balancing the books or protecting industry from red tape, and perhaps ready to repudiate international treaties, undermining all those Conservative values that the Minister espouses so much.

Does the Minister think it is safe to leave these clauses in the Bill? I have seen the noble Lord in action. I do not believe that he is either so naive or so short-sighted as to believe it would be safe to do so, and it would not be in the long-term interests of the Conservative Party for these clauses to be in the Bill. I, my noble friends and other noble Lords all around the House have powerfully expressed the view that we are ready to help him get off the hook and to take these two clauses out of the Bill.

Lord Hodgson of Astley Abbotts (Con): My Lords, I apologise to the noble Lord, Lord Stunell, and to the House, for having pushed him so rudely.

When one sees the way the tide of opinion is flowing strongly, it is very easy to think that it is best to keep one's head down and not provide a cautionary word about being careful what we wish for in taking these amendments through—should the House so decide. I note and appreciate the concerns expressed in powerful speeches this afternoon. These are replicated in the briefing from the Electoral Commission referred to by the noble Lord, Lord Grocott. Several letters in the correspondence columns of the broadsheets have carried an equivalent message.

I also recognise that the drafting of parts of these clauses can best be described as uncompromising. The noble and learned Lord, Lord Judge, referred to this, though I think he was slightly dismissive about the consultation processes provided for in Clause 15, in new Sections 4C and 4D. He pointed out that the procedures for scrutinising secondary legislation are proving increasingly inadequate and ineffective for modern conditions. He knows that I agree with him. I am pleased to be able to tell him and the House that the Secondary Legislation Scrutiny Committee, which I chair, will publish a further end of term report at the end of this week. This will give grist to his mill—and indeed to mine.

Among the concerns raised is the use of what can be described as tertiary legislation. I spoke to the noble and learned Lord in advance of this debate, so he knows broadly what I shall say about creating bodies over which there is absolutely no parliamentary control but which, none the less, have powers that concern some of the most fundamental aspects of our society. One recent example is the College of Policing, an independent body able to introduce regulations and codes that affect every one of us.

The noble and learned Lord, Lord Judge, and my noble friend Lord Blencathra have made common cause in attacking this. I entirely support them. To come to the point, I am not yet convinced that, if these two amendments were agreed, we would not be creating another body equivalent to the College of Policing, but this time for electoral purposes—an equally important part of our national life.

Am I enthusiastic about Clauses 15 and 16? Not at all, but I recognise that there is some parliamentary involvement and approval in this process. If these amendments were accepted, the Electoral Commission—with all the criticisms that have been made of it, fairly or unfairly—would float free from any even minor scrutiny or accountability. In my view, this would be even less desirable.

Baroness Noakes (Con): My Lords, it is a pleasure to follow my noble friend Lord Hodgson. I wish him a very happy birthday.

Noble Lords: Hear, hear.

Baroness Noakes (Con): I wish to make two points about these amendments. I do so in the hope—but not the expectation—that noble Lords who have set their faces against these clauses will look at them in a more favourable light.

First, all public bodies must be accountable, whether they are independent regulators or carrying out other kinds of function. This should not be a controversial statement. The role of the Speaker's Committee, as set out in PPERA, with its focus on budgets and plans rather than outcomes and actions, provides a weak accountability framework. Indeed, the report on election fraud from my noble friend Lord Pickles, who I am glad to see in his place, found it ineffective. Clauses 15

and 16 beef up the Speaker's Committee so that it can hold the Electoral Commission to account on the basis of the policy and strategy statement, remembering, of course, that that statement is not just the creature of government and must be consulted on and approved by Parliament. Anyone who opposes Clauses 15 and 16 really should explain how they would ensure that the Electoral Commission will be properly accountable, because the current arrangements are simply not fit for purpose.

Secondly, there is a myth that the strategy and policy statement is a de facto power of direction or involves giving instructions—I think that was the phrase used by the noble Lord, Lord Grocott—to the Electoral Commission. Clause 15 could not be clearer. There is no obligation on the commission to follow the statement. There is no alteration of the core duties and obligations set out in PPERA. The commission's only duty is to have regard to the statement and report annually on what it has done in consequence of it. That report might, in theory, say that it has done nothing in consequence of the statement, but given the generally bland nature of these policy and strategy statements, I think that would be unlikely.

The opponents of these clauses, however, say that the strategy and policy statements will influence the Electoral Commission, with the implication that influence is always malign. I believe that the independence of the Electoral Commission is founded in the independence of the thought and integrity of the commissioners themselves, and those commissioners are not appointed by the Government. Genuinely independent commissioners will do what they think is necessary in accordance with their statutory obligations, and they will do that whatever the Government tell them to do. The commissioners are the first line of defence against undue influence. Influence can be a positive thing, too. I hope noble Lords would have no problem if, for example, a statement influenced the commission to focus on important issues such as those that arose in relation to Tower Hamlets. I remind noble Lords that the Electoral Commission did not cover itself in glory when first encountering the issues there. I urge noble Lords not to support these amendments.

Lord Hayward (Con): My Lords, I shall cover two or three points. I shall not go into detail about some of my concerns about the Electoral Commission, except to make a limited comment about difficulties I have at the moment. I will start by referring to comments made by the noble Lord, Lord Grocott, earlier in relation to referees. I wear my rugby referee's tie with pride today because it is an indication of the impartiality one is required to have under all circumstances. No player or spectator ever accused me of not being impartial. They may have accused me of being incompetent, and did so volubly from the touchline, but they did not accuse me of not being impartial.

I must disagree with both my noble friends Lord Hodgson and Lady Noakes. As far as I am concerned, there are ways of dealing with the problems of the Electoral Commission. As I think many Members know, I have had more problems and more dealings with the Electoral Commission over the last 12 months than virtually anybody in this Chamber—and, my godfathers, does it not drive you barmy? I have sympathy with the Government because they are trying to tackle the problem. All I shall say on my latest difficulty, which has been running for four or five days, is: will the Electoral Commission please look at itself rather than passing to others the responsibility for policing matters—administering elections and the like? This problem has run since 2013 to my full knowledge. It keeps saying that other people need to deal with these matters but it does not look at itself.

These clauses are not a way of tackling the problems that I and others have faced with the Electoral Commission. As the noble Lord, Lord Grocott, said, in effect, they tell us that the home team at a rugby match shall have the right to speak to the referee and tell him how he will referee that game. I am sorry, but I disagree with the noble Baroness, Lady Noakes: if you are giving guidance, however softly and subtly you do it, you are influencing the Electoral Commission and not giving others that opportunity to influence it in the same way. We need to look at the way that the commissioners are appointed, and we may need to look at the way that other organisations around it operate, but the one thing we do not need to do is to tie the commission to guidance from the Government.

4.30 pm

The only part of the comments I made when we debated this matter previously that I want to repeat is that I have had the pleasure—or difficulty, for that matter—of being on a panel abroad looking at international elections. That is a process which many Members of this House have participated in. I want the honour—I use "honour" deliberately—of being able to say to other countries, "Look at what we do. Follow that as closely as possible, because that is the best way to run your elections". However, with these two clauses in the Bill, I am afraid that I could not do that.

Lord Wallace of Saltaire (LD): My Lords, my name is on these amendments. We have had a very powerful debate from all sides of the House, and I suggest that we now ought to move towards the Minister's response.

I remind the Minister of the constitutional context we are in and of his responsibilities as, in effect, the only member of the Government with responsibility for the constitution and constitutional propriety. Noble Lords may not be fully aware that, since the last reshuffle, there is no longer any Minister within the Government who has been given the specific responsibility of being Minister for the Constitution. The responsibility for this Bill has been moved from the Cabinet Office to the department for levelling up, communities, local government and various other things which provide a very extensive portfolio for Michael Gove. That leaves the Minister in some ways stranded, but in other ways he is the only member of the Government—apart from the Prime Minister himself—who specifically has responsibility for constitutional propriety among his major responsibilities.

The Minister will be well aware that the noble Lord, Lord Wolfson of Tredegar, referred to issues of constitutional principle in his resignation letter and that, before him, the noble Lord, Lord Faulks, also resigned on a matter of constitutional principle. I hope

[Lord Wallace of Saltaire]
that the Minister will address the constitutional propriety of these two clauses in winding up. After all, we are in a wider constitutional crisis, both domestically—I have referred to the context of that—and internationally, given what is happening in Ukraine and the growth of autocracies around the world.

The noble Lord, Lord Finkelstein, who sadly is not in his place, addressed Britain's constitutional crisis in his article in the *Times* last Wednesday. He reminded his readers:

"The British constitution, because it is unwritten, is particularly vulnerable to its limitations being resisted at the top of government … It is the responsibility of parliamentarians, and in particular Conservative ones, to insist"

that constitutional rules and conventions are followed. I welcome the reaffirmation made by the noble Lord, Lord Finkelstein, of the Conservative Party's proud tradition as the constitutional party—from Burke through successive Salisburys to the noble Viscount's father, Lord Hailsham—and I regret our current Government's failure to maintain fully that tradition.

I invite the Minister to explain to the House how he considers these proposals to be compatible with Conservative principles of limited government and parliamentary sovereignty. If he cannot reconcile the tried and tested principles of Conservatism—about which he has often spoken eloquently—with these proposals, he should accept that they should be removed.

Baroness Hayman of Ullock (Lab): My Lords, we very much welcome these amendments. We thank the noble and learned Lord, Lord Judge, for tabling them and for his excellent and clear introduction on his concerns about the implications of leaving these clauses in the Bill. I will be brief, as he and many other noble Lords made excellent speeches today.

We have made it extremely clear on previous stages of the Bill's consideration that we are extremely concerned about its intention to make provisions for a power to designate a strategy and policy statement for the Electoral Commission, drafted by government. As other noble Lords have said, this would allow political interference in the regulation of our elections and calls into question the independence of the Electoral Commission from government and political control. This simply cannot be allowed to happen. It is a dangerous precedent. If we look at similar democracies such as Canada, New Zealand or Australia, there is always a complete separation between government and the electoral commission. It is essential that our regulatory framework strikes the right balance between upholding the independence of the Electoral Commission and ensuring it is properly scrutinised and held to account. The noble Lord, Lord Hayward, made some good points about the fact that we need to look at how it operates, but this is absolutely not the way to go about it.

I remind those noble Lords who have said that this is not of any concern that new Section 4B(2) in Clause 15 says that:

"The Commission must have regard to the statement when carrying out their functions"—

"must", not "may". That is what really concerns us. We have had many excellent speeches, so I urge the Minister to listen very carefully to what has been said in the defence of our democracy. That is what we are talking about. We fully support these amendments and urge other noble Lords to do the same when this is put to the House.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, I have not detected universal enthusiasm for these clauses in the debate, but I will seek to persuade your Lordships that they should remain. Of course, in remaining, one of the things they do is provide a basis for further discussion.

Your Lordships' House is a revising Chamber, but we do not have here amendments to revise. These amendments would simply remove clauses on the basis of arguments which, in my submission, are exaggerated in their concerns, although I understand and share the concerns for democratic responsibility and respect. We have even heard several threats to kill the whole Bill. I must remind noble Lords that this is a Bill that prevents election fraud and abuse; introduces the first controls on digital campaigning; cracks down in many ways on foreign spending; and improves the integrity of postal voting. These are matters which have wide assent across the Chamber and across both Houses. It would not be wise or proportionate for your Lordships to consider killing those proposals on the basis of this particular issue.

Lord Cormack (Con): Would my noble friend accept that if the Government withdraw these clauses, on which there is a great deal of opposition, the Bill will go through? Several of us have said that it has many excellent features. We do not want to kill the Bill, but we do want to remove this anti-democratic element from it.

Lord True (Con): My Lords, I can only respond to the language I heard in the debate and, of course, that will lie in *Hansard*. Of course I listen to the range of concerns set out by your Lordships. The main concern that I hear, and understand, is about the potential impact on the independence of the Electoral Commission.

I stated in Committee, and I do so again now, that the Government's proposals take a proportionate approach to reforming the accountability of the commission to Parliament, which some who have spoken have admitted could be reviewed, while respecting its operational independence. I agree with the noble and learned Lord, Lord Judge, and others that it is vital we have an independent regulator that commands trust across the political spectrum.

By the way, the noble Lord, Lord Stunell, asked would I worry if the Labour Party had such powers on the statute book. I remind your Lordships that the Labour Party is a great constitutional party, and I would trust it to use the responsibilities and powers that it had in an appropriate manner.

In previous debates, parliamentarians across both Houses identified areas of concern with the commission's work. My noble friend Lord Hodgson of Astley Abbotts spoke to this. Under the existing accountability framework, in practice, parliamentarians are limited in their ability to scrutinise and hold the commission effectively accountable. The report by my noble friend Lord Pickles, whom I am pleased to see in his place, obviously

alluded to certain issues that he felt had not been fully addressed. These measures will seek to remedy this by providing guidance, as approved by Parliament, for the commission to consider in the exercise of its functions, and by giving the Speaker's Committee an enhanced role in holding the commission to account in how it has performed its duties in relation to the proposed statement.

It has been suggested, several times, that the "duty to have regard" to the strategy and policy statement placed on the commission in Clause 15 will weaken its independence and give Ministers the power to direct it. The Government strongly reject this characterisation of the measures. The Electoral Commission will remain operationally independent and governed by its Electoral Commissioners as a result of this measure, after as before. This duty does not allow the Government to direct the work of the commission, nor does it undermine the commission's other statutory duties.

Baroness Wheatcroft (CB): I wonder, given what the Minister has just said, whether he could explain the purpose of new Section 13ZA, on the examination of the duty to have regard to the strategy and policy statement, which states:

"The Speaker's Committee may examine the performance by the Commission of the Commission's duty under section 4B(2) (duty to have regard to strategy and policy statement)."

What is the purpose of having the ability to examine the commitment to the policy statement? What would the Government do if it found that "have regard" had not been sufficient?

Lord True (Con): My Lords, I say to the noble Baroness that it is not a power to direct. The Speaker's Committee is not a government institution; it is part of the architecture that is there, and has been there, to oversee the work of the commission. That was inherent in previous legislation; this legislation seeks to improve its ability to do so. What the legislation means is that when carrying out its functions, yes, the commission will be asked to consider the statement, but weigh it up against any other relative considerations.

The noble and learned Lord, Lord Judge, knows the respect I have for him. I have enjoyed discussing this matter with him and no doubt may again if he has his way in your Lordships' House today, which I hope he will not, but our contention is that there are a number of safeguarding provisions around parliamentary approval and consultation built into Clause 15. I outlined that at length in previous debates and will not repeat it here. I believe, notwithstanding the noble and learned Lord's remarks, that those safeguarding provisions should reassure those who have expressed concerns about strategy and policy statements being drafted by future Governments that may have ill intent.

4.45 pm

The statement will set out guidance and principles. We have published an illustrative example, which is hardly the most threatening document ever published in the history of mankind. We ask that the commission have regard to that statement in the discharge of its functions. The statement will provide the commission with a clear articulation of principles and priorities, approved by Parliament, as it is reasonable for Parliament to do, to have regard to when going about its work, particularly in areas where primary legislation is not explicit and the commission is exercising the significant discretion it is afforded in terms of activity, priorities, and approach. My noble friend Lord Hodgson of Astley Abbotts made some important remarks on what he described as tertiary legislative powers.

Under these proposals, Parliament will have an important role in debating and scrutinising the content of the statement, which in turn will influence how the commission exercises its discretion. The noble and learned Lord, Lord Judge, doubted the adequacy of the provision for statutory consultation set out in Clause 15, but I do not agree that a statutory consultation process for the statement is nugatory. The provisions state that the Secretary of State must review and consider submissions from all statutory consultees before submitting a new statement for parliamentary approval. Furthermore, any new or revised statement will be subject to approval of the UK Parliament, thus ensuring that the Government consider parliamentarians' views and that Parliament has the final say over whether any statement takes effect.

The proposed removal of Clause 16 is also put to your Lordships. It was noted in Committee that the Electoral Commission is already accountable to Parliament through the Speaker's Committee—this again takes up the point made by the noble Baroness. However, the Speaker's Committee's existing remit is narrowly restricted to overseeing the commission's finances, its five-year corporate plan, and the appointment of Electoral Commissioners. The purpose of Clause 16 is to expand this remit to enable the Speaker's Committee to perform a scrutiny function similar to that of parliamentary Select Committees. As the noble and learned Lord acknowledged, that committee does not have an inbuilt government majority. By allowing the Speaker's Committee to scrutinise the commission's activities in light of its duty to have regard to the strategy and policy statement, we will give the UK Parliament the tools to effectively review the commission and hold it accountable.

Lord Blunkett (Lab): Can the Minister list which Select Committees have Ministers as members?

Lord True (Con): My Lords, as the noble Lord knows, the Speaker's Committee is sui generis. Obviously, it has senior representation from political parties in the House of Commons. I have enormous respect and affection for the noble Lord. It is not reasonable to impugn the integrity of a Speaker's Committee and I do not think that he was doing so—

Lord Blunkett (Lab): I was not, in any way, impugning the Speaker's Committee. I was picking up the point that the Minister had just made about the corollary of a Select Committee.

Lord True (Con): My Lords, I am glad that the noble Lord rose. I had started to make it clear that I was not making any such proposal. The analogy I was using is just a mechanism in terms of the way that the

[LORD TRUE]
committee will be able to conduct its reviews, effectively holding the commission accountable on a broader range of its activities than is currently allowed in law. As I sought to explain to your Lordships, that remit is currently narrowly restricted.

For the reasons that I have set out, I urge that my noble friends and noble Lords across the House oppose the amendments put forward by the noble and learned Lord, and that Clauses 15 and 16 stand part of the Bill.

Lord Judge (CB): My Lords, I thank everybody who has participated, including those Members of the House who do not agree with me. It is fun to listen to alternative arguments.

I have just a couple of points to make. The problem with these clauses is that they were inserted without any kind of discussion. When constitutional issues are being addressed, and when, in particular, the independence of the Electoral Commission and its performance are being addressed, surely, of all things, that is something for cross-party discussion, and it is for the cross-parties to make up their minds how to make the Electoral Commission do its job and perform its function better than it has. That is a matter for Parliament: I am not going to advance different solutions to this, but the problem is that nobody has asked anybody else. That is why I describe this proposal as "new minted". It is "new minted", and that is one of its problems.

The other problem is with the phrase "must have regard to". I "must have regard" to everything the Minister says. I am going to listen to it; I am going to be influenced by it. I might not feel quite as strongly as I did against him—I do not know—but the point is that you have to have regard to the statement by the Minister of the Government's strategies, priorities and guidance, and that would influence any body of people, however independent-minded they are and wish to be. That, surely, is the point of this legislation. The Government want the commission to be influenced by the strategy and priorities paper.

If the Electoral Commission says, "Well, we have seen what the Minister has to say. We have read the statement and we think it's a load of rubbish", what happens then? Apart from anything else, the noble Lord, Lord Pannick, will be briefed on a judicial review by the Government that the Electoral Commission was not exercising its powers correctly, and he would probably win. As I have told noble Lords before, he never won a single case in front of me; and as I have also told noble Lords before, on every occasion when he appealed, he won.

Lord Pannick (CB): I would just add, on a serious note, that the noble and learned Lord makes an absolutely correct point. If the Electoral Commission said, "We do not agree with this document and we are not going to follow it", there would be a real danger of judicial review. There would be a real danger, in particular, because this document would have the approval of Parliament, it having been whipped through.

Lord Judge (CB): My Lords, on that happy note, I think we had better let the House make up its own mind. I seek the opinion of the House.

4.52 pm

Division on Amendment 45

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Amendment 45 agreed.

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Lamont of Lerwick, L.
Lancaster of Kimbolton, L.
Lang of Monkton, L.
Lansley, L.
Leicester, E.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Mackay of Clashfern, L.
Mancroft, L.
Manzoor, B.
Marland, L.
Marlesford, L.
Maude of Horsham, L.
McColl of Dulwich, L.
McCrea of Magherafelt and Cookstown, L.
McGregor-Smith, B.
McInnes of Kilwinning, L.
McLoughlin, L.
Mendoza, L.
Meyer, B.
Mobarik, B.
Mone, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Morrissey, B.
Morrow, L.
Moylan, L.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Parkinson of Whitley Bay, L.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Price, L.
Ranger, L.
Rawlings, B.
Reay, L.

Redfern, B.
Ribeiro, L.
Risby, L.
Robathan, L.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Shrewsbury, E.
Smith of Hindhead, L.
Spencer of Alresford, L.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Sugg, B.
Taylor of Holbeach, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tugendhat, L.
Udny-Lister, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Wakeham, L.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Whitty, L.
Williams of Trafford, B.
Wolfson of Aspley Guise, L.
Wolfson of Tredegar, L.
Wyld, B.
Younger of Leckie, V.

5.12 pm

Clause 16: Examination of duty to have regard to strategy and policy statement

Amendment 46

Moved by ***Lord Judge***

46: Clause 16, leave out Clause 16

Amendment 46 agreed.

Clause 19: Notional expenditure: use of property etc on behalf of candidates and others

Amendment 47

Moved by ***Lord True***

47: Clause 19, page 29, line 24, leave out "a local government election in Scotland or Wales" and insert "an election in Scotland or Wales under the local government Act"

Member's explanatory statement

See the amendment in Lord True's name at page 10, line 33.

Amendment 47 agreed.

Amendment 48

Moved by ***Lord Rennard***

48: Clause 19, leave out Clause 19

Lord Rennard (LD): My Lords, after a long debate on a substantive issue, this will probably be a rather shorter, more technical debate. First, I thank the noble Lord, Lord Collins of Highbury, from the Labour Front Bench, and the noble Baroness, Lady Bennett, from the Greens, for supporting the amendment to delete Clause 19 in Committee. I am also grateful to the Minister, the noble Lord, Lord True, and his team for engaging on this issue of accounting for election expenditure in constituencies. The Government's position appears to be that no change in law is proposed. I therefore think that Clause 19 is unnecessary. The Government say that it is about clarification, but I think this has been provided by the courts and that guidance from the Electoral Commission—provided it remains independent—should suffice.

The Government blame confusion about the rules for election spending in constituencies for the prosecution of the Conservative candidate, the Conservative agent and a senior Conservative HQ staff member following the campaign in South Thanet during the 2015 general election. However, it does not address the widespread concern after that election that the basic principles of the Corrupt and Illegal Practices Prevention Act 1883, which first provided a level playing field in constituency election campaigns, were being subverted in that election.

5.15 pm

The origins of Clause 19 are in a Private Member's Bill introduced by that Conservative candidate in that election and which the Electoral Commission advised

"would risk allowing parties to spend what they like (subject to their national limits) on promoting their candidates in key marginal seats".

I think the clause is unnecessary because Southwark Crown Court acquitted the candidate and the agent, maintaining the simple principle that they could not be held responsible for what they were not responsible. But the Conservative campaign headquarters was held to be responsible for massive overspending in support of the Conservative candidate and a senior party official received a significant sentence.

Today, I seek significant assurances from the Minister that what is described as a clarification is not an attempt to make legal what was deemed illegal by Southwark Crown Court. Parliament must not be seen to give a nod and a wink to reversing the principle of the level playing field in constituency campaigns—a principle that was reaffirmed in the Representation of the People Act 1983. In his judgment on the case at Southwark Crown Court, Mr Justice Edis said that the existing law

"exists to ensure a level playing field and also to limit the extent to which the electorate can be manipulated by costly and sophisticated systems designed to spread a message on behalf of a candidate in a Parliamentary election."

If we are to accept Clause 19, I would like the Minister to confirm that we are not supporting any change to that principle.

Two years ago, the Minister's predecessor, the noble Lord, Lord Young of Cookham, confirmed that the Government accepted that the principle of a level playing field, as set out in the original 1883 legislation, is "timeless". Is this still the Government's policy? Do they accept the conclusions of Southwark Crown Court, which tested election law on these issues, or do they seek to overturn the decision about what was found to be illegal? Depending on the Minister's response, I may wish to test the opinion of the House. I beg to move.

Lord Collins of Highbury (Lab): I do not have much to add to the noble Lord's contribution. We support his contention that this is an unnecessary clause. I agree that the principle is one that we should completely reaffirm, as the noble Lord, Lord Young of Cookham, did in a previous debate. We need the assurances from

the Minister. If he is unable to give the assurances that the noble Lord, Lord Rennard, seeks, we will support him if he decides to divide the House.

Lord True (Con): My Lords, as noble Lords will know, Clause 19 is there to clarify the law on benefits in kind and make it clear that candidates need to report only benefits in kind that they have actually used or which they or their election agent have directed, authorised or encouraged someone else to use on their behalf. We had some discussion on this in Committee, as the noble Lord acknowledges. This was already widely understood to be true, prior to the Supreme Court judgment in R v Mackinlay and others. The Supreme Court judgment has led to concerns that candidates and agents could be responsible for spending they had not consented to or were unaware of or not involved in. This is an unacceptable situation and risks a chilling effect on people willing to put themselves forward as candidates and agents.

The noble Lord has been so kind as to refer to the positive engagement we had and I thank him for his continued interest in and engagement on the topic. In response to some of the concerns he raised, including those raised again today, I am happy to provide clarity on the government position. The noble Lord, Lord Rennard, asked two specific questions and I can say to him that the Government are absolutely committed to the long-standing principle of a level playing field for general election campaigns, whether in campaigning being carried out at constituency level or nationally. The noble Lord referred to a statement made by my noble friend Lord Young of Cookham in 2019 when agreeing with the importance of the principle of a level playing field in relation to spending at elections. The Government maintain the commitment my noble friend gave; nothing in the Bill seeks to undermine that principle.

The proposals in the Bill will not change the fundamental principle that party spending in support of a particular candidate in a local area falls to be recorded as candidate spending against the local limit. Instead, the clauses bring forward changes seeking to maintain the level playing field by ensuring that all candidates and agents across the political spectrum are clear and confident in their legal responsibilities. Clause 19 also makes an equivalent amendment to the same rules for other types of campaigners, such as political parties and third-party campaigners, to ensure that the rules are consistent. We believe that these changes will bring much-needed reassurance and clarity to candidates and their agents on the rules which apply to notional expenditure for reserved elections. In combination with expanded statutory guidance—which we will discuss shortly—from the Electoral Commission on this matter provided for in Clause 20, this measure will support compliance with the rules and ensure that those wishing to participate in public life can feel confident doing so, clear in their obligations.

The noble Lord, Lord Rennard, asked a further and very specific question. I can say to him that the Government are not acting in response to the judgment of Southwark Crown Court in 2019 in relation to campaigning in South Thanet in 2015. However, the Supreme Court's judgment in 2018 related specifically to the consideration of a particular point of law and concluded that there was no requirement for authorisation in Section 90(3) of the 2000 Act, which was contrary to the understanding of many and led to concerns about what expenses could potentially be incurred on a candidate's behalf even without their knowledge. As a result, there have been calls from across the political spectrum for clarification of those rules. A cross-party committee of MPs, PACAC and the Law Commission have called for clarity on the rules in recent reports. The changes enacted by the Bill will only clarify the law so that it can be commonly understood. As I said, any uncertainty could lead to a democratic chilling effect, with candidates and election agents, who are often volunteers and fearful of their personal circumstances, unwilling to expose themselves to risk.

Finally, it is important to note that Section 75 of the Representation of the People Act 1983 already prohibits "local" third-party spending over £700 which has not been "authorised in writing"; therefore, it requires specific authorisation. Where such spending is authorised by a candidate, the candidate must also report on the spending incurred by the third party. If a third party, which could include a political party, spends over that threshold without authorisation, an offence has been committed. The Elections Bill does not alter this. Where a third party, including a political party, has provided property, goods and services free of charge or at a discount, or has made use of property, this must be recorded as a notional expense.

I can assure the noble Lord on those points that we are absolutely committed to the assurance my noble friend gave and that we are not acting in response to the judgment of Southwark Crown Court in 2019 in relation to 2015 and the issues of uncertainty that have arisen. Therefore, I hope that the noble Lord will accept those assurances and be ready to withdraw his amendment that would remove this clause from the Bill.

Lord Rennard (LD): My Lords, I am grateful to the Minister for those warm words and his reassurance, and for his engagement and that of his officials on this important issue of election law. We have certainly made great progress on the issue since we began discussing what may happen in relation to notional expenditure and the original Private Member's Bill, but I take from everything that he says, when he refers to clarification following the Supreme Court judgment, that any court in future would say that nothing in this clause should be taken as a change in the law.

I remain unconvinced that it is necessary but I am pleased that the Minister, in his correspondence, particularly that to all Members of the House on 4 April—if I may paraphrase slightly what he said—made it clear that there is no get out of jail free card for a candidate or agent who encourages excessive spending in a constituency and simply relies on the claim not to have authorised it. The word "encouraging" is quite significant in how that may be taken in a court in future should there be controversy over election expenses. It means that there cannot be a nod and a wink to expenditure in the cause of winning a constituency without accepting that such expenditure must be specifically authorised, to a £700 limit, for a third party. An election agent who told their HQ that they

[Lord Rennard]
were delivering a leaflet with the local volunteers over the weekend so it would be convenient if two coachloads of paid activists could come on Wednesday and Thursday would certainly be encouraging illegal spending, as would providing them with maps and assisting them with their dining and hotel arrangements when they came to canvass or deliver in the constituency.

In my view, it remains a loophole that we must examine at another time that parties can post huge quantities of direct mail to a constituency aimed at influencing the vote there but claim that it is nothing to do with the local candidate. However, given that the Electoral Commission should retain its independence to advise on such matters, and that such advice could again be evidence in court, I beg leave to withdraw the amendment.

Amendment 48 withdrawn.

Clause 20: Codes of practice on expenses

Amendment 49

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

49: Clause 20, page 31, line 20, leave out "or paragraph 3(7) of Schedule 8A"

Member's explanatory statement

This amendment, which leaves out the reference to an order under paragraph 3(7) of Schedule 8A to the Political Parties, Elections and Referendums Act 2000 (in the inserted paragraph (aa) for section 156(3) of that Act), is consequential on the new Clause that Lord Hodgson is seeking to insert after Clause 27.

Lord Hodgson of Astley Abbotts (Con): My Lords, I shall also speak to Amendments 54 and 56. Amendments 49 and 54 are paving amendments, and the bulk of what I want to say relates to Amendment 56.

The role of a Back-Bencher moving amendments is to spend a great deal of one's time pushing on doors that are firmly shut and remain so. But every now and then a door opens and one staggers into the room off-balance with surprise, and so it is today. It is therefore right that I should begin by thanking the Minister and the Bill team for the way they have responded to Amendment 54, which I tabled in Committee and has now expanded to this group of amendments. I also thank the noble Lord, Lord Blunkett, who is not in his place, for again putting his name to an amendment in this revised group.

I do not intend to repeat my remarks except to say that the amendment is intended to address head-on the so-called chilling effect on third-party campaigning resulting from the provisions of the 2014 Act. At the heart of that problem is what is known as the "intent test". The wording in the Act catches for regulatory purpose any activity that

"can reasonably be regarded as intended to promote or procure electoral success at any relevant election".

The decision on which actions or activities cross the line lies with the Electoral Commission. I make it clear that the commission has gone out of its way since the passage of the 2014 Act to reassure third-party campaigners about how it intends to implement these provisions, but we are here today scrutinising primary legislation and we want to future-proof it as far as possible. That includes future-proofing it from a future Electoral Commission that may adopt a less collaborative approach than the current one.

The answer is to introduce a series of statutory codes that have the following advantages: first, they require the Electoral Commission to undertake the intellectual heavy lifting needed to produce a code giving clarity and certainty to third-party campaigners; secondly, they give Parliament the opportunity to scrutinise and approve the initial codes and any revisions thereto; and, thirdly, they give third-party campaigners the knowledge that compliance with the code provides a statutory defence.

5.30 pm

Although the intent test is by some distance the most important aspect of third-party campaigning in need of a statutory code, other areas would usefully benefit from similar treatment. The amendment as drafted provides for that. The new amendment differs from the earlier one in only three ways. Two areas arise from the conventions of parliamentary drafting—that to identify specific issues or bodies risks diminishing the importance of others. So, the references in the earlier amendment to a code to define "the public" and to include civil society groups among those who have to be consulted are omitted. However, I hope that my noble friend the Minister will shortly be able to say on the Floor of the House that those omissions do not reflect any diminution in their relevance or importance. The only other change in drafting is to deal with the particular position of the devolved Administrations.

I end by thanking all those who have thrown their weight behind making these changes and, last but not least, my noble friend the Minister and the Bill team. I beg to move.

Lord Collins of Highbury (Lab): My Lords, I rise briefly to welcome and support the noble Lord. Throughout the stages of the Bill, I have repeatedly welcomed some of his contributions, particularly in relation to third-party campaigning and creating the certainty and clarity that they need to ensure that the chilling effect does not have a huge impact on our democracy. I very much welcome this, and I welcome the principle that the code of practice provides that necessary parliamentary scrutiny. We welcome these amendments.

Lord True (Con): My Lords, one of the charming aspects of your Lordships' House is that when a Minister is being chided for not listening to the House it is rammed to the gills but when the Government make a concession there are not quite so many here. None the less, I thank not only my noble friend Lord Hodgson but colleagues in other parts of the House who have made this case, including the noble Lord, Lord Blunkett, who is not in his place for perfectly understandable reasons.

The amendment would create a new clause in the Bill which would remove a permissive power that allowed the Electoral Commission to prepare a code of practice, and instead, as your Lordships have asked, replace it with a requirement on the Electoral Commission to produce such a code of conduct. It also specifies the

scope of the code, sets out the consultation process and procedure for the code, and creates a defence for third parties who are charged with offences under Part 6 of PPERA. It also makes the necessary consequential amendments to Clauses 20 and 25.

As my noble friend kindly acknowledged, in Committee I promised to consider his suggestions on a code of practice for third-party campaigners. He made his arguments in good faith, on the basis of great experience and genuinely reflecting the opinions of the sector. As he acknowledged, my officials and I have since met him and concluded that these changes are necessary and important for third-party campaigners.

The new statutory guidance—I do not know whether it will come to be called "the Hodgson guidance"—will provide certainty for third-party campaigners on how to comply with the rules relating to third-party campaigning. The amendment provides for the guidance to be comprehensive, and I say to my noble friend that it is our hope that this will address the term "the public" used in Part 1 of Schedule 8A on qualifying expenses.

The amendment requires the commission to consult the Speaker's Committee on the Electoral Commission and the Levelling Up, Housing and Communities Committee, as in our earlier proposals on the strategy document. It also requires the commission to consult such other persons as the commission considers appropriate. As part of the statutory consultation, the Government would certainly expect a cross-section of civil society groups to be consulted; I can give my noble friend that assurance.

I am pleased to confirm that the Government are fully supportive of these three amendments, and I very much hope that your Lordships will support my noble friend.

Amendment 49 agreed.

Clause 21: Authorised persons not required to pay expenses through election agent

Amendment 50

Moved by ***Lord True***

50: Clause 21, page 31, line 30, leave out "a local government election in Wales" and insert "an election in Wales under the local government Act"

Member's explanatory statement

See the amendment in Lord True's name at page 10, line 33.

Amendment 50 agreed.

Clause 22: Declaration of assets and liabilities to be provided on application for registration

Amendment 51

Moved by ***Baroness Noakes***

51: Clause 22, page 32, line 14, leave out "party's assets/liabilities figure does not exceed £500" and insert "assets/liabilities condition is met in relation to the party"

Member's explanatory statement

The amendments to Clause 22 in the name of Baroness Noakes ensure that the reporting threshold for section 28(3D) of the Political Parties, Elections and Referendums Act 2000 (declaration of assets and liabilities to be provided on application for registration) is expressed in terms that are consistent with accounting practice.

Baroness Noakes (Con): My Lords, in moving Amendment 51 I will also speak to Amendments 52 and 53 in this group, and I can be brief. The amendments are technical and, I hope, non-contentious, especially as my noble friend Lord True has added his name to them.

In Committee, when we were debating what is now Clause 22, I asked the Minister about the wording of the new subsections (3B) and (3C) in Section 28 of PPERA. This exempts small parties from the new requirement to make a declaration of assets and liabilities when they register. The threshold has been set at £500, which is in line with the recommendations of the Electoral Commission, which recommended it be set by reference to assets or liabilities. The Bill added another reference point: assets plus liabilities. Being a very old-fashioned accountant, adding assets and liabilities together did not make any sense to me.

Since Committee, I have had very constructive exchanges with my noble friend the Minister and his officials, and the outcome of that is the three amendments in this group. In effect, the amendments say that the small-parties threshold is now expressed as £500 for either assets or liabilities. It does this by saying that a small political party has to meet an assets/liabilities condition, which is defined in proposed new subsection (3C), in Amendment 53, as being met only if both assets and liabilities do not exceed £500.

I am grateful to the Government for facilitating this small change to the Bill in the interests of good accounting practice. I beg to move.

Lord Khan of Burnley (Lab): My Lords, I welcome the amendments tabled by the noble Baroness, Lady Noakes, to highlight the importance that provisions relating to electoral law are consistent with accounting practice. I know that the noble Baroness speaks with great experience and expertise in this area, having served as the president of the Institute of Chartered Accountants in England and Wales, as well as holding various senior positions in the accounting and finance area.

Specifically, these amendments focus on the registration of parties and the declaration of assets in relation to this process. It is crucial that the individuals and groups participating in elections are fully transparent in their practices—a point which these Benches have consistently raised during debates on amendments in previous stages of the Bill.

I hope the Minister can provide assurances that PPERA and other legislation governing political activities are already consistent with accounting practice, but I would also appreciate if she could use this opportunity to provide a more general update on how the evolving governance of accountancy and reporting will relate to political finances.

Finally, the Minister will be aware that the Financial Reporting Council is preparing to transition to become the audit, reporting and governance authority. Can

[Lord Khan of Burnley]
she confirm whether the Government expect the new authority to play any role in overseeing finances relating to elections? I look forward to assurances from the Minister.

Baroness Scott of Bybrook (Con): My Lords, Amendments 51, 52 and 53 were tabled by my noble friend Lady Noakes, whom I thank for sharing her considerable expertise in and knowledge of this topic. Her constructive engagement with the Bill, particularly this clause, has been gratefully received in order to ensure that the law works effectively and as intended.

Asset declarations upon registration as a political party is an important matter. In answer to the question of the noble Baroness, Lady Hayman, in Committee, I say that this measure was recommended by the Electoral Commission in its 2013 and 2018 reports—*A Regulatory Review of the UK's Party and Election Finance Laws*, and *Digital Campaigning: Increasing Transparency for Voters*. This led to the Committee on Standards in Public Life making the very same recommendation in its 2021 report *Regulating Election Finance*.

Clause 22 introduces provisions that will require new political parties to declare whether they have assets or liabilities in excess of £500 when they register with the Electoral Commission as a political party. Those with assets or liabilities in excess of £500 will be required to give a record of them as part of their registration. This will provide an increased level of transparency regarding a political party's financial position at the point of registration. As part of the registration process, new political parties are not currently required to submit a declaration of the assets they own or liabilities they have. This information only becomes available in their first annual statement of accounts, published on the Electoral Commission's website, which may be up to 18 months after registration.

The central policy aim of Clause 22 is to ensure greater transparency regarding the financial situation of new political parties. It is my and the Government's view that my noble friend Lady Noakes's technical amendments make this clearer and easier to understand for political parties registering with the Electoral Commission. These amendments will remove the requirement to add together the assets and liabilities, therefore bringing this clause into line with the more standard accounting practices that my noble friend has shared with us. I will read *Hansard* tomorrow and make sure that the noble Lord has a written answer to the questions that he asked. Therefore, I am pleased to say that the Government support this amendment, and I urge the noble Lords to do so too.

Amendment 51 agreed.

Amendments 52 and 53

Moved by ***Baroness Noakes***

52: Clause 22, page 32, line 17, leave out "party's assets/liabilities figure exceeds £500" and insert "assets/liabilities condition is not met in relation to the party"

Member's explanatory statement

See the explanatory statement to the amendment in the name of Baroness Noakes at page 32, line 14.

53: Clause 22, page 32, leave out lines 19 to 25 and insert—

"(3C) The assets/liabilities condition is met in relation to a party if—

(a) the total value of the party's assets does not exceed £500, and

(b) the total amount of the party's liabilities does not exceed £500."

Member's explanatory statement

See the explanatory statement to the amendment in the name of Baroness Noakes at page 32, line 14.

Amendments 52 and 53 agreed.

Clause 25: Restriction on which third parties may incur controlled expenditure

Amendment 54

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

54: Clause 25, page 35, leave out lines 27 to 35

Member's explanatory statement

This amendment, to leave out subsection (6) of the inserted section 89A of the Political Parties, Elections and Referendums Act 2000, is consequential on the new Clause that Lord Hodgson is seeking to insert after Clause 27.

Amendment 54 agreed.

Clause 26: Third parties capable of giving notification for purposes of Part 6 of PPERA

Amendment 55

Moved by ***Lord True***

55: Clause 26, page 36, line 34, at end insert—

"(10) An order under subsection (9)(b) or (c) may be made only where the order gives effect to a recommendation of the Commission."

Member's explanatory statement

This amendment makes the power to remove or vary entries in the list of categories of third party that may be recognised for the purposes of Part 6 of the Political Parties, Elections and Referendums Act 2000 exercisable only on the recommendation of the Electoral Commission.

Lord True (Con): My Lords, Clause 26 allows the Secretary of State to lay legislation before Parliament to amend the list of eligible categories of third-party campaigners in PPERA 2000. As we discussed at earlier stages, this is necessary in instances where, for example, legitimate categories not currently on the list emerge in the future. Without it, they would be significantly restricted in their ability to campaign if they could not be added to the list quickly. We consider the power to remove and vary entries equally as necessary in ensuring that the list of categories remains accurate. Any order, regardless of whether it adds, varies or removes categories, will be subject to full parliamentary scrutiny by both Houses, via the affirmative resolution procedure.

However, the Government have listened carefully to, and taken note of, concerns raised by noble Lords during debates, by the Delegated Powers and Regulatory Reform Committee in its recent report and by representatives from civil society organisations in recent meetings. In recognition of the strength of feeling on

this issue, which I understand, I have therefore tabled an amendment that would mean that any order to remove or vary the description of a category of third-party campaigner can only—I emphasise "only"—be made where it gives effect to a recommendation of the Electoral Commission. This Electoral Commission lock will provide the necessary safeguard against any future Government potentially seeking to misuse this clause. I hope that noble Lords will recognise that the Government are earnestly seeking to reassure those concerned by this clause, and that they will support this amendment.

5.45 pm

I now turn to Amendment 57, tabled in my name, which seeks to remove Clause 28, on

"Joint campaigning by registered parties and third parties".

Again, I have very carefully considered concerns expressed in this House and the other place that this clause might have unintended consequences—they would have been unintended—which were feared to include consequences for the historic relationship between the Labour Party and some trade unions. I thank noble Lords on the Front Bench opposite for raising this topic and for their very constructive approach during our discussions. I also thank the Trade Union Congress and the Trade Union and Labour Party Liaison Organisation for their advocacy and engagement on this matter.

I have a deep respect for the historic relationship between political parties and trade unions—although, not wishing to spoil the atmosphere, I venture to remind noble Lords opposite that few Conservative Governments would ever have been elected without the votes and support of many trade unionists. However, the measures on joint campaigning in the Bill were not in any way designed to threaten that relationship or disproportionately impact any particular group. Despite my best efforts to reassure and accelerate the speech-making of the noble Lord, Lord Collins, there remained deep concerns about unintended consequences, and as such the Government have tabled this amendment seeking to remove this clause from the Bill.

I therefore urge noble Lords to support my amendments, and I beg to move Amendment 55.

Lord Collins of Highbury (Lab): My Lords, I will be very brief again. I accept that, in Committee, I went on at length about this issue, although I did not repeat that later on. I accept that the noble Lord has entered into some proper consultation with the TUC and TULO. I welcome those meetings, and I certainly welcome the letter he wrote to both Frances O'Grady and Mick Whelan. It was welcomed particularly in reference to Clause 26—not only the reassurance that this will come from the Electoral Commission, but that there will be proper parliamentary scrutiny. So I very much welcome the Minister's response and the fact that this House has been able to influence him in removing a clause from the Bill. I thank him very much.

Amendment 55 agreed.

Amendment 56

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

56: After Clause 27, insert the following new Clause—

"Code of practice on controls relating to third parties

(1) After section 100 of PPERA insert—

"Code of practice relating to controlled expenditure

100A Code of practice on controlled expenditure

(1) The Commission must prepare a code of practice about the operation of this Part in relation to a reserved regulated period.

(2) The code must in particular set out—

(a) guidance on the kinds of expenses which do, or do not, fall within Part 1 of Schedule 8A (qualifying expenses);

(b) guidance on determining whether the condition in section 85(2)(b) (promoting or procuring electoral success) is met in relation to expenditure;

(c) guidance on determining whether anything provided to or for the use of a third party falls to be dealt with in accordance with section 86 (notional controlled expenditure) or with section 95 and Schedule 11 (donations);

(d) examples of when expenditure falls to be dealt with in accordance with section 94(6) (expenditure of a third party in pursuance of an arrangement with one or more other third parties);

(e) guidance about the operation of sections 94D to 94H (targeted controlled expenditure).

(3) The Commission may from time to time revise the code.

(4) In exercising their functions under this Part, the Commission must have regard to the code.

(5) It is a defence for a third party charged with an offence under any provision of this Part, where the offence relates to expenditure incurred or treated as incurred by a third party during a reserved regulated period, to show—

(a) that the code, in the form for the time being issued under section 100B, was complied with by the third party in determining whether the expenditure is controlled expenditure for the purposes of this Part, and

(b) that the offence would not have been committed on the basis of the controlled expenditure as determined in accordance with the code.

(6) In this section, "reserved regulated period" means a period in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10 (regulated periods for parliamentary general elections or general elections to the Northern Ireland Assembly).

(7) Section 100B sets out consultation and procedural requirements relating to the code or any revised code.

100B Code of practice: consultation and procedural requirements

(1) The Commission must consult the following on a draft of a code under section 100A—

(a) the Speaker's Committee;

(b) the Levelling Up, Housing and Communities Committee;

(c) such other persons as the Commission consider appropriate.

(2) After the Commission have carried out the consultation required by subsection (1), they must—

(a) make whatever modifications to the draft code the Commission consider necessary in light of responses to the consultation, and

(b) submit the draft to the Secretary of State for approval by the Secretary of State.

(3) The Secretary of State may approve a draft code either without modifications or with such modifications as the Secretary of State may determine.

(4) Once the Secretary of State has approved a draft code, the Secretary of State must lay before each House of Parliament a copy of the draft, whether—

(a) in its original form, or

(b) in a form which incorporates any modifications determined under subsection (3).

(5) If the draft code incorporates any such modifications, the Secretary of State must at the same time lay before each House a statement of the Secretary of State's reasons for making them.

(6) If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State must take no further steps in relation to the draft code.

(7) Subsection (6) does not prevent a new draft code from being laid before Parliament.

(8) If no resolution of the kind mentioned in subsection (6) is made within the 40-day period—

(a) the Secretary of State must issue the code in the form of the draft laid before Parliament,

(b) the Commission must arrange for the code to be published in such manner as they consider appropriate, and

(c) the code comes into force on such day as the Secretary of State may by order appoint.

(9) References in this section (other than in subsection (1)) to a code or draft code include a revised code or draft revised code.

(10) In this section, "the 40-day period", in relation to a draft code, means—

(a) if the draft is laid before one House on a day later than the day on which it is laid before the other House, the period of 40 days beginning with the later of the two days, and

(b) in any other case, the period of 40 days beginning with the day on which the draft is laid before each House, no account being taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(11) If the name of the Levelling Up, Housing and Communities Committee is changed, the reference in subsection (1)(b) to that Committee is to be read (subject to subsection (12)) as a reference to the Committee by its new name.

(12) If the functions of the Levelling Up, Housing and Communities Committee at the passing of this Act with respect to electoral matters (or functions corresponding substantially to such matters) become functions of a different committee of the House of Commons, the reference in subsection (1)(b) to that Committee is to be read as a reference to the committee which for the time being has those functions."

(2) In section 156 of PPERA (orders and regulations), in subsection (3), before paragraph (a) insert—

"(za) an order under section 100B(8);".

(3) In Schedule 8A to PPERA (controlled expenditure: qualifying expenses), in paragraph 3, after sub-paragraph (10) insert—

"(11) This paragraph does not apply in relation to expenses incurred during a period in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10 (regulated periods for parliamentary general elections or general elections to the Northern Ireland Assembly) (see sections 100A and 100B as regards expenses incurred during such a period).""

Member's explanatory statement

This amendment would require the Electoral Commission to publish a code of practice on the operation of Part 6 of the Political Parties, Elections and Referendums Act 2000 (which deals with controlled expenditure of third parties). The code of practice would not apply for the purposes of elections to the Scottish Parliament or Senedd Cymru.

Amendment 56 agreed.

Clause 28: Joint campaigning by registered parties and third parties

Amendment 57

Moved by ***Lord True***

57: Clause 28, leave out Clause 28

Member's explanatory statement

This amendment would leave out Clause 28 (joint campaigning by registered parties and third parties).

Amendment 57 agreed.

Clause 40: Requirement to include information with electronic material

Amendment 58

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

58: Clause 40, page 50, line 33, 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 rise to move Amendment 58 and speak to Amendments 60, 61, 62 and 65. The amendments in my name in this group closely resemble those I tabled in Committee and that I spoke to comprehensively then. They all relate to digital election campaign content, and I will not repeat the arguments I made for them at any length today. I am grateful to the noble Lords, Lord True and Lord Parkinson, the Bill team and officials from DCMS and DLUHC for meeting with me after Committee, and for what could perhaps be called a moderately enlightening discussion.

Through these amendments, I have been pursuing four aspects of digital campaigning. First, clear guidance on digital imprints is represented by Amendment 58. I have been assured that the Scottish provisions in law—and hence their guidance—are not nearly as prescriptive as those set out in the Bill. I hope that the Minister will give his assurance that the current interpretation of the Bill means that statutory guidance from the Electoral Commission—when it comes forward—will require the imprint in almost every circumstance to be on the image or post, unlike in Scotland. It is really only on platforms such as Twitter, where there is a character limit, that it can be considered not to be practicable to put the full imprint. In addition, I hope he will confirm there will be an expectation that the forwarding of posts will require either the full original imprint to be included or a new imprint to be placed on the material.

There will also, I understand, be rules put in place for when and how long material must be retained for inspection.

Secondly, banning foreign actors is sought by Amendment 61. The noble Baroness, Lady Scott, and the noble Lord, Lord True, prayed in aid the new £700 limit and the imprint requirements at our meeting at Committee stage, but neither of them addressed the loopholes which will still exist where multiple identities can be created. This is where both Ministers' statements were inadequate. The new amendment no longer covers British overseas electors, so I hope the Ministers come up with better assurances in this area. There is some consolation in the provision to review the operation of the Bill, but it is important at this stage—at this stage, not later—to take a view whether they are sufficiently watertight as regards foreign actors. This is an area where the Intelligence and Security Committee and the Committee on Standards in Public Life advocated much stronger controls.

Thirdly, Amendment 62 would require promoters to establish advert libraries for digital campaign adverts placed, while Amendment 60 would require detailed information about expenditure on digital campaign material. Here, the main government argument seems to be that the social media platforms that take political advertising—i.e. not Twitter—are keeping libraries already and are different in character, so it would be inappropriate to have a one-size-fits-all regulation. But at the same time, the noble Lord, Lord True, sought to assure me that several important recommendations of the Committee on Standards in Public Life and the Electoral Commission, including those relating to advert libraries and more detailed information on invoices, are still under consideration by the Government. Given the timing of the introduction of this Elections Bill, surely it is high time for the Government to have made a clear decision. What is the state of play here, in terms of a decision having been made on those recommendations?

The fourth area is that of misinformation and disinformation, starting with my Amendment 65 to criminalise false statements about election integrity, which is designed to see what direction the Government are planning to take. As I outlined in Committee, a whole host of Select Committees and the Committee on Standards in Public Life have made recommendations in this area. This has particular relevance in the context of the Ukraine invasion and Russian behaviour in the digital space for many years now. As former President Obama said in a recent interview with *The Atlantic* magazine,

"if you ask me what I'm most concerned about when I think back to towards the end of my presidency… that is the degree to which information, disinformation, misinformation was being weaponized. And we saw it. But I think I underestimated the degree to which democracies were as vulnerable to it as they were, including ours".

And the director of GCHQ, Sir Jeremy Fleming, made a strong point about values in his recent speech in Australia. As he said,

"we must make sure that we stay true to our values, those that have made our systems and democracies so successful and will do so in the future too".

A recent Ofcom study has revealed that 30% of UK adults who go online are unsure about or do not even consider the truthfulness of online information. A further 6%—around one in every 20 internet users—believe everything they see online.

There is, of course, crossover with the Online Safety Bill. I was grateful for the presence of the noble Lord, Lord Parkinson, at our meeting, where he gave some assurance about the operation of the Bill and the powers of Ofcom regarding the design features of social media platforms and the way that their algorithms amplify misinformation and disinformation; about the adoption of the Law Commission proposals for a new offence of false communication; and about the workings of the counter-disinformation unit together with the Defending Democracy programme and the so-called Election Cell—which I was assured was not as opaque as it seems.

I do not expect the Minister to promise amendments ahead of the Online Safety Bill coming to this House, but I hope he will demonstrate a strong awareness of the importance of this aspect of digital campaigning. We will obviously return to this subject when the OSB comes into this House later in the year.

All that said, it is clear that in many of these areas the guidance and review of an independent Electoral Commission is going to be critical together with parliamentary oversight. Responsibility for elections has now transferred to DLUHC from the Cabinet Office but it is no more acceptable for the Secretary of State for Levelling Up to set the policy and priorities for the Electoral Commission than it is for the Cabinet Office.

Given the risk of skewing our political system in favour of the incumbent Government, it is all the more important we hold fast when the issue which we determined in the first group today comes back to this House. I beg to move.

Lord Hodgson of Astley Abbotts (Con): My Lords, I have an amendment in this group—Amendment 59, previously tabled in Committee as Amendment 45B. The purpose of the amendment is very simple: it aims to increase transparency about third party campaigning by inserting this new clause, "Disclosure of status as a recognised third party".

It is not concerned with the question of the imprints on electronic or printed material, which are, essentially, transitory—they come and go—and which are the target of the amendments from the noble Lord, Lord Clement-Jones, to which the Minister will reply in a minute. It is much simpler than that. It focuses solely on the homepage or the website, if it has one, of a registered third party campaigning organisation. If the amendment were accepted, the homepage of that registered organisation would be required to carry a statement along the lines of "XYZ"—the name of the campaigning organisation—"is a registered third party campaigner under Part 6 of PPERA 2000", or similar wording.

The purpose behind the amendment is to ensure that individual members of the public viewing the website of a particular organisation are unequivocally, and at all times, made aware that the organisation is an active political campaigner. I have never suggested that this is going to bring about any radical change,

[Lord Hodgson of Astley Abbotts]
but by increasing transparency about who is doing what to whom, it follows the direction of travel that the Government have said underlies the Bill.

In his reply in Committee, my noble friend the Minister was rather encouraging when he said:

"On the specific amendment of my noble friend, while the Government entirely agree with the principle that the public should clearly be able to identify recognised third parties, I can reassure the noble Lord that the current rules, supplemented by new rules in the Bill, will provide for that."—[*Official Report*, 17/3/22; col. 477.]

He went on to say he wanted to go away to consider it further and asked whether I would withdraw my amendment, which I duly did.

At that point, my noble friend took the trouble to write to me. By this stage, I am afraid his remarks were rather less encouraging. He went on to say in his letter on 4 April:

"I … wanted to reiterate the Government's position on your proposal to require registered third parties to disclose their registered status on a prominent place on their website, where they have a website … The Government entirely agrees it is right that third-party groups campaigning at elections should be transparent and clearly identifiable. Registered third party campaigners are already … listed on the Electoral Commission's website, and the Elections Bill will introduce further requirements to ensure that any UK-based group spending over £10,000 registers with the regulator."

If noble Lords read and consider that carefully, the outcome is quite different from that which would be achieved if my amendment were implemented. Yes, there will be rules about imprints on digital material, which might be strengthened by the amendments of the noble Lord, Lord Clement-Jones, if they were accepted, but unless a member of the public is visiting the organisation's website because he or she has just received some imprinted material with a digital imprint on it, there will be no way of knowing whether or not the organisation in question is a registered third-party campaigner.

6 pm

Yet we know that most people's first contact with an organisation is via a website; indeed, my noble friend said as much in his reply to this debate in Committee. In these circumstances, the only way for a member of the general public to find out whether an organisation is a registered third-party campaigner will be to visit and search the list on the Electoral Commission website. The idea that people will do this is fanciful, because the default option for the casual inquirer is that the organisation would not be registered—why would they think otherwise?

The experts, with an interest in these electoral matters, will of course know about this and will search appropriately, but it is not the cognoscenti that we are trying to protect; it is the ordinary man or woman in the street. One sentence—just one sentence—on the organisation's home page will solve the problem. Those who are concerned can then go on to the Electoral Commission website and search for more details. Those who are not interested can just carry on anyway. It does not result in a big administrative burden; it is not a big ask; it will help inform the general public about third-party campaigning, and I therefore hope that the Government will see the value and purpose of Amendment 59, which goes with the flow of the Bill.

Lord Collins of Highbury (Lab): My Lords, we had a lengthy debate on this in Committee and I accepted what the noble Baroness the Minister said at the time, that actually the requirements in the current law will be strong enough to ensure that the principle that we all want—greater transparency—will be applied. Certainly, I accepted that and understood it, because I think we all shared the concern that "reasonably practicable to comply" could be a huge loophole and she assured us that that would not be the case. We also discussed in Committee the fact that the industry itself, the online industry, had produced the means to ensure greater transparency. I made reference to the Adobe briefing, which I think is really important. I think we are all at one in terms of what is required.

On the amendment of the noble Lord, Lord Hodgson, I agree with him completely that it is again providing the means to ensure greater transparency. Certainly, from these Benches, we support his amendment and if he decides to divide the House, we will support him.

Lord True (Con): My Lords, the Elections Bill, let us not forget, will introduce one of the most comprehensive digital imprint regimes operating in the world today and I submit to your Lordships that whatever shortcomings they may feel, or however much further they want to o'erleap the ambitions of the Government, these proposals are about increasing transparency for voters and empowering them to make informed decisions about the material they see online. As the noble Lord, Lord Collins, said, there is much agreement on that point, but we cannot, I fear, support Amendments 58, 60 and 62 in the name of the noble Lord, Lord Clement-Jones, because they do not, in our submission, strike the right balance between increasing transparency and proportionate regulation of campaigning, while Amendments 61 and 65 would be highly difficult to enforce and would risk unduly stifling online campaigning and free speech, although I concede to the noble Lord that this matter will be further debated in the Online Safety Bill.

Regarding Amendment 58, it will not always be practical to display the imprint as part of the digital material itself; for example, as noble Lords have said, in a text-based tweet, where there is a strict character limit. This amendment would not give campaigners the limited, yet crucial, level of flexibility afforded by the Government's regime and would thus risk unreasonably hampering their ability to campaign on some digital platforms. The above reflects the carefully considered and pragmatic approach we have sought to adopt. I know the noble Lord's concerns; I appreciated the discussion we had and I understood where he was coming from. The perceived permissiveness of the guidance surrounding the Scottish digital imprints regime, in so far as it created a perceived loophole, was worrying him. I am pleased to confirm on the record here, as I said privately, that our regime will not operate in the same way.

The digital imprint regime that applies at elections in Scotland does not specify requirements regarding the location of the imprint, which is why the Electoral Commission's guidance in Scotland was not prescriptive in this respect. However, our new regime does provide the necessary specifics on the rules regarding the location

of the imprint. Campaigners will be required to ensure that their imprints are displayed as part of the material. Only when this is not reasonably practicable—this touches on my noble friend's amendment—may the imprint be located elsewhere, but it must still be directly accessible from the campaigning material. Those who do not comply will be committing an offence. Furthermore, the statutory guidance we are proposing as part of our regime will provide practical directions to campaigners on how to follow the rules, including regarding the location of the imprint. This guidance will be subject to parliamentary approval, meaning that parliamentarians will be able to ensure that it provides sufficient clarity for campaigners to comply with the rules. I hope the noble Lord will be reassured by those points.

On Amendment 60, candidates and registered campaigners already have to detail their election spending in their returns and provide invoices for payments over a certain amount, including in relation to digital campaigning. These are then made available for public scrutiny. The Government have explained that this requirement on campaigners to submit more detailed invoices or receipts about digital activity would need to be looked at carefully, as the detail provided is determined by the suppliers themselves, not the recipient. It could therefore prove difficult and burdensome for campaigners to comply with these additional requirements.

Similarly, Amendment 62 would require all campaigners promoting paid political advertising, and not the online platforms, to maintain a library of those advertisements, with specified information, for at least 10 years. I understand where the noble Lord is coming from, but we have explained that in our view this risks adding an unreasonable burden on campaigners, particularly smaller groups that rely on volunteers, or groups that are established only for the lifetime of a particular campaign. It is also not clear that there is a sufficient case for regulation in relation to political advert libraries, given, as the noble Lord acknowledged, that major platforms such as Facebook, Google and YouTube already make available libraries of political advertising that they host.

My response to Amendment 61 will focus on paid-for political advertising, as defined by Clauses 41 and 42, rather than other electronic material, as defined by Clauses 43 and 44, given that other electronic material is relevant only to UK-based entities anyway, with the exception of registered overseas electors who have also registered as third-party campaigners. The Government agree with the principle that there should be strict limitations on ineligible entities overseas spending money campaigning during UK elections, including on digital advertising.

Clause 25 will already remove the scope for any legal spending by foreign or otherwise ineligible third-party campaigners above a £700 de minimis limit. This is a huge reduction, given that those same actors can currently spend up to £20,000 legally during the regulated period in England, or £10,000 in Scotland, Wales or Northern Ireland. Further to this, by requiring an imprint on all paid-for electronic campaigning material, regardless of where in the world it comes from, the digital imprint regime will already greatly improve transparency of political advertising from overseas actors. For any material that is published in breach of the imprint rules, the enforcement authorities are able to require the relevant social media platform to take down the material.

Strict controls on spending and clear transparency about origin are essential. But I cannot agree to a fast-considered and potentially disproportionate blanket ban on all political material from foreign actors within scope of the digital imprint regime. We would need again to examine carefully the implications and practicalities of enforcement and restrictions on freedom of speech to avoid any risk of unintended consequences.

I turn to Amendment 65. The Government remain concerned that this amendment includes no reference to intent and that the proposed new clause, as drafted, could criminalise unintentionally false statements. It could, therefore, be very broadly applied. It could also discourage people from raising any legitimate concerns for fear of a statement being considered false. This offence could potentially provide broad powers to clamp down on anyone who expresses genuine concerns about the process of an election. Overall, we believe that this clause could have unintended but potentially severe implications for freedom of speech.

I reassure the noble Lord that the Government take electoral disinformation and misinformation very seriously, but we believe that these are best addressed through non-legislative measures, such as the counter-disinformation unit to which the noble Lord referred and which was explained during our debate in Committee. Any regulation must be balanced with the need to protect freedom of expression and the legitimate public debate which is crucial to a thriving democracy.

The response on the face of the noble Lord, Lord Clement-Jones, is one of disappointment, but I thank him for his amendments. I hope that I have brought some clarity to the questions raised. I hope he feels able to withdraw Amendment 58, although I acknowledge that he will pursue certain matters on another Bill.

Finally, I turn to Amendment 59, tabled by my noble friend Lord Hodgson. The Government entirely agree that it is right that third-party groups campaigning at elections should be transparent and clearly identifiable. This is why the digital imprints regime will require recognised third-party campaigners to declare who they are when promoting relevant online campaigning material to the public, including but not limited to their websites. Where third-party campaigners use their websites to campaign, as defined by Clause 43, an imprint will be required. Promoters will be required to ensure that the imprint—or access to it—is retained as part of the material, if it is moved on. Where promoters comply with the digital imprint rules by adding an imprint in material displayed on their website, the imprint will be visible for as long as the material is available to the public online and remains in scope of the rules.

I know that my noble friend is not convinced that it is sufficient that third-party campaigners are already publicly listed on the Electoral Commission's website. We believe that the current rules, supplemented by the new digital imprint rules, will provide increased transparency and identify recognised third parties. There are specific problems about the construction of this amendment, which I have discussed with my noble

[LORD TRUE]
friend. As currently drafted, the amendment would create a new offence but does not specify a penalty for its commission or any statutory defences against the charge. Further, and I am sure this is entirely inadvertent, the amendment is drafted such that any website owned and operated by a recognised third-party campaigner—for example, a large charity which might have many different websites—would be captured, even if it were unrelated to the campaigning activities for which the third party is registered. It could lead to a disproportionate application of criminal liability. These proposals would need further discussion with third-party campaigners and potential enforcement authorities. Digital regulation is a complex area. Few have thought about it more than either the noble Lord, Lord Clement-Jones, or my noble friend. But these digital imprint provisions were consulted on publicly—twice.

My noble friend is not entirely enamoured of the letter I wrote to him recently to assure him that the Government will continue to keep the transparency of digital campaigning under review. I underline this commitment. I assure my noble friend and the House that I will ask my officials to engage with the Electoral Commission to consider whether my noble friend's proposal could be included as best practice for third-party campaigners, which the House has agreed to secure, in the commission's guidance.

With these assurances, I hope that the noble Lord, Lord Clement-Jones, will feel reassured to some degree by the clarifications that I have been able to give and withdraw his amendment.

6.15 pm

Lord Clement-Jones (LD): My Lords, I thank the Minister for his response and for engaging rather more carefully with the arguments this time around than the noble Baroness, Lady Scott, did with her script in Committee. It was important to address some of these issues. The Minister's reply was disappointing but expected. He used the word "disappointing" as well.

For a moment, I thought that his speech on the amendment from the noble Lord, Lord Hodgson, was going to have a "not invented here" quality. Actually, it was a game of two halves. Suddenly, the clouds seemed to part slightly. I am sure that the noble Lord, Lord Hodgson, is used to being given assurances from the Front Bench. He will, no doubt, pursue them.

I thank the noble Lord, Lord Collins, for his remarks. Of course, transparency is the essence of what the principle within digital campaigning should be. The Minister's clarification on the imprint aspect was helpful. The position is different from that in Scotland. I hope that this will be followed up in the statutory guidance to which he referred.

I am disappointed that the Government seem to be torn between saying that the other transparency provisions for advert libraries and invoices are disproportionate yet, at the same time, they are still considering the proposals from the Electoral Commission and the Committee on Standards in Public Life. They are taking an awfully long time to consider these aspects. Obviously, we differ as to whether or not they would be an unreasonable burden on campaigners.

There is a clear difference between what the Minister and the Government seem to be saying about the practicalities of enforcing the strict limits on foreign expenditure and the concerns of the Intelligence and Security Committee. This is not the place to pursue either this or the aspect of electoral misinformation. I was trying to draw out the Minister's intentions about misinformation and disinformation. It was helpful to have some indication that the Government see the Online Safety Bill as a way of dealing with some of the systemic aspects of misinformation on social media platforms. We will return to this when the Online Safety Bill comes before us in the autumn. I beg leave to withdraw my amendment.

Amendment 58 withdrawn.

Amendment 59

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

59: After Clause 46, insert the following new Clause—

"Disclosure of status as a recognised third party

(1) Section 89 of PPERA (Register of notifications for purposes of section 88) is amended as follows.

(2) At end of heading insert "and third party disclosure of registered status".

(3) After subsection (4) insert—

"(5) During a period in which a notification under section 88 is in effect and the Commission has entered details of the notification on the register in accordance with this section, a third party shall disclose its status as a recognised third party in a prominent place on the homepage of its website.

(6) For the purposes of subsection (5), a reference to a third party's "website" means any part of a website relating to that third party which that third party has caused or authorised to appear.

(7) Subsection (5) shall not apply where a third party does not have a website within the meaning of subsection (6).

(8) A person commits an offence if, without reasonable excuse, they contravene subsection (5).""

Member's explanatory statement

This amendment requires registered non-party campaigners to disclose their status as such on a prominent place on their websites, so as to increase transparency for the public.

Lord Hodgson of Astley Abbotts (Con): My Lords, like the noble Lord, Lord Clement-Jones, I am disappointed by my noble friend's response. His support in principle has been lost in a series of technical issues. Instead of seeing how we could make this happen, he has fallen back on "penalty not specified" and "technical problems". This is a shame, bearing in mind that this is about transparency. Its purpose is simple. It does not impose any significant bureaucratic burden on anybody anywhere. He has given a fig leaf, a quarter of a loaf, a few slices of bread in his undertaking to make sure that the Electoral Commission is brought into play in looking at this whole problem. This is so that we do not have a situation where people could pop on and off the website: when they are issuing digital imprinted material they put their name on the website and when they are not doing so they take it away again so people cannot see whether they are campaigners or not.

I hope my noble friend will make sure the feet of the Electoral Commission are held to the fire on that. I am not about gesture Divisions so, with that assurance, I beg leave to withdraw Amendment 59.

The Deputy Speaker (Baroness Fookes) (Con): My Lords, it is not possible to withdraw at this point; I must technically put the question. No one has thereafter to vote for it if they do not wish to do so.

The question is open now, so the noble Lord may withdraw if he wishes.

Lord Hodgson of Astley Abbotts (Con): I beg leave to withdraw.

Amendment 59 withdrawn.

Amendments 60 to 62 not moved.

Amendment 63

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

63: After Clause 60, insert the following new Clause—

"Permissible donors

(1) Section 54 (permissible donors) of PPERA is amended as follows.

(2) In subsection (2)(a), after "register" insert "at the time at which the donation is made, but not an individual so registered as an overseas elector"."

Member's explanatory statement

This new Clause would prevent overseas electors donating to political parties in the UK.

Baroness Hayman of Ullock (Lab): My Lords, I thank the noble Lord, Lord Wallace of Saltaire, and the noble Baroness, Lady Bennett of Manor Castle, for their support. This amendment would prevent overseas electors donating to political parties in the UK. We had quite a debate about this in Committee so I will not go over all the points, but I want to talk about the reasons behind our concerns and to raise a few key things.

We are concerned that the change to remove the 15-year limit on registering overseas electors creates a loophole in donation law that would allow wealthy donors unlimited access to our democracy and the opportunity for unprecedentedly large donations. We do not believe that foreign donors should be allowed to financially influence our democratic processes; that right should be reserved for citizens who actually live in this country. The Electoral Commission recommended introducing new duties on parties to enhance due diligence and risk assessment of donations based on existing money laundering regulations, which would protect parties and build confidence among voters, so that sources of party funding would be thoroughly and properly scrutinised.

We are therefore disappointed that the Bill does nothing about this and does not bring in what is urgently needed—an effective regulatory and enforcement regime to ensure that foreign money and dark money cannot enter our political system through donations to political parties. We have tabled Amendment 63 to protect our democracy from this foreign money, which we know is already impacting our politics. Concerns about how our democracy is being influenced by malign foreign influences has been highlighted already in the Russia report. That was debated at length in Committee, so I will not go into that any further, but it provides a clear example and concern.

Our fear is that the Government have, potentially inadvertently, created a system vulnerable to overseas interference. It allows a person to call up any or every local authority to say they were resident in the area 30 or 40 years ago with pretty flimsy proof and then be able to be registered and donate enormous sums of money. That is our key concern. When this was debated in Committee, the Minister said that if you have the right to vote, you should have the right to donate. Although I understand entirely the principle behind this, it does not address our very real concerns. If I am not satisfied by the Minister's response that there is genuine recognition of this concern and that action will be taken by the Government to stop this potential foreign influence on our elections and political parties, I will wish to divide the House.

Lord Wallace of Saltaire (LD): My Lords, my name is on Amendment 63. I strongly support it and I trust the House will give it its support. The absence of any detail from the Government on how they will implement the idea of overseas votes for life is quite remarkable. There is nothing on how they would check the bona fides of expatriates claiming to be citizens and to have lived in particular UK constituencies, perhaps half a century ago, in contrast to the proposals to tighten domestic identity checks. There is nothing on new measures for getting ballots out to these new voters and returning them in the span of our short campaigns. From the hundreds of messages I have had from expatriate voters, that is one of the issues about which they are most concerned: how difficult it is to get the ballots out or get them back. There is nothing on the current distribution of overseas voters in constituencies or how the expansion might affect the current balance of our constituencies in terms of size and the equalisation of the numbers of voters in each. The Government do not know what the current distribution of voters by constituency is—at least, the Minister did not when I submitted the Written Question to him—or how overseas voters are distributed by overseas countries or how many would be likely to register.

In these circumstances, one has to conclude that the Government's main objective in extending expatriate votes for life is to tap wealthy donors who long ago moved abroad to avoid paying UK tax to increase the structural advantages from which the Conservatives already benefit in funding electoral campaigns. All the amendments in this group address the huge question of how to maintain a level playing field in the financing of political campaigns. This is one of the many issues on which the Bill falls short. Noble Lords will recall that the Committee on Standards in Public Life published a substantial report on political finance last summer, just two days after the Government had published the Elections Bill. The Government have made no effort since then to incorporate its proposals into the Bill, in spite of introducing a number of other significant amendments.

[Lord Wallace of Saltaire]

We all recognise that uncontrolled flows of money into political campaigns can unbalance and corrupt democratic politics. We see the extent to which American politics has become the plaything of the super-rich. Noble Lords may have noted that in the last three months of 2019, in the run-up to our last general election, two-thirds of the money reported by the Electoral Commission to have been contributed to UK parties flowed to the Conservatives. Quite possibly, as much again flowed to the think tanks of the right, including from non-UK citizens in the USA and non-democratic states. We are drifting closer to the American situation, with the difference that only one of our major parties has easy access to large-scale donors.

As other amendments in this group suggest, we need a broader review of political funding than the Bill permits. Amendment 63 thus offers a stop-gap measure. Those who have moved to Monaco, the Channel Islands, the Isle of Man or Caribbean tax havens to avoid paying UK tax should not be permitted to bias our domestic politics by funding political campaigns. Yes, we should allow them to vote as citizens. But we have learned from flows of money from Russia and right-wing foundations in the USA that the buying of influence over British politics from overseas undermines the level playing field that democratic campaigns depend on and that I hope the Minister still supports. It also corrodes trust in the integrity of our democratic process. I regard Amendment 63 as an important stop-gap measure until, perhaps, a different Government tackle the question of political finance and its regulation. I hope the House will support it.

6.30 pm

Baroness Bennett of Manor Castle (GP): My Lords, it is a pleasure to follow the noble Baroness, Lady Hayman of Ullock, and the noble Lord, Lord Wallace. They have already very clearly outlined Amendment 63, to which I attached my name, so in the interests of time, I will comment just on Amendments 66 and 68 in my name. These are advances, derivations or different approaches that arose from the debate we had on these issues in Committee. As the noble Lord, Lord Wallace, just said, I would not necessarily suggest that these are the complete answer—although Amendment 68 certainly takes us in the direction that he referred to of reviewing our current situation—but they are an attempt to raise the issues and continue the debate from Committee.

I begin by noting—I owe this to the Forbes website—that a superyacht costs on average about $275 million. I cannot personally attest to that, but we can take it as a ballpark figure to start with; of course, there are probably quite a few going second hand at the moment, which might make them a bit cheaper. This is a demonstration of the fact that, in our current economic system, with the corruption and extractivism, we have people in the world who have access to massive sums of money. Amendment 63 and most of the debate around this have focused very much on foreign influence. Indeed, the noble Lord, Lord Wallace, talked about bringing influence over our democratic politics. But what my Amendments 66 and 68 do is ask: why should any individual, wherever they reside, have that kind of influence over our democratic politics?

If we look at what a typical political party—one of the two largest parties, or perhaps particularly the party that draws the most funds, as the noble Lord, Lord Wallace, said—spends on a general election, it is about 10% of the cost of a superyacht. It is not quite small change down the back of the sofa for the oligarchs, but it is not a really large amount of money. I asked in Committee what would happen if one of our existing political parties or a new political party drew all its funding from one source—one highly questionable source or any source at all. For example, we have just had the French election, and the far-right candidate, Marine Le Pen, who got more than 40% of the vote, got a very large loan from a Hungarian bank linked to President Putin. If noble Lords want to see how this plays out in Australian politics, they might like to look at the role of Clive Palmer in the election going on now, since I raised that issue in Committee.

This amendment developed from the Committee work. Of course, we do not have exact parallels to the two examples I have just cited in the UK, although I note, looking back over the past decade or so, that in the run-up to the 2010 election, Lord Ashcroft donated about 20% of the money that the Conservative Party spent in preparing for and running that election campaign. In 2021, the Conservative mayoral candidate, Shaun Bailey, received about 40% of his funding from the same source. I am not in any way casting aspersions on those cases; I am merely asking what happens to our politics when one person is hugely influential and a party is dependent on that one person.

Amendment 66 is an attempt to say that there should be a limit on how much one person can influence a political party. I came up with the figure of 5%, which I think is a reasonable estimate. This was debated at some length with the noble Earl, Lord Howe, who is not in his place today. He said that he would go away and think about whether one person should be able to donate 100% of the cost of an election campaign for a party or major character. I give notice to the Minister that I raise that question again. The noble Earl said he would go away and reflect on what the maximum percentage should be; maybe the Government do not think my 5% figure is right, but do they really believe that 100% of the funding for a political party's campaign for a general election should be able to come from one source? Maybe they think it should be 50% or 25%. I give the Minister fair warning that if I do not get an answer to that, I will be bouncing back up again. I am sure that, if they engage with Amendment 66, the Government are likely to say that this might be drafted differently. I have attempted to address some of the main issues. I will not push this to a vote. I do not believe that I have necessarily found all the answers here, but there is a really important question that needs to be asked about whether we should limit anyone's, not just foreign residents', percentage of influence over our parties.

Some will say that we have rules about declaring donations and, providing they are followed—your Lordships' House did its best earlier to keep an independent Electoral Commission overseeing that—voters can use that information to influence their choice. However, even if it is all open and transparent, voters have many reasons to make the choices that they do. Elections do need to be funded, which is why

I have put down Amendment 68, which would require a 12-month consultation on public funding of political parties. This very much draws on the amendment the noble Lord, Lord Sikka, tabled in Committee and on which, unfortunately, due to the hour, we did not have time to have a full debate. None the less, the noble Lord put forward—as he has again in an amended form here—a proposal for how to do this and get state funding of political parties. We could have lots of debates about the nature of that and the way it should be done, so rather than do that, I have put down this amendment for a review.

I will stop there, but I remind the Minister that I will be asking him if he thinks that 100% of the funding for a campaign should be able to come from one source.

Lord Grocott (Lab): My Lords, I strongly support my noble friend's amendment, although I do not think it goes to the source of the problem. The source of the problem is the massive increase in the electorate contained within this Bill. We know from the impact assessment and I know from written replies I have had from the Minister that it increases the electoral roll of people living abroad—many of whom have lived abroad for decades—from around 1 million to 3.3 million, an increase of 2.3 million names. I remind the House that these will overwhelmingly be people who have lived abroad for more than 15 years—for many, 50 or 60 years—and who have no reasonable expectation of ever returning to this country. The Bill makes it easier for this registration to persist as, once on the register, names now remain for three years as opposed to one year previously, and you can get on the electoral roll by the process of attestation—in other words, providing you can get someone to attest that you lived at 22 Station Road 60 years ago, even though 22 Station Road has been demolished and you have not been back since, and that you are a bona fide former resident of the United Kingdom.

To me, that is wrong in principle, but I shall also apply it at a constituency level—the noble Lord, Lord Wallace, raised this and I can give him some of the answer. Under the present system, with the 15-year rule on residence that is allowed, in London and Westminster, 2.43% of voters at the last election were overseas voters. Let us assume that that increases by three, once these 2.3 million are added to the register. You could then have constituencies in the United Kingdom with 6,000 or 7,000 voters in an electorate of 73,000 who have no obvious connection whatsoever with the constituency in which they are voting. That, it seems to me, is wrong.

Whatever your view is, the absolute basis of our electoral system—which I cherish; I have to be controversial here by saying I am a powerful supporter of first past the post and single-member constituencies—is that representation, for a general election, is based on where you live. That is a very good basis for registration and voting, it seems to me. But, no, we are going to add 2.3 million people to the register who never lived in the country—not in recent memory.

In order to do this, the Government are spending some £15 million. I wish that they would show the same anxiety and commitment on making sure that people resident within the United Kingdom and not on the register at present were added instead of spending £15 million on getting people to vote in individual constituencies—possible decisively, affecting the result—who simply do not live in the area.

I am very sorry that this Bill has extended the period of residence from 15 years to life. I hope that the Minister can improve on his answer when I raised this before; he asked what on earth is the basis for objecting to supporting a 15-year rule, which says that—I quote him loosely—if you have been abroad for 15 years, you can vote in an election, but if you have been abroad for 15 years and a day, you cannot vote in an election. That really is a thin argument; he really can do better than that. That applies to any boundary—why do we say people can vote at 18 but not at 17 and 364 days? We can all find numerous examples of how people draw boundaries.

The problem of overseas voting—and here I find myself agreeing with the Green Party, which I do not on every occasion—is that with the possibility of this initial problem, which is that you can vote however long you have been away from the country, you can also now provide funds for parties. It means, as has already been said, that, in theory, a party could be almost entirely financed by people living abroad with no intention of returning to the United Kingdom or of living with the consequences of their vote. That is the other crucial element in our democracy: you live to see the consequences of your vote. People who voted Conservative—I hope a lot of them vote Labour at the next election—bear some responsibility for what is happening in the country at the moment. It is not the same responsibility as the Minister, of course, but they have some responsibility. Of course, if you live abroad, vote from abroad, remain abroad and intend to remain abroad, then you do not live with the consequences of your vote.

I very much regret that, somehow or other, this massive extension of the franchise is in this Bill, without any compensating extension of the franchise for people in this country who are not on the electoral roll. I have seen no sensible, adequate defence of it so far. I am sure that the Minister will do his best, which he is bound to do, but we have made a step in our democracy that violates the principle of representation by place of residence and adds the problem of enabling parties to be massively financed by people living and working permanently abroad.

Lord Sikka (Lab): My Lords, it is a great pleasure to follow the noble Lords who have already spoken. I will speak briefly about Amendment 67. This amendment would require the Secretary of State to establish an independent committee to report on the creation of what I call a foundation for democracy, whose sole aim is to prevent the rich and corporations from directly funding political parties and hijacking the political system. Private money in our political system is a cancer, and the issue has not really been adequately addressed by this Bill.

In 1863, US President Abraham Lincoln visualised democracy as a

"government of the people, by the people, for the people".

[Lord Sikka]

Some 160 years later, that remains elusive—we are light years away from it. Yes, people vote, but political power is increasingly concentrated in the hands of those who can fund political parties and get favour in return. Their preferences are prioritised.

6.45 pm

If we had a Government of the people and for the people, we would not have millions using food banks to make ends meet, even though they work full-time. We would not have 14.5 million people, including 4.3 million children, living below the poverty line. We would not have 3 million people suffering from malnutrition and undernutrition, of whom about 1.3 million are retirees. We would not have a situation where the poorest 10% of households pay 47.6% of their income in direct and indirect taxes, while the richest 10% pay only 33.5% of their income in direct and indirect taxes. None of this suggests that we have a Government of the people and for the people.

The phrase "political donations", which has been used throughout this debate, is a misnomer. Corporations and the rich do not make donations; they make an investment, and they want a return on that investment. That is usually in the form of poor laws and poor law enforcement. Does anyone know how many banks have been prosecuted for banking frauds? Why has the Lloyds bank fraud, going back to 2005, still not been investigated? Why is it that no accountancy firm that has sold unlawful tax avoidance schemes—that is what the judges have said—has yet been investigated and prosecuted? It is because we do not in fact have Governments that are closer to the masses. Party funders have the inside track to Ministers and policymakers. They get the private phone numbers of Prime Ministers and then, on the phone, Prime Ministers tell them, "Yes, we promise there will be no tax increase if you conduct business in the UK"—as Prime Minister Boris Johnson told Sir James Dyson.

Big accounting firms could not get into the public sector audit market because the Audit Commission did not think that they were up to the task. So they campaigned for the removal of the Audit Commission and contributed extensively to the Conservative Party. Hey presto—the Conservative Party decided to kill off the Audit Commission through the Local Audit and Accountability Act 2014. Big accounting firms are now raking in fees of more than £100 million a year from local authority audits. That is the investment that they made, and it paid off.

Private funding of political parties is destructive. Political parties are now addicted to corporate money for their election campaigns. Trade unions have had to join this kind of nuclear war as well, but of course they do not have sufficient resources to match those of corporations. Ministers and party leaders are more likely to have lunches, dinners and meetings with corporate grandees than with the victims of corporate abuses. I cannot recall a Minister meeting victims of banking frauds or those suffering the abuses of the insolvency industry. I am told that around £50,000 enables the wealthy to buy a seat at a party conference dinner table with senior members of the Cabinet and so that they can burn their ears and suggest what kind of favours they need. I cannot remember Ministers sharing dinner tables with homeless persons, a pensioner who is freezing to death or those queuing for food banks. They simply cannot afford to enter that kind of a bargain or that market. So we do not have a citizen-led democracy; its possibilities are increasingly stymied by political parties selling themselves to the highest bidder, regardless of the adverse consequences for the people. Urgent action is needed to build democracy and remove the corrosive effect of private money from politics.

Some would like to ban corporations and rich individuals from funding political parties altogether, but banning things becomes difficult. No doubt those who are addicted to funding the political parties would say it is a violation of their democratic right, or some right, to fund political parties. These people would always find ways of getting around the laws. We need to think of smarter ways of dealing with this.

My amendment advances an alternative approach. Under this, there would be absolutely no ban on political contributions: anyone from anywhere in the world would be able to donate money. However, no political party would directly receive a penny from these individuals. All the money would go directly to this foundation for democracy, which would be under the control of the Electoral Commission. Then, at regular intervals—it could be monthly—the foundation would allocate the money to political parties on the basis of a formula based upon their share of the vote in local, regional and national elections and party membership. So, if a party improves the quality of life for the people and therefore has higher membership or a higher share of the vote, it would get more resources. Parties like to compete on ideas, so this policy would say, "Go ahead: compete and persuade people to see what good you can do for them."

Many corporations have obviously got used to buying political influence, and they will not be happy about such a proposal. They may cease funding the political parties. If that is what they do, we will know that they were in it only so that they could get political advantages and that there was absolutely no other reason. Perhaps at that point, we may also begin to consider other alternatives, some of which have been mooted, such as capping political donations.

Lord Cormack (Con): Is the noble Lord not aware that Report is for short, sharp speeches, not this endless diatribe he is currently inflicting upon us?

Lord Sikka (Lab): I am very grateful to the noble Lord for his observation. I am sure that members of the public would be quite interested to note that when an alternative proposal is put forward, it is called a "diatribe". That kind of confinement of alternative, competing discourses to negative spaces does not do any good. But the message I want to get across is that there is a corrosive element at the heart of our democracy that can be dealt with only by ending the receipt of any private money by any political party.

Lord Rooker (Lab): My Lords, the purpose of Report is to report back on things that were inadequately dealt with in Committee. Amendment 69, which I am

speaking to, was inadequately dealt with in Committee. We had a debate and a very unsatisfactory answer, so I want to return to it—not at the same length as in Committee, but nevertheless in some detail that might make for uncomfortable listening for different parties in the House.

The idea is for risk assessment and due diligence policies to be used to control and look at procedures on political donations. What is the problem? Dirty money in the UK leaves parties exposed to malign influence, risks fostering dependence on the proceeds of crime and other dubious funds, and undermines the integrity of the electoral system. PPERA does not require UK political parties to run anti-money laundering checks on donors. In fact, there are no indications that parties do robust checks on the source of donations, nor that parties reject donations after such checks have been made. As the UK's anti-money laundering framework has been progressively tightened over the last decade—I pay tribute to the current Government on this issue, as I have done before—political parties' minimal checks have become an increasingly glaring anomaly. Examples from the media suggest that if parties check the source of donations at all, they are inadequate and fail to prevent the flow of tainted money into UK politics.

The Electoral Commission has argued since 2018 that risk management principles from anti-money laundering checks by businesses could apply to election finance. In July 2021, the Committee on Standards in Public Life recommended that parties have anti-money laundering style procedures to determine the true source of donations.

How would Amendment 69 address the problem? It would update PPERA to require parties to develop and publish reasonable and proportionate risk-based policies for identifying the true source of donations above £7,500—we are not looking at small donations here. Parties would need to have reasonable and proportionate risk assessment and due diligence controls and procedures in respect of those policies, as provided for in a statutory instrument. For any donation or an aggregate amount exceeding £7,500, parties would need to undertake enhanced due diligence checks, with a simplified process thereafter. Donors giving over £7,500 would need to declare whether their business is in a high-risk sector, which is defined in the amendment, and whether they have been under formal investigation or convicted of certain offences. Parties would need to include a statement of risk management in their annual accounts identifying that.

What have the parties done about due diligence checks on donations? The Committee on Standards in Public Life's report, *Regulating Election Finance*, identified broad support for exploring anti-money laundering style regulations from the Liberal Democrats, Labour and the Scottish National Party. Both Labour and the Liberal Democrats agreed that there was merit in exploring this style of regulations but that it would be important to think about how the process would work and the administrative workload involved. The Conservative Party told the Committee on Standards in Public Life that it thought that current regulations for donations were sufficient.

In their response to the Committee on Standards in Public Life's recommendation that parties should have procedures in place for the true source of donations, the Government said that

"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. We think the current rules are proportionate and achieve this balance."

When a version of Amendment 69 was debated in Committee—it was rather longer; it is still long but it has been tightened up a bit—the noble Earl, Lord Howe, said that

"all we can do is keep the rules under review. I am suggesting that in this particular area, the balance is about right."—[*Official Report*, 28/3/22; col. 1378.]

Let us look at the balance: due diligence checks would be a relatively low administrative workload. If due diligence checks had been required on donations above £7,500 in 2021, the Liberal Democrats would have conducted checks on just 11% of donors, or 72 donations out of 642; Labour on 25%, or 133 out of 536; the Greens on 29.2%, or 19 out of 65; and the SNP on 63%, or seven out of 11. This means that, at most, Labour would have had to do checks on one donation every 2.7 days over the course of a year, and the Liberal Democrats would have had to do one check every five days. Obviously, because some donations come from the same donor, it would probably be less frequent than that.

Now we come to the Conservatives; no wonder we get complaints from the Tory Benches about what is being said. I apologise to the noble Lord, Lord Cormack, but that was a very unfortunate intervention. The Conservatives would have checked 51.5% of donors—457 donations out of a total of 887 were of £7,500 or more. Of course, this reflects their greater resources, with donations of almost £19 million in 2021—around double what Labour received.

I have three examples of potentially suspect donations. I gave a lot more in Committee, and I stand by them all; they are all there on the record. All major political parties have accepted potentially suspect donations from individuals and companies that were under investigation or later found to be involved in economic crime. The media has reported on a catalogue of such donations, with Spotlight on Corruption providing most of the information. The Conservatives received £2 million in cash donations from Lycamobile, a company whose premises were raided by French authorities in 2016 on suspicion of money laundering, leading to the arrest of the company's directors. Despite evidence emerging in 2015 that Lycamobile employees were dropping off rucksacks full of cash at post offices across London, the party took a further £587,000 from the company until July 2017.

7 pm

Labour, of course, had its hands dirtied with the Hinduja brothers. A £1 million donation was made in 1998, at the same time as one of them was attempting to obtain a British passport. At the time the gift was accepted, the brothers were under investigation in India for paying commissions into Swiss bank accounts as part of alleged kickbacks in a major arms deal between India and Sweden, in the Bofors gun scandal.

[Lord Rooker]

The Liberal Democrats, of course, have a famous example, which goes back a long time—I am not sure whether there is a more recent one. In 2005, they accepted an infamous £2.4 million from the fraudster Michael Brown and declined to pay it back after it emerged that the money had been stolen. Mr Brown later said that he regretted the donation; he thought that the Liberal Democrats should not have accepted it.

Those are just three examples but the point is simple. There ought to be a requirement. The Committee on Standards in Public Life is where I rest my case, in a way; it has been absolutely clear about this. There is a strong case for requiring parties to make these checks. Businesses have to do it, and rightly so. The checks, as I have shown, are not onerous, with a £7,500 limit. I would not argue if the limit were £10,000, but I would not go beyond that. The fact is that it is not onerous on the parties. There is plenty of evidence that requires us to see that these checks take place, so that tainted, dirty money does not come into British politics. The Minister will have to have a much better answer than the noble Earl, Lord Howe, had; otherwise, I might push this.

Lord Butler of Brockwell (CB): My Lords, I have added my name to the amendment of the noble Lord, Lord Rooker, and I really need to add very little to what he has said. It is very difficult to see why there should be opposition to a requirement that political parties should have

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

The Government's answer to this, which the noble Earl, Lord Howe, gave in Committee, is that there has to be a balance. It is clear, however, that where the balance is now is not satisfactory, because, as the noble Lord, Lord Rooker, said, there have been a series of donations to all political parties that have been not to the credit of the parties, not good for their reputations and not good for the reputation for cleanliness of our politics.

As I understand the position, the Government have not ruled out acting on the recommendations of the Electoral Commission and the Committee on Standards in Public Life, but regard this as a complicated matter—perhaps it is—and need more time to work on it. If the noble Lord, Lord Rooker, seeks to test the opinion of the House, I will support him. I would be gratefully comforted, however, if not only the Minister but the spokespeople for the other political parties said tonight that they duly take this issue seriously and regard donations from foreign sources and people who want to influence our politics in an unhealthy way as a growing danger to our politics. If the spokespeople for the parties and the Government will say that they take this seriously, and the Government do not rule out acting on the recommendations of the Electoral Commission and the Committee on Standards in Public Life in due course, I will be very comforted.

Lord True (Con): My Lords, I was thinking that others would wish to intervene, but that does not appear to be the case.

These are important amendments, but I shall not encourage anyone to think that the Government will accept them. The context is a shared concern about dirty money, a phrase that the noble Lord, Lord Butler of Brockwell, used. I do not think any Government have been stronger in response to the Russian invasion, or in bearing down on oligarchs, than this Government. However, following our robust debate in Committee, I am pleased that we are again returning to this important issue of political donations. I do listen to contributions of noble Lords and these debates will certainly serve as a key reference point for the Government as they keep rules on political donations under review, to ensure that they continue to provide an effective safeguard that protects the integrity of our political system. In that context, the Bill bears down very heavily on foreign donations and makes them much harder.

Turing to the specific amendments tabled by the noble Baroness, Lady Hayman of Ullock, and the noble Lord, Lord Rennard, Amendment 63 would remove the rights of overseas electors to make political donations. Amendment 69B would place a £7,500 limit on any donation or series of donations from overseas electors. I fear that many will not be surprised when I reiterate that the Government cannot support these amendments, as we intend to uphold the long-standing principle, first introduced by the Committee on Standards in Public Life itself in 1998, that if you are eligible to vote for a party, you are also eligible to donate to that party. These amendments would overturn that principle by removing the right of overseas electors to donate. Overseas electors are British citizens who have the right to vote and, despite what the noble Lord, Lord Grocott, said, the Labour Party has acknowledged that for many years. They are reasonable participants in our democracy. Furthermore, due to the interaction of Amendment 69B and the existing legislation, there would be no provision for either the return of donations exceeding the £7,500 threshold or the reporting of such donations to the Electoral Commission. This leaves a significant gap, which means that the amendment would simply not have the intended impact.

The Government do not support the proposal of the noble Lord, Lord Sikka, to which I listened carefully. It was fair for him to set out his case because he wishes to establish an independent committee to report on the creation of a foundation for democracy. The concept here, however, which is where agreement falls away, is that he submits that this body should be responsible for collecting all donations made to registered political parties and mandatorily allocating them based on membership and vote share at certain elections. The Government can find no justification for this amendment and believe it would place unreasonable restrictions on an individual's freedom to donate to the political party of their choosing. It would go against the fundamental principle of allowing members of the public to get involved in our democracy by giving their support, be it at the ballot box, via a cup of coffee or via donations, to any party or parties that they choose.

Moreover, this proposal would risk disproportionately penalising smaller parties, which may not have such high levels of membership and vote share as the larger parties, but form an integral part of our democracy. Indeed, it is not clear to me how any new parties would emerge under the noble Lord's system, as they would not be able to fundraise for themselves and would therefore struggle to get their message out to the

public to encourage members to join and voters to support them in the future. The Government are therefore simply not convinced that there is a demand or evidence to support the noble Lord's radical idea; nor do we think it necessary to establish an independent committee to come to this conclusion. Should other parliamentarians share the noble Lord's view, the existing framework of parliamentary committees obviously provides an ideal place to consider the proposal further, so I urge the noble Lord not to press his amendment.

Next, I turn to Amendments 66 and 68, spoken to by the noble Baroness, Lady Bennett, and the noble Lord, Lord Sikka, which address a similar theme. Amendment 66 would seek to cap donations that any one individual or organisation can make to a political party to 5% of that party's maximum campaign expenditure limit at the preceding election. This cap would apply to all donors, whether individuals or organisations, such as trade unions for example. What effect would it have on a large trade union donation?

Amendment 68 would require the Government to publish a report on proposals to establish state funding of political parties and limitations on private donations. In essence, the noble Baroness and the noble Lord are seeking the Government's views on these two fundamental principles. I will underline our position.

First, fundraising is a legitimate part of the democratic process. Consequently, there is no cap on political donations to parties, candidates and other types of campaigner but, instead, strict limits on what they can spend on regulated campaign activity during elections. These maintain a level playing field in elections. In particular, the noble Baroness's amendment has the potential to create a very uneven and complicated playing field. Under the proposal, each political party will have different amounts it can fundraise, given that spending limits are calculated according to the number of constituencies it contests. New political parties in particular, again, would be affected and this change could encourage quite unnatural growth, whereby new parties are incentivised to contest seats they have no intention of winning to give them a more competitive funding limit in the next cycle. I will not be drawn on what percentage of a party's overall donation might be permitted because the Government simply do not accept that there should be such a percentage figure.

Secondly, there is absolutely no public support for expanding the level of public funding already available to political parties. The Government are not going to go down that road.

Finally, I wish to address Amendment 69, retabled by the noble Lord, Lord Rooker. This would introduce requirements, as he said, for registered parties to carry out risk assessments and due-diligence checks on donations. Only those with a legitimate interest in UK elections can make political donations and there are strict rules requiring companies making donations to be both incorporated and carrying out business in the UK. Parties must check that companies meet these criteria. It is also an offence to circumvent the rules through proxy donors—for example, an impermissible donor seeking to make a donation through a company that is itself a permissible donor. Political parties must already report all donations over a certain value to the Electoral Commission, which are then published online for public scrutiny.

The Government have heard the concerns that donors may seek to evade the rules and, in principle, the point of strengthening the system to provide greater levels of assurance on the sources of donations to ensure they are permissible and legitimate is important. Indeed, the Government recently published, ahead of introducing necessary legislation, the *Corporate Transparency and Register Reform* White Paper.

Reforms to Companies House will deliver more reliably accurate information on the companies register by introducing mandatory identity verification for people who manage or control companies and other UK-registered entities, providing greater powers for Companies House to query and challenge the information it receives, and introducing more effective investigation and enforcement powers for Companies House. This, in combination with a new power for the Companies House registrar proactively to pass on relevant information to law enforcement and other public and regulatory bodies, including the Electoral Commission, will indirectly support the enforcement of the rules on donations by providing greater confidence in the accuracy of the data held at Companies House, including when seeking information on UK-registered companies and other UK-registered entities that have made political donations.

The Government have not dismissed the fact that this is a significant area, which is why we are instituting these reforms to corporate transparency, but for the reasons I have outlined to the House on various amendments, I urge that noble Lords consider not pressing their amendments.

Baroness Bennett of Manor Castle (GP): Before the Minister sits down, may I confirm what he said? I wrote down his words: "The Government do not accept that there should be a percentage limit." On the percentage of contribution from one person or organisation to a political party's campaign, would the Minister confirm that the Government believe it appropriate for 100% of the funding for a political party's campaign to come from one source or organisation?

7.15 pm

Lord True (Con): My Lords, again, I think that is a false question. In our democracy an independent person is entitled to stand in a constituency, for a cause that he or she believes in, and may choose to fund that campaign. Nobody else may want to give any money. That would be an example of 100% funding of a campaign by a small campaign or individual. There are complexities here, and the fundamental position to stand on is that in free democracy, people should be able to make a contribution of whatever sort they choose, provided it is permissible and legal.

Baroness Hayman of Ullock (Lab): My Lords, it has been very clear from the debate we have just had and the other amendments that have been discussed, as well as my Amendment 63, that there are some really broad concerns about political donations, electoral finance and the procedures and systems that underpin

[Baroness Hayman of Ullock]
and manage this. I urge the Government to take away those concerns more broadly and consider how they may be addressed in the future.

In response to the noble Lord, Lord Butler of Brockwell, I thought I had made it really clear, both in Committee and in my opening remarks today, that we are very concerned about the potential for dirty money infiltrating and influencing our political system. If I was not clear, I am very happy to confirm that we do have those very deep concerns.

I thank the Minister for his very detailed response, but I disagree with him that the Bill makes it harder to make overseas donations. Instead, our concern is that part of removing the 15-year limit actually makes it easier for people from foreign locations to donate to our political system. We are concerned that often it allows very wealthy donors unlimited access to our democracy, through what we could see to be unprecedentedly large donations. That is our big concern with this and why we have put this amendment forward. To avoid that kind of outside influence in our democracy, the right to make those kinds of donations should be reserved for citizens actually living in this country.

As I say, I thank the Minister for his detailed response, but do not believe he has addressed the real concerns expressed by us and other Members who have taken part in the debate. Therefore, I wish to test the opinion of the House on my Amendment 63.

7.17 pm

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7.33 pm

Amendment 64

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

64: After Clause 60, 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, our Amendment 64 looks to bring in one of the recommendations that came from PACAC around the consolidation of electoral law. The Elections Bill makes substantial changes to electoral law, but it does not tackle something that has been fundamentally and widely recognised: the need to consolidate the existing voluminous and fragmented body of electoral law. Amendment 64 aims to address this.

PACAC has done a number of reports on electoral law. In 2019, *Electoral Law: The Urgent Need for Review* noted that even the most professional agents can worry about falling foul of electoral law and the complexity that it currently contains, and that this provides serious risks and difficulties for electoral administrators. PACAC has been recommending for some time now that the Government should look at prioritising non-controversial consolidation of electoral law that can command cross-party support. Much of this would have cross-party support because we all recognise that this needs sorting out. Once that consolidation has

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been achieved, the Government should proceed to evaluate the effectiveness of electoral law more generally to see where we could bring in further reforms to make it more straightforward for those involved in it to manage.

I am aware that the Government agree in principle that electoral law needs consolidation but at the moment consider that there are more immediate challenges outside of the structures, which presumably is what much of the basis of the Bill before us is looking at. We agree with PACAC that electoral law needs looking at. It needs consolidating and, in many areas, it needs simplifying. We have tabled this amendment to ask the Government to look very seriously at this recommendation and to take some action on it, if not now then as soon as is practically possible.

Baroness Jones of Moulsecoomb (GP): My Lords, I was delighted to sign this and could see from the Minister's face that he was thoroughly in agreement that it is a very good move. It is a constructive suggestion of something that desperately needs doing. We are rushing to pass legislation in this final week or fortnight of the parliamentary Session, but this is an early request to the Government to include an election law consolidation Bill in the coming Queen's Speech. It would be very practical and, as the noble Baroness, Lady Hayman of Ullock, said, it would have cross-party support, so it would be a rather nice note to start the new parliamentary term on.

A lot of the groundwork has been laid already. The Commons Public Administration and Constitutional Affairs Committee produced a report on this in 2019 and the Law Commission has done extensive work as well, which culminated in a 207-page report with 106 recommendations. That sounds a very practical document. The recommendations include consolidating and modernising our election law, which is currently spread across 55 Acts of Parliament and over 200 other pieces of legislation, most of which are derived from centuries-old rules and regulations.

Modern electoral rules would make the administration of elections more straightforward and more accessible to the public. Better democracy is better for everyone, as we have been saying all afternoon, but this will be particularly important for independent candidates and smaller parties, because at the moment they are navigating a minefield. There is always a risk of innocent mistakes.

I hope that the Minister will respond very positively to this and that we can look forward to supporting him wholeheartedly on a Bill in the next Session.

Lord Stunell (LD): My Lords, I support this amendment. It is about as modest as it could be without doing anything. It is saying that there should be a review over the next 12 months, at which point the Minister should publish a timetable for undertaking a wholesale review and consolidation of electoral law. A senior civil servant commissioned with producing an amendment which kicked something into the long grass could hardly have come up with something better, so I very much hope that the Minister can accept.

Picking up one point that the noble Baroness, Lady Hayman of Ullock, made, the core of this is the complexity of existing legislation. It is not even that it fits together like a neat jigsaw. It is several different jigsaws which must be made to fit together to produce certainty by those who are conducting elections or participating in elections.

I draw the Minister's attention to the fact that he has explained that what to some of us look like extremely threatening changes to the law proposed in the Bill have been described by him as simply clarification where things were uncertain or unclear or where people had come to different conflicting conclusions. That is the situation we are facing as far as all the legislation governing elections is concerned.

The noble Baroness, Lady Jones of Moulsecoomb, has already referred to the Law Commission's report. The work is there; it is ready. The Electoral Commission, in its briefing to noble Lords this week, talked about the complexity and difficulties for campaigners, candidates and their agents in finding their way through the current forest of legislation and the difficulties that electoral registration officers have in interpreting how each bit might apply in particular circumstances. The fact is that, as amended or not, the Bill is adding another layer—a different jigsaw—with overlapping patterns and places which will make it more confusing to get through.

I notice that the Minister several times said, "Don't forget that a lot of the people conducting elections are volunteers." He did not add that, in many cases and particularly for agents, they are not volunteers at all; they have to be press-ganged into doing a very difficult and challenging job. They surely deserve to have a simple playbook in front of them which incorporates all the legislation that they are expected to have regard to and to take account of.

Having said "have regard to", that was a key phrase in our earlier discussion. The difference between "consulting" and what the outcome of that might be and "having regard to" and what the outcome of that might be is central here. PACAC has produced a report which I would like the Minister to have regard to. CSPL has produced recommendations about consolidating electoral law, which I would like the Minister to have regard to. The Law Commission has produced a draft set of proposals, which I would like the Minister to have regard to. I do not want him to consult on all this; I want him to have regard to it and to get on with it.

In default of that, I strongly support Amendment 64, which gives him an escape hatch from confronting the issue I have put in front of him. All we are asking for is that, over the next 12 months, he draws up a timetable for undertaking a wholesale review and consolidation of electoral law. It could hardly be a lighter-touch amendment seeking to see this legislation consolidated as it should have been a long time ago. I hope that in the interests of clarification, which the Minister is so keen on, and in the interests of having regard to advice, he will proceed by accepting this amendment and taking a small step forward to improving the lot of agents and candidates across the country.

Viscount Stansgate (Lab): My Lords, I rise to support Amendment 64, so ably moved by my noble friend. It is an inoffensive amendment. The reason I rise is to say that I look forward to the Minister's reply, because in my bones I feel that the answer we are going to hear from the Dispatch Box opposite is that there is a reason why the Government cannot accept it. I look forward to hearing what that reason or reasons may be, because one would be hard put to object to anything so inoffensive; it does not even have a timetable. Nevertheless, I look forward to the Minister's reply.

Baroness Scott of Bybrook (Con): My Lords, the Government agree in principle that there is a strong case for the consolidation of electoral law, and we have noted the interest expressed in this Chamber and in the recent PACAC report. However, as previously noted in Committee, we must acknowledge that the process of consolidating electoral law will be a long-term project that will take significant consideration and policy development. It is not something to rush, and it is not something for which the Government should commit to firm deadlines in a timetable at this stage.

The changes brought forward by the Elections Bill are part of a large programme of work, which will include secondary legislation and practical implementation matters. As such, it is the Government's view that the implementation of this work should first be completed before work on the consolidation of electoral law can begin. For this reason, the Government cannot support this amendment.

7.45 pm

Baroness Hayman of Ullock (Lab): My Lords, I always do my very best to be inoffensive, so it is nice to know that my amendment has been appreciated. It is good to hear from the Minister that the Government in principle support what we are trying to achieve with it. This may take a long time and it may be complicated, but it will be very worth while in the end and I encourage the Government not to throw this away and to keep it as something to be done in the near future, if possible. In the meantime, I beg leave to withdraw my amendment.

Amendment 64 withdrawn.

Amendments 65 to 69 not moved.

Amendment 69A

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

69A: After Clause 60, insert the following new Clause—

"Non-resident donors

Within the period of 3 months beginning with the day on which this Act is passed, the Secretary of State must make an order under section 43 of the Political Parties and Elections Act 2009 so as to bring section 10 of that Act (non-resident donors etc) into force."

Member's explanatory statement

This amendment requires the Secretary of State to bring the provisions of section 10 of the Political Parties and Elections Act 2009, relating to non-resident donors, into force within 3 months of this Act being passed.

Baroness Hayman of Ullock: My Lords, this amendment was not tabled in Committee. This is the first time we have looked at it. It addresses recent concerns that have been raised around non-dom status and donations from non-doms. I thought it was important that this was acknowledged during our discussions on the Bill.

The Labour Party believes that non-dom status should be abolished. We have recently made that very clear. We believe that there should instead be a modern scheme for people who are genuinely living in the UK for short periods. We want to address the fact that we can have small group of high-income people who live in the UK and are able to access non-dom status. We do not believe that they should be able to continue to avoid paying UK tax on their overseas income for up to 15 years, as is currently possible with the system we have at the moment.

We believe we should look at the systems in other countries and put in place something similar that is suitable for our country. For example, Japan, France and Canada have much better systems in place, where genuinely temporary residents who are here for short periods would not pay tax on overseas income gains, but that would not be possible for those who are here much longer.

This would bring about a clear, simple system. If we look at what we are doing at the moment, the rules are around 200 years old. It also means that the domicile is passed down through people's fathers. It seems extraordinary that we still work by those laws. Surely it needs to be properly looked at and considered. I understand that HMRC has to use four complicated flow charts just to determine someone's domicile. We have been talking about simplifying electoral law; this is something else that clearly needs looking at and simplifying.

We think that a temporary tax regime for residents would work. It would provide some tax advantages, but only for short periods of time, unlike the way the system is at the moment. Fundamentally, we believe that if you make your home in Britain long-term, you should pay tax here on all your income.

We are also concerned that the current system prevents non-doms investing their foreign income in the UK, as bringing it here means that it then becomes liable for UK tax, so there is no advantage for them to do so. That means that non-doms who earn income in tax havens and other low-tax jurisdictions would face a large financial penalty if they attempted to bring that income here to the UK. We do not believe that this is good for business; we should be encouraging more investment in the UK through these wealthy people.

We are aware that the Government have a business investment relief scheme which is intended to fix this, but we do not believe that it is working properly. The latest figures show that less than 1% of non-doms invest their overseas income in the UK in any given year, and that cannot be good for UK business. In addition, if we made these changes, it would bring us into line with other major economies. The UK is one of the only large economies which has these arrangements. As I have said before, France and Canada, for example, have different regimes, as does Germany.

[Baroness Hayman of Ullock]

This issue needs serious consideration. The Government need to address it and the Elections Bill provides an opportunity to do so. I will be interested to hear what the Minister has to say in response. However, because this is such an important matter and it needs to be dealt with, if I do not hear from the Minister serious ways in which it can be addressed, I will consider testing the opinion of the House.

Lord Rennard (LD): My Lords, elections and donations are about choice. People who have non-dom status choose not to pay their tax here and, while they have this status, they live abroad for more than nine months of the year. The fundamental question raised by this amendment is: should they be able to donate the perhaps millions of pounds which they save in taxes by being non-doms to a political party, for example, which might want to preserve that beneficial tax status for them? In other words, we might connect the two principles of being able to give millions to a party and benefit by not paying millions which other people might consider are owed in taxes.

There are a number of occasions in our debates when we say that what we are doing is asking the other place to think again. However, we are not, on this principle, asking the other place or even this House to think again. The legislation which said that non-doms should not be able to donate to political parties was passed by both Houses in 2009. So we are not asking anyone to think again; we are simply asking for the legislation, passed with the approval of both Houses, to be implemented. Since 2010, various excuses have been put forward as to why this has been supposedly difficult or impractical, even though it was approved by Parliament. Essentially, the excuse provided is that the HMRC says, "Well, all tax issues are confidential, so you can't implement this". However, a form of declaration accompanying any donation, saying, "I am not a non-dom, so I am entitled to donate", might well suffice and fit the bill. If you were making a false declaration, that could be an offence.

However, I do not really accept the HMRC's argument—or rather, the Government's argument put forward on behalf of the HMRC. For example, when Parliament said that if you are a higher-rate taxpayer, you should not benefit from child benefit—which I think was a fair measure—you needed to sign a declaration to the HMRC saying, "Someone in this household pays a higher rate of tax, so I can't receive child benefit". Why, therefore, can you not sign a declaration saying, "Someone in this household is a non-dom and therefore cannot donate to a political party"?

This debate is really about some of the fundamental parts of the Bill. The extension of the right to vote beyond 15 years is not really going to extend voting rights for very many people. For the reasons I outlined at Second Reading and will not go through again, the postal vote system, needed by most people who vote overseas, is so slow that very few votes would count in a general election. However, through this Bill the ability to donate unlimited amounts of money is being extended to a lot of people, including non-doms. A little earlier today, when discussing a technical aspect of the Bill, the Minister kindly confirmed that the Government's position is very much to maintain a level playing field at local constituency level and nationally. However, I do not believe that this is happening. This extension of the right to vote is more about the right to donate, and should not be applied to non-doms.

In December 2020, the Government said that they wanted to increase the national expenditure limits for political parties in a general election "in line with inflation". In 2000, Parliament agreed that there should be a level playing field between the main parties in elections. The principle was very much that it had to be a level playing field, not that each of the parties should be able to spend up to £20 million. If we increase that £20 million limit, or thereabouts, by the rate of inflation since 2000, that is a 79% increase. Therefore, the national expenditure limit, if increased in line with inflation since 2000, would go up for the Conservative Party, for example, from almost £20 million to almost £36 million. Where is that extra £16 million going to come from? Much of it will come from overseas donors, many of whom are non-doms. I do not think that this appeals to the British sense of fair play, and it should not happen.

Lord True (Con): My Lords, I fear that I am not going to be able to allow the noble Baroness to remain in her seat for the rest of the evening. The Government cannot agree to these provisions, which seek to bring into practice a provision from the 2009 Act regarding donations from non-resident donors. Noble Lords will recall that in Committee, my noble friend Lord Howe replied to the approach of the noble Lord, Lord Rennard, on this same uncommenced provision.

The Government's position on the matter remains unchanged, but it is important briefly to place on record the reasons why. The Government have no current plans to bring into force the uncommenced provision, Section 10, regarding donations from non-resident donors. It would be extremely difficult to make the provision work, as the Electoral Commission warned in 2009 when the Bill was going through Parliament. The coalition Government, in which the noble Lord, Lord Rennard, was influential, did not implement it between 2010 and 2015. The fundamental issue is that it is not workable, given that an individual's tax status is subject legally to confidentiality. It would therefore be difficult or even impossible for the Electoral Commission, political parties, which would face fines for this, and other campaigners accurately to determine whether a donor met the test set out in Section 10.

I acknowledge that the Labour Party has come forward. I do not wish to get into a debate about the Labour Party's fiscal proposals—that is slightly outside the scope of the Bill—but I know that Sir Keir will send a thank you letter to the noble Baroness for having raised this issue. Our principle, basically, is that taxation is not the basis of enfranchisement in the UK. As a British citizen is able to vote in an election for a political party, they should be able to donate, subject to requirements for transparency in donations, which we have discussed. There is also a precedent whereby those who do not pay income tax rightly remain entitled to vote. A lot of low-paid people do not pay income tax, but they have a legitimate right to vote. I know that perceptions differ on this issue.

I remind the House that on two occasions, in 2009 and 2013, the Electoral Commission warned about the practical implications of the policy. For these reasons, and because of the duty of confidentiality in taxation, which would have to be overridden by other legislation, the Government cannot support the noble Baroness's amendment.

Baroness Hayman of Ullock (Lab): I thank the noble Lord, Lord Rennard, for his support and for his excellent speech. I thank the Minister for his response, although I am sure he will not be surprised to hear that it is not a response that I am particularly happy with or happy to accept. This issue has concerned a lot of people in recent weeks and months, and the Government need to take the position of non-dom status very seriously and look at it again. On that basis, I would like to test the opinion of the House.

8 pm

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8.15 pm

Amendment 69B not moved.

Amendment 69C

Moved by ***Lord True***

69C: Before Clause 61, insert the following new Clause—

"Review of operation of Act

(1) The Secretary of State must, within the review period—

(a) prepare a report on the operation of this Act,

(b) publish the report, and

(c) lay a copy of the report before Parliament.

(2) In subsection (1), "the review period" is the period—

(a) beginning with the fourth anniversary of the day on which this Act is passed, and

(b) ending with the fifth anniversary of that day."

Member's explanatory statement

This amendment requires the Secretary of State to prepare, publish and lay before Parliament a review of the operation of this legislation, not less than 4 and not more than 5 years after it receives Royal Assent.

Lord True (Con): My Lords, I shall speak also to Amendment 69D. I believe both amendments are significant to the House and I hope it will reflect on their importance, because I know there are aspects of the Bill that have concerned Members on all sides of the House. The amendment establishes a statutory duty for post-legislative scrutiny of the Bill, something that has been asked for, certainly by the noble Baroness opposite.

We had believed, and I maintain, that it is standard practice to conduct post-legislative scrutiny of Acts following Royal Assent, but we have listened to the strength of interest in guaranteeing that scrutiny takes place which will go across the Bill and we have tabled this amendment requiring the Secretary of State to prepare, publish and lay before Parliament a review of the operation of this legislation, not less than four and not more than five years after it receives Royal Assent—in other words, in good time. We judge that this amendment supports the commonly shared aim of this House, and answers the recommendation made by PACAC, that the impact of the measures be assessed following implementation of the Bill.

The amendment also sets out that a report by the Secretary of State will need to be set before Parliament to allow debate and scrutiny of the operation of the Act, as your Lordships have asked. Amendment 69D is a minor and technical amendment necessary to state the territorial extent of paragraphs 25 and 26 of Schedule 1. I hope the House will understand that I wish to place on record in *Hansard* that I think this is a significant proposal from the Government which will allow and ensure statutory consideration and examination of the Bill as a whole if it is given Royal Assent. I beg to move.

Baroness Hayman of Ullock (Lab): My Lords, in Committee I tabled Amendment 205 to ask the Government to include in the Bill a statutory commitment to post-legislative scrutiny of the Bill, as recommended by PACAC. I want to say very briefly how much I welcome the amendments that the Minister has just

introduced and to thank him very much for listening to my concerns and the concerns of other Members of this House about the lack of pre-legislative consultation or scrutiny. The fact that this has been included in the Bill is extremely welcome.

Amendment 69C agreed.

Clause 64: Extent

Amendment 69D

Moved by ***Lord True***

69D: Clause 64, page 67, line 18, after "24" insert ", 27"

Member's explanatory statement

This minor and technical amendment ensures that the territorial extent of amendments to Schedule 1 to the Representation of the People Act 1983 made by Schedule 1 to the Bill is correctly stated.

Amendment 69D agreed.

Amendment 70 not moved.

Clause 65: Commencement

Amendment 71

Moved by ***Lord Stunell***

71: Clause 65, page 68, line 17, at end insert—

"(3A) Regulations must not be laid to bring Section 13 into force until—

(a) a period of two years has passed since this Act is passed;

(b) the Secretary of State has published guidance to Electoral Registration Officers on how to determine whether an applicant has been resident in the UK for electoral registration purposes; and

(c) the Secretary of State has laid before Parliament a report on—

(i) the documentary evidence that may be required to support an application to be an overseas elector;

(ii) the length of time that a person must have previously been in the UK in order to register as an overseas elector;

(iii) the security and timeliness of the delivery and return of ballots to overseas electors; and

(iv) such other matters pertaining to the registration of individuals as overseas electors as the Secretary of State considers relevant."

Member's explanatory statement

This amendment delays section 13 (overseas electors) coming into force for a period of at least two years, and until the Secretary of State has laid a report before Parliament on how the system of registration of overseas electors is to operate. It also requires the Secretary of State to publish guidance to Electoral Registration Officers.

Lord Stunell (LD): My Lords, Amendment 71, in my name and that of my noble friend Lord Wallace of Saltaire, relates to the implementation of Clause 13, which deals with the qualification for voting arrangements for overseas voters. It is my contention that this part of the Bill is technically flawed and, as drafted, will produce some strange and surely unintended consequences. We believe it essential that these are overcome before it is brought into force, and doing that needs some serious thought, proper consultation and the preparation of guidelines and advice.

I raised some of my concerns in Committee, where the noble Baroness, Lady Scott, undertook to write to me. On 6 April, the morning of Report, I received a letter from the noble Baroness which basically said on the two issues I raised: "Well, it's okay; let's just see how it goes". I will deal with those two points first, but I shall come to others despite the lateness of the hour and where we are in the proceedings.

The first issue I raised in Committee, which was addressed to some extent by her letter, was the extremely loose definition of who can qualify to go on the overseas register of voters. Clearly and unambiguously, an individual must be a British citizen, but what else do they have to be to get on the register? The clause says they must have been previously resident in the United Kingdom. Nothing is specified about for how long or at what age. I will again mention the case I raised in Committee: a British couple make a touch-and-go visit back from Ghana, during which their baby daughter is born and following which they emigrate to Switzerland. In due course, at the age of 18, that baby can claim an overseas voting right, never having been on a UK register and never having been eligible to be on one, because they were not 18 before they left the United Kingdom.

The Minister's answer was that electoral registration officers were the best people to judge whether a person claiming the right to join the overseas register had in fact acquired a UK residential qualification by virtue of spending, for instance, a fortnight in a maternity unit in Hounslow, or not. I gently suggest to the Minister that it might be better to establish a more formal and regularised decision-making process, one less prone to happenstance and the personal inclinations of electoral registration officers. There is reference in the Bill to guidance being produced, although it does not say that it will tackle that issue. Indeed, the letter from the noble Baroness does not suggest for a moment that such advice will be made available. Noble Lords will see in the amendment we have tabled that that is one of the matters we say needs to be considered and resolved before this section comes into force.

In the same debate, the noble Baroness, Lady Scott, said that the aim of this proposal was that those on the overseas register would be in exactly the same position as those on the UK register of voters. I take that to mean that, apart from anything else, they will be free to nominate someone to be a candidate for a public election in the constituency in which they are registered. No one seems to know whether that includes nominating for a local government election, or if there is a mechanism for deciding in which ward they could validly nominate.

Clearly, if you were on the overseas list by virtue of appearing on a previous electoral register, that matter is settled because you would have appeared for a particular locality, which will place you in a ward and make you eligible to nominate somebody for it if you wish. However, for someone with a residential qualification, it is perhaps less clear-cut whether ward B in the maternity hospital at Hounslow—where you

[Lord Stunell]
happen to have been born when your parents came off the aeroplane—is or is not in a particular ward. That is a small detail compared to some of the other matters I will raise, but it certainly indicates that there are matters which are not yet clearly resolved.

So, it is clear that if a person can nominate somebody, whatever they can nominate them for—whether it is restricted to parliamentary elections because it is on a constituency basis, or whether they are located sufficiently well to nominate somebody for a local government ward—they must also be free to stand for election as a candidate themselves in that election if they should choose. So far, so equal. The aim of making sure that overseas voters have exactly the same rights and duties as electors in this country is achieved.

But surely it ought also to mean that if convicted of an offence—let us say death by dangerous driving—that results in a sentence of more than six months, they should be disqualified from standing and if elected at the time, they should lose office, just as someone on the UK register would. I remind the Minister that the Government strongly resisted efforts by my noble friend Lord Thomas of Gresford to permit some categories of prisoners to vote. The Government are completely hostile to the view that people should have a vote in prison, never mind that they might stand or even be elected or retain their office if in prison. However, the answer that the noble Baroness gave me in that letter was that being in a foreign prison was not in fact a bar to standing for public office in the UK; she made the perfectly fair point that the UK Government—and by extension, electoral returning officers—would have no knowledge of foreign court decisions and that in any case, in many jurisdictions, imprisonment could result from acts that were legal in the United Kingdom.

That is a pretty good reply—well drafted and crafted—but it does not really bear examination, because there are a number of things which candidates cannot be: they cannot be bankrupts, and they cannot be suffering from a mental illness that requires their detention. But those matters are simply covered by a candidate's declaration: you tick a box to say that you are not bankrupt and that you are not detained. The Government and the electoral registration officer do not have the means of checking that either. So, these matters could perfectly well be dealt with by having an additional question on the declaration at nomination stage. It would have exactly the same strength and capacity as a tick in a box to say, "I am not bankrupt, and I am not currently detained under the Mental Health Act."

The argument that it is impossible to monitor whether an overseas elector is in prison and therefore should or should not be able to nominate somebody—or indeed continue to hold office having been previously elected—is therefore mistaken. At the moment, the Government seem to accept that there is nothing they can do about it. It seems to me obvious that a simple modification to the declaration form would solve the problem and, of course, falsification of the declaration form is an election offence. So, such an additional, suitably worded declaration by an overseas voter would be open to exactly the same challenges as the standard declaration form. In most cases, the mere existence of such a declaration would be a sufficient deterrent and any that got through would likely soon be weeded out by opponents and certainly would not need extensive investigation by the Government.

Surely the Government, with their fetish of preventing prisoners from voting, are not going to allow overseas voters not only to vote but to be eligible to stand while they are serving a sentence in a foreign prison for what would be an imprisonable offence in this country—I mentioned dangerous driving.

It might be asked what category of voter would benefit from this; well, there might be a few "McMafia" figures languishing in a Spanish prison, I suppose. All that could be dealt with by an amended declaration form, which could be produced in about 10 minutes with a word processor. But there is no provision for such a thing in Clause 13, and the Government seem to have given up in the attempt. So far, so wrong.

Let us consider the case of a councillor elected to a UK local authority—say, the London borough of Richmond or the Wiltshire county authority—who then moves to Dover. When the new register is published, they lose their vote in their old area and, lacking another qualification, have to vacate their office. I ask noble Lords to consider what would have happened if that councillor had moved a further 30 miles east, to Calais. They could of course then ask to be put on the register of overseas voters for their former area. Long before the new register comes into force, they would be qualified by virtue of that to continue in office and indeed to re-stand in due course. Do the Minister and her advisers know that Clause 13 produces the absurd result that such a councillor moving to Dover is disqualified but one moving to Calais is not?

8.30 pm

The Minister may say that all these things are absurdly unlikely. But the touchdown baby is a real case, although she resided in the UK for about six months—that was 50 years ago. The case of relocating councillors is far from unknown, although most of them move not to Calais but to the Algarve and other sunny parts of Europe. My point is that Clause 13 is hopelessly deficient in setting out the Government's limitations and intentions, and it urgently needs work before implementation can begin. My noble friend Lord Wallace will make the point that the actual process of issuing and collecting votes is so unfit for purpose that it raises serious concerns that, actually, the whole point of the mechanism is not to increase democratic participation by British citizens overseas but rather to increase their financial participation.

It may be that that the Government are not going to take the question of the mechanics of voting very seriously—I hope that they will, and I know that my noble friend will spell that out very clearly. But, even if they do not take his objections seriously, surely no Conservative Minister can seriously leave unaltered and unexamined a provision that lets convicted prisoners in French jails stand for election to the UK Parliament or that lets absentee councillors remain in office, provided that they remain out of the United Kingdom. Putting that proposition in front of this House makes the Government a laughing stock. But that is what Clause 13 permits, and it is why I urge the Government to

accept our amendment to take time, take stock and produce a process that is genuinely fit for purpose. I beg to move.

Lord Grocott (Lab): My Lords, I simply say that I thought that that was a masterly exposition by the noble Lord, Lord Stunell. I would happily second all the questions that he is asking of the Minister on the absurd ramifications. The only thing that I would say by way of regret to the noble Lord, Lord Stunell, is that we do not need an inquiry or further consideration. The simple solution is invariably the best one, and it is not to extend the ability to vote from overseas beyond the 15 years very wisely and fairly established by the Labour Government. This acknowledged that people might quite legitimately be going abroad for a while, and it would be wrong to disenfranchise them, but, by the end of 15 years, it is pretty well established that someone is unlikely to return and their connection with the United Kingdom diminishes by the day—and they are living with the consequences. I will certainly not repeat the argument, but, when you have a problem, look for the simple solution. Let us all agree that this extension of the franchise for life, virtually irrespective of residence, as the noble Lord, Lord Stunell, has declared, is absurd.

Lord Wallace of Saltaire (LD): My Lords, I should declare an interest. I have two sisters, one of whom left Britain 60 years ago and the other 50 years ago. They would be entitled to vote under this provision. I also have a nephew and a niece who left in infancy. They too would be entitled to vote under this scheme.

I also declare an interest in that my party has been in favour of moving towards overseas voting and has thought some of it through. It has looked at practice in comparable countries such as France and Australia. It is clear that we need to involve embassies and consulates abroad if we are to make sure that votes are returned in time. It is also clear that we should be moving towards overseas constituencies, given the different requirements of those who vote from overseas. This happens in a number of other countries. It could be done here. The Minister seemed astonished when I first mentioned overseas constituencies, as if he had not heard of them before.

I have had hundreds of messages about this, from people in France in particular. First, the local MP where they are still registered tells them it is nothing to do with them and they are not going to take up their case because they do not live in the constituency. Secondly, they would like to have overseas constituencies with particular MPs, or Members of the second Chamber or whatever, who would take their interests into account. France has a small number of overseas constituencies, with a much larger number of voters per constituency, and their interests are taken into account.

I hope the Minister will not mind my saying that, when I first went to discuss with him and his team the way in which this extension might be implemented, I was staggered by the lack of detail and what seemed to me to be a lack of interest in the detail. We have very little information on its implementation. It is not quite as bad as the Government's proposal to send asylum seekers to Rwanda, which appears to have had almost no thought as to how it might be implemented or costed.

There are a range of things that we need to consider. We know already that getting ballot papers out to foreign countries and back within the short time period is extremely difficult and very often fails. What do the Government propose to do about this if they are going to implement this expanded scheme? We have not yet heard anything on that. Will it involve embassies and consulates abroad? I asked a Question last summer and was told by the Foreign Office that it had not been consulted on this and did not expect to be involved to any degree. The Australians, the French and others clearly play a large role in managing and assisting with overseas voting. How therefore would this be carried out in practice when it comes? The Government also wish to shorten the campaigning period. At present, that proposal has been put off. If the campaigning period were any shorter, getting ballots out and back would be almost completely impossible.

This amendment says, "Tell us how you will do this. Demonstrate to Parliament that you have actually thought this through and that you have some way of identifying who are British citizens overseas, where they were residing in Britain beforehand and that, if they wish to vote, the means will be provided for them to receive ballot papers and to get them back—and do not implement it until you are able to answer those questions". I have not yet heard the Minister or his officials be able to answer any of these questions, and therefore we have tabled this amendment.

Viscount Stansgate (Lab): My Lords, we are nearing the end of this debate on Report. I cannot say that this Elections Bill is one of this Government's finest constitutional measures. Although it is late in the day, we have just heard from the noble Lord, Lord Stunell, a very clear exposition of some of the questions which have not been answered, and I think it is perfectly fair to ask the Government—even at this late stage on Monday night—to provide some answers.

I find myself sitting here thinking back to the time that John Stonehouse disappeared, which some noble Lords may remember. When he disappeared, it became clear that there was no provision under British electoral law to remove him from his position as a Member of Parliament. Even though he was arrested and imprisoned in Australia, his constituency went unrepresented, because there was no way of getting rid of him. So things that might appear to you to be unlikely, such as those outlined by the noble Lord, Lord Stunell, might still one day actually occur.

The only thing I would add is that, over the Easter Recess, I met a British citizen who left Britain 55 years ago. He has been living in an EU country. I can report to the House that he was astonished to discover that the Government were now planning to give him the vote. He asked me a number of questions, such as "Where would I cast my vote?"—which brings me to the questions mentioned by the noble Lord, Lord Wallace of Saltaire. Some countries, France being one of them, have overseas constituencies. After decades of inaction, the Americans finally made it possible for Republicans and Democrats abroad to vote while living in the UK. I am sorry to say this at such a late stage, but this is an area that has not been as fully

[Viscount Stansgate]
thought through as it should have been. That is exactly what this House is here for and I look forward to the Minister's reply.

Lord Collins of Highbury (Lab): I too thank the noble Lord, Lord Stunell, for his excellent introduction to this amendment. It is worth focusing on the fact that the Minister has, on numerous occasions, stressed the impracticalities of some of the amendments that have been considered today, saying "We can't do this because it's impractical". Yet, without any thought, the electorate can be increased from 1 million to 3.3 million, as we heard from my noble friend earlier, without any infrastructure or effort to manage the implications.

The noble Lord, Lord Wallace, talked about other countries. Other countries have different voting systems, such as list systems and regional systems. But our democracy is fundamentally based not on a party system but on the constituency system, where an individual MP represents the people of that constituency. With what is being proposed, we could suddenly have, as my noble friend said earlier, 7,000 or 8,000 people being allocated to a constituency who, according to the noble Lord, Lord Stunell, have never lived there. And we will not even make any attempt—or there will not be any practical way—to verify people's entitlement to vote.

In this Bill, we have said that if a resident in a constituency turns up at a polling station but fails to produce photographic evidence of their entitlement, they will not be given the vote. But someone who lives abroad can get a vote in a constituency and be sent it without any proper checks. It is absolutely crazy that the Government are not taking the time to look at the practical implications of this. It comes back to the point: why is it being done? It does not really appear to be being done to defend and enhance our democracy. I know I have said it before, but all this effort is going into people who have left this country, who have never lived here or who have lived here for a very short period of time—we are extending the vote to them—but people who have lived here for 27 years, and paid tax and national insurance, will not be given the vote. It is crazy.

This amendment is absolutely right. It would ensure that the Government pay proper attention to the practical implications of their policy and do so in a timely fashion. It is not as if we are trying to say, "Don't do this"—even though I agree with my noble friend and would prefer that the Government did not do it. The amendment is saying, "Okay, if you're going to do it and if it's a principle you support, do it properly. Understand the consequences, particularly the consequences for our democracy". This side wholeheartedly supports this amendment.

Baroness Scott of Bybrook (Con): My Lords, I will first answer the questions from the noble Lord, Lord Stunell. I am sorry that he did not get as much information as he needed, but I will have to hold the House a little longer to give him more detail.

On candidature, anyone who wants to be a candidate in an election in this country needs to be a resident of this country and to have proof of residency. So, nobody living abroad can be a resident of this country—that is the first thing.

8.45 pm

On prisoners, treating prisoners detained in the UK differently from those that are detained overseas is not inconsistent; it is a legitimate and appropriate difference in approach. The Representation of the People Act 1983 sets out that the prohibition of prisoner voting applies to prisoners held in UK prisons only. Whether someone is imprisoned in the UK or overseas is important. A person imprisoned in the UK has been convicted under the UK justice system for breaches of UK law; a person imprisoned in another country has not. In some parts of the world, people are, for example, imprisoned on account of nothing more than their sexual orientation or for calling something a war rather than a special military operation.

In addition to potentially removing the rights of people who would never have been convicted under the UK justice system, creating a specific ban on British prisoners abroad would be unworkable and unenforceable. How could you ascertain with any degree of certainty whether someone living in any country in the world was in a prison? It is impossible. Some British prisoners imprisoned outside the UK may in theory qualify to vote, but there would be significant barriers to their participation, not least because they would have to manage to register to vote, apply for an absent vote and then cast that absent vote, all potentially from the confines of a prison cell.

Lord Wallace of Saltaire (LD): May I remind the Minister that it is part of the responsibilities of our consuls abroad to look after the interests of British citizens when they are in foreign prisons? So it is not the case that we will not have information on these. Our consular network should have the information relevant to this, but perhaps the Foreign Office has not been consulted.

Baroness Scott of Bybrook (Con): Then we come to somebody who was born in the UK and has been here only a short time. The current system allows citizens who have left the UK while still too young to vote the ability to register based on their parents' or guardians' previous registration, but this is subject to an arbitrary 15-year limit from when they left the UK. The Government want to remove this arbitrary time limit placed on British citizens who have resided here, and we have no intention to replace one time limit with another arbitrary time limit requiring a British citizen to have been resident here for a certain amount of time before they can register.

The Bill will permit children who are UK citizens and who have resided in the UK to be eligible to vote based on their previous residency here. They would apply in respect of their last place of residency. This approach is consistent with the principle of individual responsibility, which underpins individual electoral registration and ensures that voting rights are not conditional on choices made by others in the past.

Additionally, British citizens born outside the UK must have previously resided in the UK to become eligible to register to vote. In practical terms, someone who left the UK at a very young age or who was present in the UK only for a short period will find it difficult to demonstrate their residency at a particular

UK address to the satisfaction of a registration officer. I would also question whether anyone who lived in the UK only for a very short period would have any interest in voting in our elections. I hope that gives a little more substance to my letter.

I now turn to the amendment as tabled. The purpose of this amendment would be to delay the commencement of Clause 13 of the Bill for two years, and the extension of franchise for parliamentary election for British citizens overseas. The amendment would require three conditions to be met before regulations could be laid to bring into force the provisions. The Government have set out much detail on the intended registration and voting process in their policy statement *Overseas Electors: Delivering 'Votes for Life' for British Expatriates*. Referring to the condition whereby the Secretary of State must publish guidance for EROs on determining residentiary requirements of overseas electors, further detail on residency requirements will be set out in secondary legislation.

Electoral registration officers will require British citizens who have been resident, but not previously registered, to demonstrate to their satisfaction that they were resident at a specific address. Section 5 of the Representation of the People Act 1983 already lays down the general principles regarding residence for electoral purposes which a registration officer must consider and apply in deciding whether a person is resident at a particular address for those purposes. The same approach to residency must be applied within these boundaries and, as now, registration officers will be supported in this by guidance from the Electoral Commission, with whom the Government will work closely.

As for reporting on documentary evidence, the Government intend to align closely with the existing exceptions process for those domestic electors for whom an ERO considers that additional evidence is required to verify their identity. This is a system that administrators are already familiar with, and we will continue to work closely with stakeholders to develop this process. It will be set out in secondary legislation and be subject to parliamentary scrutiny and to parliamentary approval.

The noble Lord, Lord Wallace, brought up the issue of how we will help expatriates—the people who want to vote from abroad—to actually be able to vote. I think we had a discussion on overseas constituencies, and it was made very clear that the Government are not supporting that idea. However, the Government have already improved the delivery and return of ballots to overseas electors by working with Royal Mail and the British Forces Post Office, expediting dispatch abroad, and funding the use of the international business response licence that expedites the return of the ballot packs from overseas in a large number of countries, as well as covering any postage costs that might otherwise be incurred.

This Bill will also introduce an online absent vote application service that will allow overseas electors more easily apply for a postal vote.

Lord Stunell (LD): Will the Minister develop her point about the repayment of postal charges? Perhaps she could explain to noble Lords a little more fully what that implies. To my knowledge, a number of local authorities are quite clear at the moment, that they will not post postal votes overseas because of the additional expense. I do not know if there is an element of guidance needed in those cases, but there might be an element of finance. If one had a constituency with the projected 4,000 or 5,000 overseas electors, it would be a significant additional sum. I wonder if she could say something about the Government's financing of that additional outlay.

Baroness Scott of Bybrook (Con): I cannot at the moment. It may be part of the burdens that will be financed for local authorities, but I will get the noble Lord a complete answer on that and make sure it is absolutely correct.

The introduction of votes for life is a manifesto commitment. The framework for the previous Overseas Electors Bill 2017-19 was subject to a full public consultation and has formed the basis for this refreshed policy. Since then, we have worked very closely with the electoral service managers and administrators on the design of the processes, and the practical implementation of these measures. On this basis, it is unnecessary to further delay the extension of the franchise, and I hope the noble Lord will feel able to reconsider and withdraw his amendment.

Lord Stunell (LD): My Lords, I thank the noble Baroness, Lady Scott, for her reply and for the much greater level of detail that she has provided on this occasion, which I very much welcome. She has indeed answered some of the points that I raised, although I think she skirted over the possibility of amending legislation so that some account could be taken of imprisonment overseas. As I say, that is a matter that could easily be covered by an extension of the existing declaration that candidates make.

I am not satisfied with the answer that I have had but at this time of night I certainly do not intend to force my view upon the House. I just say to the Government that I think some of these matters will come back to haunt them, and at that moment I hope to be present to witness the haunting taking place. With that said, I beg leave to withdraw the amendment.

Amendment 71 withdrawn.

Elections Bill

Third Reading

8.56 pm

Motion

Moved by ***Lord True***

That the Bill do now pass.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, I will first make a statement on the legislative consent process in relation to the Elections Bill. The provisions in the Bill will considerably strengthen the delivery of UK parliamentary general elections and other reserved polls. There has been open and

[Lord True]
positive engagement between the UK Government and the devolved Administrations in the development of the measures in the Bill. For a number of measures, coherence and consistency across both devolved and reserved polls was considered beneficial to providing electors with clarity and ensuring operability for electoral administrators and those regulated by electoral law.

To deliver those benefits, we sought legislative consent from the Scottish and Welsh Governments. Given that both the Scottish and Welsh Governments expressed support in principle for a number of areas within the Bill, we are disappointed by their request to remove all aspects that relate to devolved matters. Nevertheless, we respected that request and tabled ahead of Committee the necessary amendments to ensure that the Bill as a whole applies only to reserved—and excepted, as it relates to Northern Ireland—matters. This affects measures relating to the Electoral Commission, intimidation, clarification of undue influence and political finance.

I note that the Welsh Government have subsequently laid a supplementary LCM in which they disagree with the devolution analysis for the digital imprints and intimidation proposals. The UK Government's position is that our legislation on these issues is reserved and does not engage the legislative consent process. Nevertheless, we note that the Welsh Government are supportive in principle of our proposals in these areas.

While divergence is a natural consequence of devolution, the Government welcome the indication given by both the Scottish and Welsh Governments that they will consider legislating comparably across a number of areas. UK Ministers remain committed to working closely with their counterparts as they develop their legislative proposals to deliver the best outcome for voters, the electoral sector and those regulated by electoral law.

In moving that the Bill do now pass, it may be helpful if I make a couple of remarks at this point, although I do not know whether it is conventional to do so at the start or the finish. I know that all of us on all sides of this House, as has been evident in our debates, share a common desire to keep our elections secure, fair, transparent and up to date so that our democracy can continue to thrive. That, in essence, is what the Bill has been about.

I am grateful to all noble Lords across the House who have engaged in debating the substance of the Bill for their most robust scrutiny, which has gone up to the very last seconds. I thank both opposition Benches for their sustained interest and engagement, particularly the noble Lords, Lord Stunell, Lord Wallace of Saltaire and Lord Scriven, who is not here. I am never quite sure whether the noble Lord, Lord Rennard, is a sub or actually on the Front Bench, but anyway he has played a challenging and useful role.

Obviously, I particularly thank Her Majesty's Official Opposition and the Front Bench opposite: the noble Lord, Lord Collins, the noble Baroness, Lady Hayman of Ullock, and the noble Lord, Lord Khan, who is coming back into the Chamber just in time for his ears to burn, if they can burn in—it is Burnley, is it not?

9 pm

Lord Khan of Burnley (Lab): Yes.

Lord True (Con): I thought it was. I thank those noble Lords for their constructive interest in and engagement with these measures. We have not always agreed—sometimes we have—but I have been grateful for their willingness to work with this side and our Bill team on these matters. As a result of this willingness to reach compromises around the House, the Bill leaves your Lordships' House improved and strengthened.

On our Benches, I thank my noble friends Lord Hodgson of Astley Abbotts, Lord Holmes of Richmond, Lord Hayward and Lady Noakes for their input, which has led to amendments that I also believe have enhanced the legislation. I am astonishingly grateful to my noble friend Lady Scott, who seems to step into every breach when I fall or, if you like, am not sufficient. She has such an impressive capacity to pick up the technical issues and work at pace, and I have been so grateful to her for her good humour and tireless work. It is much appreciated. I also thank my noble friend Lord Howe, who is not here, for stepping into the breach when I unfortunately had my lights punched out by a Covid headache and worse. I fell short then of a promise to all noble Lords that I would be here every hour of every debate. Of course, that could not be helped, but I assure your Lordships, as someone who likes to live up to his word, that it will be a source of annoyance when I look back on this.

Finally, we all want to go, but I cannot let anyone go—I know that people on all sides of the House understand this—without mentioning the extraordinary hard work of the Bill team and the policy officials behind the Bill, many of whom have worked for what may seem like half a lifetime to them on preparing it and putting it together. There are so many of them that it would be invidious to name them all, but many of your Lordships have had direct personal contact with them. They have been enormously professional, good humoured and patient—which you have to be if you work with me—and have lived up to the very highest standards of the UK Civil Service and the quality of public service that we all admire. So, my final thanks are to them.

Lord Wallace of Saltaire (LD): My Lords, perhaps I may remark to my noble friend Lord Rennard and the noble Lord, Lord Hayward, that in the process of this Bill I have appreciated that it is possible to be quite astonishingly, nerdishly expert on the details of elections to the degree to which the two of them and one or two of our colleagues on the Labour Benches are. That goes far beyond my limited experience, having fought only five elections in my life. They really understand the details in all sorts of ways. I have done some of my electioneering in some of the more difficult parts of the United Kingdom.

I thank the many pro-democracy organisations that have helped and advised us and lobbied about the Bill as it has gone through: Best for Britain, Unlock Democracy, the Electoral Reform Society, the Joseph Rowntree Foundation and the Democracy Defence Coalition. I particularly thank Elizabeth Plummer in

our Whips' Office, who has done superb work with others around the House to make sure that the amendments are there on time.

It is difficult to welcome this Bill. It came to the House accompanied by a number of very critical reports, including one from the constitutional affairs committee of the House of Commons, which said that the Bill in its current form was not fit for purpose. We have improved it a little—we now face ping-pong on some of those improvements—but it is still not entirely what is needed.

As the noble and learned Lord, Lord Judge, said, rather powerfully, this is a constitutional Bill on which there was an absence of cross-party consultation or consensus on the fundamentals of our constitutional democracy—that is a worry. We will have to return to this. The next Parliament, whenever it comes, will have to undertake the job of simplifying and clarifying electoral law, which is what we should have been doing—and have failed to do—with this Bill. Perhaps there are some improvements, and there are certainly some necessary changes in this Bill. There are a number of other areas which we on these Benches bitterly regret and, for that, I can make only moderate thanks to the Minister and the Bill team for what has been achieved.

Baroness Hayman of Ullock (Lab): My Lords, I start by saying that I agree with the noble Lord the Minister that this Bill is improved and strengthened having gone through this House. This Bill is a clear demonstration that your Lordships' House can really prove its worth when a Bill comes that is not really good enough. I thank the Government and the Minister for bringing forward some important changes and concessions which have improved the Bill considerably.

I also believe that your Lordships' House has sent a very clear signal to the Government about concerns around, in particular, photographic ID and the independence of the Electoral Commission. I thank my colleagues, my noble friends Lord Collins and Lord Khan, for their support and all the work that they have done on this Bill. I also thank Ben Wood, in our office, who has worked like crazy on this Bill and others, providing really important support.

I thank the many noble Lords who have taken part in debates on this Bill and who have contributed to making it the better Bill that it is today. In particular, I thank the noble and learned Lord, Lord Judge, for his important work demonstrating our concerns around the Electoral Commission. I also thank the noble Lord, Lord True and the noble Baroness, Lady Scott, for their time and consideration of our concerns. They have given us a lot of time and some of the concessions that we have had are extremely gratefully received and have made the Bill much better. I also thank the officials, because they also gave us that time to try to improve things in this way. I join the noble Lord, Lord Wallace, in thanking the many organisations that have provided time, briefings and the detailed information that has helped us to understand some of the complicated areas of electoral law.

I just end by saying that I hope that we can continue to work together constructively to address the outstanding areas where we believe we can still make more progress.

9.08 pm

Bill passed and returned to the Commons with amendments.

Easter Recess: Government Update

Statement

The following Statement was made in the House of Commons on Tuesday 19 April.

"With permission, Mr Speaker, I will update the House on the Government's response to events at home and abroad during the Easter Recess.

I will come to Ukraine in a moment, since I have just left a virtual meeting with President Biden, President Macron, Chancellor Scholz and eight other world leaders, but let me begin in all humility by saying that, on 12 April, I received a fixed penalty notice relating to an event in Downing Street on 19 June 2020. I paid the fine immediately and I offered the British people a full apology, and I take this opportunity, on the first available sitting day, to repeat my wholehearted apology to the House. As soon as I received the notice, I acknowledged the hurt and the anger, and I said that people had a right to expect better of their Prime Minister, and I repeat that again in the House now.

Let me also say—not by way of mitigation or excuse, but purely because it explains my previous words in this House—that it did not occur to me, then or subsequently, that a gathering in the Cabinet Room just before a vital meeting on Covid strategy could amount to a breach of the rules. I repeat: that was my mistake and I apologise for it unreservedly. I respect the outcome of the police's investigation, which is still under way. I can only say that I will respect their decision-making and always take the appropriate steps. As the House will know, I have already taken significant steps to change the way things work in No. 10.

It is precisely because I know that so many people are angry and disappointed that I feel an even greater sense of obligation to deliver on the priorities of the British people and to respond in the best traditions of our country to Putin's barbaric onslaught against Ukraine. Our Ukrainian friends are fighting for the life of their nation, and they achieved the greatest feat of arms of the 21st century by repelling the Russian assault on Kyiv. The whole House will share my admiration for their heroism and courage.

Putin arrogantly assumed that he would capture Kyiv in a matter of days, and now the blackened carcasses of his tanks and heavy armour litter the approaches to the capital on both banks of the Dnieper, and are smouldering monuments to his failure. Having pulverised the invaders' armoured spearheads, the Ukrainians then counterattacked. By 6 April, Putin had been compelled to withdraw his forces from the entire Kyiv region. Britain and our allies supplied some of the weaponry, but it was Ukrainian valour and sacrifice that saved their capital.

I travelled to Kyiv myself on 9 April—the first G7 leader to visit since the invasion—and I spent four hours with President Volodymyr Zelensky, the indomitable leader of a nation fighting for survival, who gives the

roar of a lion-hearted people. I assured him of the implacable resolve of the United Kingdom, shared across this House, to join with our allies and give his brave people the weapons that they need to defend themselves. When the President and I went for an impromptu walk through central Kyiv, we happened upon a man who immediately expressed his love for Britain and the British people. He was generous enough to say—quite unprompted, I should reassure the House—'I will tell my children and grandchildren they must always remember that Britain helped us.'

But the urgency is even greater now because Putin has regrouped his forces and launched a new offensive in the Donbas. We knew that this danger would come. When I welcomed President Duda of Poland to Downing Street on 7 April and Chancellor Scholz the following day, we discussed exactly how we could provide the arms that Ukraine would desperately need to counter Putin's next onslaught. On 12 April, I spoke to President Biden to brief him on my visit to Kyiv and how we will intensify our support for President Zelensky. I proposed that our long-term goal must be to strengthen and fortify Ukraine to the point where Russia will never dare to invade again.

Just as our foreign policy must look to the long term, the same is true of this Government's domestic priorities. As we face the economic aftershocks of Covid and the consequences of Russian aggression, that is above all about tackling the impact on British energy prices, on consumers and on family bills. That is why we are spending over £9 billion to help families struggling with their bills and we are helping families to insulate their homes and reduce costs. To end our dependence on Putin's oil and gas and to ensure that energy is cheaper in the long term, we published on 7 April a new strategy to make British energy greener, more affordable and more secure. We will massively expand offshore wind and—in the country that split the atom—we will build a new reactor not every decade but every year.

This Government are joining with our allies to face down Putin's aggression abroad while addressing the toughest problems at home, helping millions of families with the cost of living, making our streets safer and funding the NHS to clear the Covid backlog. My job is to work every day to make the British people safer, more secure and more prosperous, and that is what I will continue to do. I commend this Statement to the House."

9.08 pm

Baroness Smith of Basildon (Lab): My Lords, I am sorry, I thought that the noble Baroness would be repeating the Statement, as it was made over a week ago in the Commons. I was rather surprised not to have it repeated, so I apologise for my delay in standing up.

For those who did not hear the Statement, they may not realise that it was several Statements rolled into one. I must say that many of us felt quite uneasy that the Prime Minister decided to merge his promised Statement following the police investigation into parties and events at Downing Street with a report about his visit to Kyiv and, at the end, just a few words on the crisis closer to home of soaring costs and prices.

In some ways, it was the tale of two leaders: on one hand, a President who, in facing the most difficult and challenging of circumstances that any leader could possibly face, has been resolute and inspirational and, at all times, has put his country and its people first; and then a Prime Minister who was forced into a humiliating apology for breaking the very rules and laws that he said others had to obey because they were essential.

Across the country, the accounts of personal sacrifices from those who obeyed the rules because it was the right thing to do are heartbreaking. It was not always easy, and for so many, the hurt and sadness remain. Yet even in his apology, Boris Johnson still pleaded that it "did not occur" to him, "then or subsequently", that he was breaking the rules. In making the Statement last week, the Prime Minister sounded genuinely contrite. Yet following his appearance at the 1922 Committee that evening, Mr Johnson's former ally, Steve Baker MP, said:

> "You couldn't have asked for a more humble and contrite apology … The problem is the contrition didn't last much longer than it took to get out of the headmaster's study. By the time we got to the 1922 Committee meeting that evening it was the usual festival of bombast and orgy of adulation. It took me about 90 seconds to realise he wasn't really remorseful."

I want to move on to the other issues in the Statement. On Ukraine, it was mostly about the Prime Minister's visit to Kyiv, which we welcomed. At every point, it needs to be clear, both to the Ukrainian people and to the Kremlin, that we are united across this House, across Parliament and across NATO in our support for Ukraine. Putin has been forced into a change of tactics after humiliating losses and Ukraine's extraordinary military determination. Despite their herculean efforts, as Putin continues his illegal, unprovoked and unjustifiable war, each day seems to bring greater tragic consequences for Ukraine and its people.

I think the whole House will welcome the Prime Minister's engagement with world leaders, the message of solidarity essential. But tonight, I would like to press the noble Baroness further on ensuring that the Government move faster and harder on economic and diplomatic sanctions. This is as urgent as providing military support. Failure to take the necessary actions only helps the Kremlin. Against the backdrop of war crimes, Ministers are still failing to close loopholes on trusts, proxies and ownership thresholds, and the Government have yet to enforce the ban on the export of luxury goods. Can the noble Baroness confirm whether any further sanctions will be laid before Prorogation? Despite so many promises, we are still waiting for the much-needed, urgent reform of Companies House. The issue of stopping oligarchs shielding their ill-gotten gains has been raised in your Lordships' House on numerous occasions. I know the noble Baroness is not going to give away secrets from the Queen's Speech, but in some ways, it would be helpful to give an indication of whether this will be a priority in the new Session of Parliament.

The response of the public in support for those seeking sanctuary from the war has been amazing. Yet despite the Home Office telling us that thousands of visas are being processed, the accounts of those struggling refugees lend credibility to the whistleblower working

on the scheme who said it has been "designed to fail." Many in the UK have been daunted by having to make contact themselves with refugees. In other cases, the bureaucracy seems designed to be as difficult as possible.

I do not know whether the noble Baroness read the comments in the press over the weekend or saw anything of the Statement today in the other place, but there are numerous examples of delays and some quite tragic cases of visas not being issued. A university professor, Olga Kolishyk, applied to come to the UK with her two children. One is 11 years old and the other is a baby of six months. Despite being told there would be no problem, as the baby was on her passport, she has now been told by the Sheffield office that both children must have biometric scans in Warsaw, which is 800 miles away from where she is. Another 11 year-old had been waiting so long that his passport expired, and he is now having to start the process all over again; and he also has to go to Warsaw for biometrics. The Government promised to approve applications in 48 hours, yet families who first applied more than five weeks ago are still waiting or have heard nothing.

Many Ukrainians want to stay close to home, as they want to return when it is safe to do so, but those applying to come to the UK are traumatised, usually leaving behind loved ones—often the men in the family who are staying to fight. It is generally older people and women with children who have had to flee their homes with whatever they could carry with them. So, travelling hundreds of miles to Warsaw for biometrics, or even having just to photocopy documents, is in many cases impossible.

Can the Minister provide an update today, and perhaps again later this week and on an ongoing basis, on the number of applications, including how many have been approved, the number who have been informed —there are cases where they have not been informed that a visa has been issued—and how many refugees have arrived here in the UK? Alongside that, it would be helpful if she could provide details of how the system will be urgently improved.

In the Statement, the Prime Minister briefly touched on the cost-of-living crisis, referencing the impact of both Covid and the war in Ukraine. Undoubtedly, these have had an impact—but so have government policies. The energy Statement before the Easter Recess provided little confidence that the Government have a grip on the issue. The quickest and cheapest way of upping energy output and taking the pressure off prices would be onshore wind, but that is not even part of the mix: why? The price of the weekly shop is escalating. Add in the predicted 40% rise in the energy price cap this coming October to dramatic increases in the cost of petrol and other household essentials, and no wonder so many of our fellow citizens are now feeling absolutely desperate. I am sorry, something just flew into my eye—but I think the fly is in a worse state than I am. To paraphrase a former Member of your Lordships' House and of the Minister's party, some people in our country have never had it so bad. There is more that can be done. Will the Minister agree to take back to Downing Street the need for an emergency Budget that will urgently and immediately tackle this cost-of-living crisis?

This Statement was a mix of issues that would have been better addressed separately. I hope that, moving to the next Session, more time will be given in your Lordships' House for us to debate and consider ways forward on all these issues. For now, I hope that the Minister can answer the question that I have posed today. If she is unable to, perhaps she can do so in writing in the days ahead.

Lord Newby (LD): My Lords, this almost entirely vacuous Statement is in three unconnected parts. The first deals with "Partygate" and is really desperate stuff.

"I paid the fine immediately"

said the Prime Minister, as though this was somehow praiseworthy rather than a legal requirement.

"As soon as I received the notice, I acknowledged the hurt and the anger"

said the Prime Minister, as if, until he received the fine, he was not aware of what the country has been feeling for many months.

"It didn't occur to me, then or subsequently",

said the Prime Minister,

"that a gathering in the Cabinet Room could amount to a breach of the rules",

as though this inadvertent thoughtlessness or straightforward ignorance was an excuse for breaking the law. We are told that there may be more prime-ministerial fines; we read that the Gray report will be excoriating about his behaviour; and we now have the prospect of a long wait until the Commons Privileges Committee decides whether he has misled the Commons. For the Prime Minister, this is death by a thousand cuts; but for the country, it is a continuing shame and embarrassment.

Over recent days, a number of Cabinet Ministers have explained that they support the Prime Minister and have set out their reasons for doing so. I was out of the country for a week, until yesterday evening, and so may have missed any such Statement from the Leader of the House, so I wonder whether she will take this opportunity to inform the House whether she believes that the Prime Minister's law breaking is as irrelevant as many of her colleagues do, and whether the Prime Minister still has her full support.

The second part of the Statement is about Ukraine. While the Prime Minister's travelogue, complete with random comments about people bumped into on the streets of Kyiv, is interesting, he has literally nothing new to say. We obviously support the assistance which the UK is now giving Ukraine and share the Prime Minister's admiration for the courage and heroism of the Ukrainian people. We agree with the noble Baroness, Lady Smith, that sanctions could be tightened in some respects.

We also agree with the noble Baroness that the asylum process is as dysfunctional as her examples proved. It beggars belief that the rules are so bureaucratic and inhumane—and that they still have not been made less bureaucratic and humane. I also look forward to hearing the noble Baroness the Leader's figures for the number of people who have applied, have been accepted and have arrived through the asylum process.

But a lesson from this crisis that the Prime Minister has yet to draw publicly, I think, is that it is a mistake to appease tyrants like Putin, as successive British

[Lord Newby]
Governments did over the last decade. It is right that the UK is now prepared to offer long-term support to Ukraine to protect it from any future invasion, but the lesson here surely is that, if we had given the country more support at an earlier stage, there would not have been such an invasion in the first place.

Thirdly, the Statement makes passing reference to the most serious domestic issue facing the country: the cost of living crisis. It says that the Government are "tackling" the long-term impact on energy prices and cites as one of their main achievements that

"we are helping families to insulate their homes".

The Government should indeed be helping people to insulate their homes, but they scrapped the green homes grant last year and, in the Chancellor's recent Spring Statement, there was literally nothing new to insulate so much as one single additional home. This is a typical case of prime ministerial hyperbole. It would be great if what he claimed were actually true, but it is not.

Finally, the Prime Minister says that his job is

"to make the British people safer, more secure and more prosperous".

That should indeed be his job. However, as we now see on a daily basis, Brexit is making the country less prosperous and less secure—and it remains his proudest boast.

So the Prime Minister's record is to diminish the office that he holds, diminish the standing of Great Britain across the world and fail the British people on the core requirements of government. As I believe he will discover in next week's elections, the British people have had enough of it. For all our sakes, the sooner he goes, the better.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): I thank the noble Baroness and noble Lord for their comments. I wholeheartedly endorse the noble Baroness's praise of the Ukrainian people and President Zelensky for the incredible courage that they are showing in their courageous fight. I obviously cite our continued support for them—I will cover a couple of points shortly.

The noble Lord, Lord Newby, asked about the fines and the Prime Minister's approach. As he made very clear last week, the Prime Minister offered a full and unreserved apology, quite rightly, and he made clear that he fully respects the outcome of the police investigation, which is still under way. He has paid his fine, and anyone who either watched last week's Statement or read *Hansard* saw that he was contrite in his apology, quite rightly.

On Ukraine, the noble Lord said that we did not do enough. To be fair, there has been an acknowledgement that there were other things that we could have done. But I point to one of the key things that we did, which is important and has been much appreciated: Operation Orbital, which we started back in 2015 and which meant that we trained 22,000 members of the Ukrainian armed forces. The commitment and solidarity that we have shown with the Ukrainian people, and the leading role that we have played in terms of providing support to the Ukrainians now, are important and have been recognised. We will continue to do this. As the noble Baroness alluded to, the Defence Secretary made a Statement today to highlight further support that we are giving, and I am sure that we will discuss that further in the House later this week.

The noble Lord and the noble Baroness talked about sanctions. So far, we have sanctioned more than £900 billion of global assets from banks and sanctioned oligarchs and their families with a net worth of approximately £200 billion. Last week, we announced a new wave of 26 sanctions on key leaders in the Russian army. We are fast-tracking a further 19 individuals and entities in alignment with global partners from the G7 and the EU. We have also announced further trade sanctions, expanding the list of products facing import bans and increasing tariffs. These include bans on silver, wood products and high-end products from Russia. We will also increase tariffs by 35 percentage points on around £130 million-worth of products from Russia and Belarus, including diamonds and rubber. I believe we are doing two SIs this week in Grand Committee on further measures around sanctions that have been agreed, so there will be further action in this area, as the noble Baroness said, before we prorogue.

In relation to refugees, I will give a few figures that I have to hand. As of 4 pm on 20 April, 107,200 visa applications had been received under both schemes and 71,800 visas issued. For the Ukrainian family scheme, 41,200 applications had been received and 32,500 visas issued. Under the Ukraine sponsorship scheme, 65,900 applications had been received and 39,300 visas issued. As of 18 April, 21,600 Ukrainians had arrived in the UK through the schemes. We are taking steps to simplify and speed up the process, including removing the need for Ukrainian passport holders to attend an in-person appointment. We have 500 staff working seven days a week to process applications and I am sure that my noble friend Lord Harrington will have taken note of the cases that the noble Baroness raised. I shall certainly draw his attention to them and I hope that noble Lords have found him very willing to engage with them, as the Minister involved. I will speak to him once again about whether there is further engagement that can be done, on top of what I have mentioned just now.

In relation to the cost of living, we are taking action worth over £22 billion in 2022-23 to deal with the cost of energy. Of course, we are constantly reviewing the measures to tackle cost of living issues facing families across the country. One thing I will point to is fuel duty, which the noble Baroness mentioned. Of course, we have cut that by 5p for 12 months, saving the average motorist £100 a year, but we are well aware and cognisant of the issues that families are facing across the country. We are continuing to work on that and will continue to take measures as and when they are appropriate.

The noble Baroness asked about onshore wind and the energy strategy. Within the energy strategy, what we have said on onshore wind is that we will consult on developing partnerships with supportive communities that wish to host onshore wind infrastructure in return for guaranteed lower energy bills—so there was an element of onshore wind included in the Statement. In relation to the economic crime Bill, as she rightly says I cannot go too far, but I can reassure her that it is a priority in terms of action that we will take going forward.

Viscount Stansgate (Lab): My Lords, I am not surprised that the Leader of the House did not repeat the Statement orally: who would want to repeat such a Statement? I make no comment on the fact that Covid regulations were broken, because we know that the Privileges Committee in another place will reach a view on this and we will discover in the autumn what its judgment is and what will follow accordingly.

I shall raise one point about Ukraine, because the Prime Minister said in the course of his Statement that

"our long-term goal must be to strengthen and fortify Ukraine to the point where Russia will never dare to invade again."—[*Official Report*, Commons, 19/4/22; col. 49.]

Other Members in the Chamber tonight were present at a meeting earlier today of the Joint Committee on the National Security Strategy, in which very interesting evidence was given to us about the current situation of a war that has lasted longer than anyone probably thought it would. What kind of condition Ukraine will be in at the end of hostilities is by no means clear. I put it to the Leader of the House that it would be very helpful if the Government could find time, in government time in the next Session, to explore the important issues that are already beginning to be raised, such as: what are the West's war aims, to put it bluntly, in the current situation? I very much hope that the Government will see to it that we have such a debate in the next Session.

Baroness Evans of Bowes Park (Con): I thank the noble Viscount and will make a couple of broader comments. There will be a NATO summit in June, at which NATO will agree a new strategic concept to set the direction of the alliance for the next decade and long-term changes to our deterrence and defence posture in response to Russia's invasion of Ukraine. There is action at that level looking towards the future.

The noble Viscount will be aware that the international community has committed to widening its package of military support for Ukraine and exploring new ways of sustaining the Ukrainian armed forces over the longer term. I can reassure him that many conversations are going on internationally, and with President Zelensky and his Administration, to make sure we all come together and work to help rebuild Ukraine and provide it with the support it wants and is asking for. We are very cognisant of wanting to make sure we deliver what it needs at each given point. We hope that military hostilities will finish, but focus is on that element and the support we can provide there at the moment. However, we will of course move to reconstruction and helping ensure that Ukraine can get back on its feet as quickly as possible following—we hope—the end of hostilities.

Lord Butler of Brockwell (CB): My Lords, I will refer to the first part of the Prime Minister's Statement. It will be understood how distressing it has been for those of us for whom it was the greatest privilege of our lives to work in 10 Downing Street in support of the Heads of our Governments to hear the accounts of what went on there during the regulations over Covid. I revert to a question I raised with the Leader in her initial Statement about Sue Gray's preliminary report. In the reset of 10 Downing Street, who will have overall responsibility for staff management, both civil servants and special advisers? Despite their titles, I do not think it will be the chief of staff or even the deputy chief of staff, but it really will have to be somebody if any recurrence is to be prevented of behaviour which has been so damaging to the Government.

Baroness Evans of Bowes Park (Con): Samantha Jones, the permanent secretary and chief operating officer, will be in charge of civil servants in No. 10. As the noble Lord will know, the Ministerial Code states:

"The responsibility for the management and conduct of special advisers, including discipline, rests with the Minister who made the appointment."

There is experience within No. 10 to draw on. There is specialist HR experience from the Cabinet Office's spad HR team to support that role. I believe the chief of staff and the deputy chief of staff will also play a role in that regard.

Baroness Smith of Newnham (LD): My Lords, almost six months to the day before the Russians invaded Ukraine, the United States—and, by extension, its NATO allies—left Afghanistan. We have talked a lot already about the Ukrainian refugee scheme. In the other place, John Baron MP, chair of the APPG for the British Council, raised the issue of British Council staff who were told that they would have the opportunity to come to the United Kingdom. They are still stuck in Afghanistan. What are Her Majesty's Government doing to ensure that the commitments they made in August are met, that the ACRS is fit for purpose and that people who have worked for the British Council actually know when they can begin to apply? Looking at Ukraine and seeing what offers the UK has made to Ukrainians, they feel that they are being ignored.

Baroness Evans of Bowes Park (Con): They are certainly not being ignored. My understanding is that they can access the schemes, but I will have to write to the noble Baroness because this has been largely focused on Ukraine. I think an answer was given, but I do not have the words to hand and do not want to mislead her. However, I am very happy to put on record what was said in response to that in the Commons.

Baroness Wheatcroft (CB): My Lords, the Prime Minister has apologised for the fact that he was fined. However, he still seems to be of the view that an event that took place in the Cabinet Office before an important meeting could not have been a breach of the rules. You would have thought the cake and the presence of his partner might have given the game away, but he maintains that he could not believe it could be a breach of the rules.

Does the Leader of the House agree with me that if the party had been in the private flat at No. 10, such ambiguity would not be possible? A party in the flat at No. 10, if it had been attended by the Prime Minister, would be—even in his view—a clear breach of the rules and if that were the case, and was found to be the case, we would not need to wait for the result of the Sue Gray report or the committee's investigation: it would, inevitably, be a case for resignation.

Baroness Evans of Bowes Park (Con): The noble Baroness's question involved a lot of "ifs", and I am afraid I am not going to speculate. The police investigation is under way. What I can say on the basis of what has happened is that the Prime Minister has offered a full and unreserved apology, he has made it clear that he respects the outcome of the police investigation—as I said, that is still under way—and he has paid the fine that has been issued to him and has apologised fully.

Baroness Bennett of Manor Castle (GP): My Lords, the Leader of the House gave us the latest figures on applications and approvals for the Homes for Ukraine scheme, but I am not sure if she has seen a report from Brighton emerging today. In what is sadly an inevitable next step, a placement has broken down, the Ukrainian in question having been faced with a demand from the host to support the payment of utility bills.

Brighton council is highlighting that there is no mechanism underneath this hastily designed scheme whereby a person whose placement has broken down can be placed somewhere else. So, a Ukrainian refugee who came to this country seeking refuge was told, "Here is the scheme and here's how it works", and they are now being thrown into the hands of a charity. A local church is providing a home for a few days, but the problem is inevitably going to land in the council's lap. However, it would appear that there is no provision under the scheme for a placement to be transferred or a person to be replaced. Will this be looked at and dealt with as a matter of urgency, because it is obviously likely to occur again?

Baroness Evans of Bowes Park (Con): I thank the noble Baroness. I was not aware of the case but obviously, she has now raised it. If she would like to send me further details or contact my noble friend Lord Harrington directly, I am very happy to facilitate that or ensure that this issue is raised with him.

As she rightly says, it is a new scheme and I suspect that other issues may arise that will need to be addressed, but as soon as intelligence is gathered, we can deal with them. As I say, if she would like to send me more details, I am very happy to pass them on, or she can speak to my noble friend directly. We have in this House a Minister responsible for such things, so we will certainly take on board these issues, which, as she rightly says, need to be addressed.

Baroness Bennett of Manor Castle (GP): If I may I will raise another issue in this rather scattergun Statement; I believe this is within the rules. In the other place, reference was made to what the Prime Minister described as "Russia's barbaric onslaught" on Ukraine. The Labour Member for Rhondda raised the issue of the reported involvement of mercenaries—particularly one mercenary company, Wagner—in some of the most horrific events there. He also referred to what is usually known as the United Nations Mercenary Convention, more formally known as the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. The Prime Minister said that he would study the proposal because the UK has not signed up to this UN convention and has not been a proponent of it. Can the Leader of the House confirm that the Government are seriously looking at this, and will she ensure that we hear in this House—in some way or another—the outcome of that study?

Baroness Evans of Bowes Park (Con): I am sure that if the Prime Minister said he would study it, he will. What I can say is that we are continuing to gather evidence to assist ongoing investigations into crimes committed in Ukraine, such as the ICC investigation. We have led 41 states to refer atrocities to the ICC and we are providing additional funding to it. UK military and police are providing technical assistance to the investigations. The Metropolitan Police War Crimes Unit has commenced the collection of evidence, and we are working very closely with the Ukrainian Government. We have also appointed a former ICC judge, Sir Howard Morrison, as an independent adviser to the Ukrainian prosecutor-general, and we have welcomed the OSCE's Moscow Mechanism report, which is the first independent report to identify evidence of potential Russian war crimes in Ukraine.

I reassure the noble Baroness that we are leading action in this area and we will continue to do so, because we want to ensure that all perpetrators are brought to justice for crimes that have been committed in Ukraine.

Building Safety Bill

Returned from the Commons

The Bill was returned from the Commons on Thursday 21 April with amendments. The Commons amendments were printed in accordance with Standing Order 49(2).

Nationality and Borders Bill

Returned from the Commons

The Bill was returned from the Commons on Thursday 21 April with reasons. The Commons reasons were printed in accordance with Standing Order 49(2).

Subsidy Control Bill

Returned from the Commons

The Bill was returned from the Commons agreed to.

Police, Crime, Sentencing and Courts Bill

Returned from the Commons

The Bill was returned from the Commons with amendments.

Health and Care Bill

Returned from the Commons

The Bill was returned from the Commons with amendments.

House adjourned at 9.40 pm.

Grand Committee

Monday 25 April 2022

Arrangement of Business

Announcement

3.45 pm

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): Good afternoon, my Lords, and welcome to the Grand Committee. I remind Members that they are encouraged to leave some distance between themselves and others—not, I think, a problem with this order, but it may apply later. If there is a Division in the Chamber while we are sitting, this Committee will adjourn as soon as the Division Bells are rung and resume after a few minutes.

Industrial Training Levy (Construction Industry Training Board) Order 2022

Considered in Grand Committee

3. 45 pm

Moved by ***Baroness Barran***

That the Grand Committee do consider the Industrial Training Levy (Construction Industry Training Board) Order 2022.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, as the Committee will no doubt appreciate, the construction sector is broad and a significant part of the UK economy. It is responsible for delivering infrastructure and large construction, including transport, energy, social infrastructure and commercial buildings. It is also responsible for delivering new housebuilding and for the repair, maintenance and improvement work needed for existing buildings and the built environment.

The traditional image of the industry and its workers is shifting. New technologies are enabling more efficient and modern methods of construction. We recognise the role that construction plays in reaching the UK's net-zero targets, which the House passed into legislation in 2019.

This is a broad sector, as I said, and it is a large and growing one. It is valuable to our economy, currently contributing £155 billion, which represents 9% of our national gross value added. It is also valuable economically due to the large number and wide range of employment opportunities that it provides, many of them well-paid, highly-skilled roles offering excellent progression opportunities. It is valuable to the individual too; it employs 3.1 million workers, 813,000 of whom are self-employed.

In research conducted by the Construction Industry Training Board, known as the CITB, the Construction Skills Network forecast indicates that the sector will grow at an average rate of 4.4% across 2021-25. Skills interventions will be critical in meeting existing and future construction labour market demands and addressing skills deficits. New and existing workers will require interventions to retain, retrain and upskill as new regulations and technologies are introduced.

It is a broad, growing, and valuable sector, but it is a fragmented one too. Small and medium-sized enterprises make up more than 99% of all businesses, of which the majority are micro-businesses. It relies heavily on subcontracting and self-employment. This fragmentation creates long-held disincentives for employers to train and develop their construction workforce. This goes to the heart of what the CITB was created to do.

Established in 1964, the CITB is, at its core, industry led, and it exists to encourage the provision of construction training. It has a clearly defined role in identifying construction skills needs and plays a part, with others, in addressing them. It provides targeted training spend, as well as grants to employers, to encourage and enable workers to access and operate safely on construction sites, drive up skills levels and incentivise training that would otherwise not take place. It supports strategic initiatives to help to maintain and develop vital skills in the industry and to create a pipeline of skilled workers. It is developing occupational standards and recognised qualifications so that skills are transferable and increase productivity.

In all activity, the CITB is working in ways that will support the construction sector to develop an environmentally sustainable future, supporting the Government's ambitions towards net zero. Over the coming three-year levy period, the CITB expects to raise around £502.2 million to invest in construction skills.

The recent 2021 levy order was for one year, not the usual three years. That order was more unusual still, as the levy rates that it prescribed were reduced to 50% of those prescribed by the three-year 2018 order. This was to accommodate the CITB's decision to allow levy payers a payment holiday in response to cash flow pressures the industry was facing during the first Covid lockdown.

I now turn to the details of the draft order, and I thank the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee for considering this draft legislation. This three-year 2022 order returns to the levy rates prescribed by the three-year 2018 order—0.35% of the earnings paid by employers to directly employed workers and 1.25% of contract payments for indirectly employed workers—for businesses liable to pay the levy. However, the industry, having been consulted on the CITB's delivery strategy and levy rate, supported the retention of the higher exemption and reduction thresholds for small employers contained in the 2021 order. Construction employers with an annual wage bill of up to £119,999—previously £79,999 in the 2018 order—will not pay any levy, while still having full access to CITB support.

It is projected that approximately 62% of all employers in scope of the levy will be exempt from paying it. Employers with a wage bill between £120,000—previously £80,000 in the 2018 order—and £399,999 will receive a 50% reduction on their levy liability while also receiving full access to CITB services. Approximately 14% of all employers in scope of the levy will receive a 50% reduction. Maintaining the increased exemption and reduction thresholds seeks to acknowledge and ease the budgetary pressures on SMEs.

[Baroness Barran]

The CITB has consulted industry on the levy proposals via the consensus process required under the Industrial Training Act 1982. Consensus is achieved by satisfying two requirements: that both the majority of employers likely to pay the levy, and employers that together are likely to pay more than half the aggregate levy raised, consider that the proposals are necessary to encourage adequate training. Both requirements were satisfied, with 66.5% of likely levy payers in the industry, which between them are likely to pay 63.2% of the aggregate levy, supportive of the CITB's proposals.

This order will enable the CITB to continue to carry out its vital training responsibilities, and I beg to move.

Lord Jones (Lab): My Lords, I thank the Minister for her helpful and informative introduction to a welcome order of importance to our national economy and, indeed, to our future. I also acknowledge the ever-present commitment, conscientiousness and insight of my noble friend Lord Watson. I declare my interest in the register as president of the Engineering Education Scheme Wales, the EESW.

Page 2 of the order refers to consultation with Scottish Ministers, and I ask how and when consultations with Welsh Assembly Ministers took place. In the Explanatory Memorandum in paragraph 10.1, reference is made to a small group of employers that advised on the 2022 to 2024 levy orders. Will the Minister name the employers in the small group and describe the process? If the answer is not immediately forthcoming, perhaps she might write. Where in all this was there a place for trade unions? Was the TUC considered in any way?

Will the Minister expand on the role of technical colleges in the training of apprentices? Concerning apprentices, what role does a Minister play in relation to college trusts and boards? Surely these colleges have a huge and beneficial role. I have in mind here paragraphs 7.2 and 7.3 of the very helpful Explanatory Memorandum.

At paragraph 7.4 there is a more serious statement, which I will quote:

> "The construction industry contributes 8.6% of the UK's gross domestic product, employing over 2.5 million people. However, there remains a serious and distinct market failure in the development and maintenance of skills in the construction industry: the trading conditions, incentives and culture do not lead to a sufficient level of investment in skills by employers."

I thought it was very helpful to see that paragraph in our papers, and surely it is to the credit of the Government that it was put in. It is of huge importance, and I am sure the Minister will respond.

What special and urgent initiatives is the Minister undertaking on the basis of that serious paragraph? What policy stimuli are under way? Are not engineering apprentices of great national importance—for example, in our aerospace industry and the Ministry of Defence? How does a Minister liaise cross-departmentally to seek ever more and ever better apprenticeships?

I note the 21 November impact assessment and its self-evident helpfulness. Look, for example, at the figurative illustrations—figures 5 and 6—at paragraph 36. First, figure 5 shows the estimated CITB levy payable by employers in England, Scotland and Wales in 2018 versus 2022—that is, the changes. In this, general building, civil engineering and housebuilding come out on top, with £20 million for housebuilding. Why are the Government not pushing harder for housebuilding?

Secondly, figure 5 shows the levy paid by nations in 2022: some £149 million in England, £13.6 million in Scotland, but only, I note, £4.8 million in Wales. Will the Minister tell us what is going on in Wales? For certain, the Welsh Assembly and Government have a good record; all my compatriots are good payers, as I am sure the Minister would agree. Will she please comment and explain? Is it simply that the money that Wales pays is based on population only? But why so little?

Thirdly, in figure 6, it is good to see the brickie and the pointer itemised. The pointer puts the icing on the brick cake. Is the Minister prepared to agree? What are the Government doing to get more brickies and pointers? They are absolutely vital in housebuilding and they are in very short supply, which leads to bottlenecks. The Government want, in the most positive way, more housing built, but here is a bottleneck around the brickie and the pointer. We need many more in the industry, so how hard are the Government negotiating with the employers? Do they pressurise the chief executive officer of the CITB for more brickies and pointers?

4 pm

Lastly, as a context for this order, at least for possibly youthful departmental officials, I refer to another place in the 1980s where, from the opposition Dispatch Box, I opposed the then Thatcher Government's policies on industrial training boards. With large majorities, the Government would abolish board after board. Night after night, it seemed, the boards were despatched. The Secretary of State, James Prior, one-time PPS to Prime Minister Edward Heath, deputed his junior, Peter Morrison, soon to be PPS for Prime Minister Margaret Thatcher, to mastermind and operate the carnage. Our votes were three liners after the three-liner 10 o'clock votes. We never got away before midnight, and it was always a packed, restless House for that business.

I shared a national and constituency boundary with Peter Morrison, and always found the Secretary of State, Mr Prior, to be adamant. My other opponent was the substantially figured Mr Cyril Smith. That Government let the CITB survive; the CITB and engineering survived that midnight culling of those many boards. But constituency-wise my rayon factory stood down its apprentice school. Neither our steelworks nor the aerospace factory recruited apprentices for quite some years. That is a historic fact, and I relate it to the paragraph that I have quoted from our documents.

Britain's perpetual skills and productivity crises are rooted in that midnight culling of the boards. I emphasise again what paragraph 7.4 refers to, and again thank the Minister for her opening speech.

Lord Storey (LD): I thank the noble Lord, Lord Jones, for that tour de force, and, having spent the week in Anglesey, we have a Welsh connection.

As the Minister rightly said, the construction industry is hugely important to the economy of the UK. She also referenced the need for a pipeline of skilled workers. What she did not talk about was the point made by the noble Lord, Lord Jones, that there is a national crisis in the shortage of construction workers, which could hamper the many infrastructure schemes that we have—not just big infrastructure schemes, but local and small ones. If my noble friend Lord Stunell was here, he would tell the Minister in no uncertain terms, which I think he has already done, about the dire consequences of not ensuring that those brickies and pointers, as the noble Lord, Lord Jones, said, are recruited as quickly they should be. I have also wondered why more women are not involved in the construction industry.

The Construction Industry Training Board undertakes a large number of activities, and the Minister spelled them out in some detail, but this is perhaps a time to question what has been going on. I wonder whether the CITB would be considered by Jacob Rees-Mogg as part of his bonfire of the quangos. I hope not, but I hope that it will be reformed and refocused, because there are real concerns. You have only to listen to the National Federation of Builders, which is calling for a fundamental restructuring of the CITB, including an end to its levy-raising powers. It states that the majority of construction employers asked do not see the CITB as adding value to the industry and do not believe that it meets the labour market or industry needs, and that they cannot access the training they need when they need it. That is quite a concern.

Employers in the construction industry are facing many issues, post Covid. Is it fair that the academic institutions receive so much more; should not the levy go directly to levy-paying employers? The levy returns can sometimes be challenging and time-consuming for employers, generating additional administrative costs. Importantly, there needs to be an easier and quicker way to complete the required documentation without further record-keeping. As I have said before, a business must focus on the job of the business, making a profit and securing jobs. When the bureaucracy gets in the way, that often causes real problems for the business.

I hope that the Minister will listen to the comments made and answer them. I too had scribbled down that it would be useful to know, on a regular basis, the names of the small group who advised: let us name them and see who they represent. I had also scribbled a note asking whether the TUC was involved.

Lord Watson of Invergowrie (Lab): My Lords, I thank the Minister for her introduction to the order, which it is fair to say is not controversial. It states that

"the Secretary of State is satisfied that the industrial training levy proposals are necessary to encourage adequate training in the industry",

and we concur. For that reason, I do not propose to say much at all about the levy itself, which will continue much as before. Rather, I shall focus on the CITB and its role in assisting the construction industry to address some of the issues of recruitment and training it currently faces.

In a previous life, further back than I care to remember, I was a full-time official with a trade union in the engineering sector, and I recall dealing with several industry training boards on a number of different issues. Indeed, from memory, there were more than 20 in the 1980s, until the number was significantly reduced by the Industrial Training Act 1982. It is to be regretted that, apart from those in the film sector, only the Construction Industry Training Board and the Engineering Construction Industry Training Board are still in place today. The last two are non-departmental public bodies, and thus accountable to Parliament and, as the noble Lord, Lord Storey, said, possibly within the sights of the Minister for Brexit Opportunities and Government Efficiency—a quaint name, without a department behind it.

The order we are considering today runs to six pages, but its impact assessment is five times that length. That is to be welcomed, because it contains much interesting—in some cases, fascinating—information and statistics about the levy, the board and the construction industry itself. From it, we learn that the industry has had a levy and grant arrangement for 58 years. The impact assessment says that it currently employs more than 2.5 million people—the Minister said 3.1 million, so I am glad to hear it is growing—contributes 8.6% to GDP, and, if I caught it correctly, 9% of gross value added, which, as an economist, I think is a productivity metric. Both demonstrate the importance of the industry.

The CITB exists to ensure that the construction workforce has the right skills for now and the future, based on three strategic priorities: careers, standards and qualifications, and training and development. As is made plain in the impact assessment:

"There remains a serious and distinct market failure in the development … of skills in the construction industry".

It is stated that this is because

"the trading conditions, incentives and culture do not lead to a sufficient level of investment in skills by employers."

Unfortunately, this malaise is not restricted to the construction sector. UK employers in many sectors have long been unwilling to recognise the need for upskilling and to pay for it, and that is a major factor in the low productivity levels from which our economy suffers. The introduction of the apprenticeship levy five years ago was a clear sign of the Government's acceptance that employers will not in sufficient numbers invest of their own volition in skills development, and thus require a firm hand on their collective shoulder to encourage them to do so.

The training levy plays a key role in equipping the construction industry with the skilled and flexible workforce it needs. In the post-EU world in which we find ourselves, and given the large number of EU nationals who have traditionally worked in the construction industry in this country, it is not just important but absolutely vital that the industry is in a position to train, and continually retrain, its workforce for the challenges facing the economy.

Indeed, to quote the Explanatory Memorandum:

"It is essential, now more than ever, that employers have access to the support needed to upskill existing workers and adequately attract and train new talent, as industry seeks to fully recover from the impacts of the pandemic."

Absolutely. This order will raise more than £0.5 billion between now and 2024 to invest in training skills, which is why employers have always strongly supported the levy and value the payback they get from their contributions.

[Lord Watson of Invergowrie]

However, as the Minister will have noted from the impact assessment, the consultation among employers on the CITB's proposals for this levy produced a figure of 66.5% in support. That should cause some concern, because not only does it mean that a third of employers were not in favour of the levy—for reasons unknown, or at least not listed in the impact assessment—but the 66.5% figure was down from 76.9% when the vote was last held, in 2017. Perhaps the Minister can say whether DfE officials and/or Ministers have asked the CITB for its explanation of that reduction and what action, if any, the board will be asked to undertake to ensure it does not fall further in three years. More positive is the survey on the final page of the impact assessment, which shows that, when asked whether the statutory levy, grant and funding system should continue, 75% of employers said that it should.

The CITB has had an awkward few years recently, with more than its fair share of criticism from within the sector. The board was forcefully led by Sarah Beale from 2017 until her departure last year, and now has Tim Balcon as its CEO. Ms Beale oversaw a restructuring that saw its workforce cut by two-thirds as it returned to its core business, but that has not assuaged all in the sector. One of its largest participants, Build UK, recently called for fundamental changes, stating that there remains

"widespread frustration with the performance of CITB".

Mr Balcon deserves the chance to make his influence felt, but are the Minister and her officials aware of the discontent with the board felt by some of the employers it exists to assist? If so, can she share any information as to what support—I am not talking about financial terms—might be offered to the board?

One of those areas should be the need for much greater diversity within the construction industry. The CITB itself deserves credit for becoming, under Sarah Beale, a female-led organisation in a male-dominated industry. One of the potential benefits of that was that it allowed the CITB to push boundaries and promote change, but much more remains to be done. ONS data shows that the construction industry's 16% female workforce—a point referenced by the noble Lord, Lord Storey—compares with 23% in transportation and 25% in water supply and manufacturing, the other worst sectors.

The 2011 census showed that 13% of the UK population identified as black, Asian or minority ethnic, yet ONS data found that the percentage employed at that time in UK construction was just 7.5%. More worryingly, in a 2015 survey of its own, the CITB found that the actual figure could have been closer to 5%. We should be told what the current figures are, so that the board can begin to plot a course towards increasing the number substantially. As Kay Jarvis of the global infrastructure company blu-3 reported in 2020:

"The 2018 OutNext/PwC Out to Succeed survey also found construction had the third-worst image of all industries as an LGBT+ employer."

A recent study by recruitment analytics specialist Hays discovered that, of those black people

"who managed to break into the construction sector"—

that term is perhaps of some importance—no less than

"78% claimed they had experienced career restrictions due to their race or other demographic factors such as sexuality and age."

Whether this is down to structural prejudice or unconscious bias, it highlights the significant and clear challenge of discrimination in the hiring and promotion process, which surely must be addressed. The CITB is well positioned to do so; I hope that the Government will offer it every encouragement, perhaps by setting a baseline and then measuring year-on-year progress against it in respect of equality and diversity in various forms in construction.

4.15 pm

Role models are extremely important in addressing prejudice. In 2019, UK Construction Week led a role model campaign that sought to provide a platform for people across the industry, particularly those from underrepresented groups, to share their success stories and discuss the challenges they have faced. Since then, applications for roles in construction have increased fourfold, which illustrates that having a positive example is often enough to encourage someone to apply for a position in the industry that they otherwise might not have applied for.

So the industry is making an attempt to tackle some of the inherent inequalities in the sector; that must be continued, side by side with the training and upskilling being offered to those in the industry and those seeking to develop a career in it. The apprenticeship levy has many faults but it has at least concentrated employers' minds on the importance of bringing through the next generation of a skilled workforce. Together with the benefits that the Skills and Post-16 Education Bill will bring, there are more opportunities than ever for people—young and not so young—to access the training that they and the economy need.

Properly resourced, the CITB is positioned to focus on that delivery. I wish both the organisation and the industry it represents well. I hope that we will be presented with further progress in the development of skills and an industry with greater diversity when we are asked to consider the next draft levy order in three years' time.

Baroness Barran (Con): My Lords, I thank noble Lords for their contributions to the debate. I will attempt to cover the questions asked but I will of course write on any that I cannot answer at the Dispatch Box.

Before I go any further, the noble Lord, Lord Watson, highlighted the difference between the 2.5 million employees cited in the Explanatory Memorandum and the 3.1 million that I referred to in my opening remarks. The figure of 3.1 million comes from the Office for National Statistics and represents a wider definition of construction that includes the built environment and manufacturing. The figure in the Explanatory Memorandum is an estimate of the CITB-relevant part of the total. I hope that clarifies it for the noble Lord.

The noble Lord, Lord Jones, shared his deep expertise in the sector and asked a number of questions in relation to Wales. In line with the requirements of

Section 88 of the Scotland Act 1998, we consulted Scottish Ministers—the noble Lord pointed this out—who confirmed that they are content with the levy order. The Welsh Assembly has also confirmed its support for the order.

The noble Lord asked why the contribution for Wales appears to be so small. The levy is charged to in-scope employers based on their wage bill, so it is possible that there are fewer or smaller such employers in Wales and this is reflected in those figures. The noble Lord also asked how much of the levy will be distributed in Scotland and Wales. The split in income and expenditure between England, Scotland and Wales is not something that the CITB generally measures or reports on.

The noble Lord asked about engagement with the unions. Obviously, it is up to the CITB as to who it engages with. It is the legislation that controls who can actually vote on the levy proposals.

The noble Lords, Lord Jones and Lord Storey, challenged whether the Government are doing enough with our investment in training, qualifications and skills in this area. We have already put in place a wide range of opportunities for adults to gain the skills that they need for employment and are ensuring that people have opportunities to study by delivering on the Prime Minister's lifetime skills guarantee. The provision of skills, in construction in particular, is supported through a number of routes, including courses available through further education colleges and independent learning providers, with funding of more than £1.3 billion from the adult education budget. Noble Lords will be aware that we introduced construction T-levels in 2020, as an alternative vocational route into the sector, and are continuing to develop skills boot camps, which offer free and flexible courses of up to 16 weeks, funded through the national skills fund.

As noble Lords observed, apprenticeships remain a key route into this industry. There are currently over 640 high-quality, industry-designed standards available, and we aim to continue to improve and grow apprenticeships, so that more employers and individuals can benefit from them.

The noble Lords, Lord Watson and Lord Storey, rightly focused on the lack of diversity in the construction workforce. Obviously the CITB is not responsible for the construction workforce, but it has an important role in facilitating skills opportunities to help the industry strive towards a workforce that reflects today's society. It undertakes a wide range of initiatives and activities; it works with industry and other partners to try to attract a diverse pool of new entrants into the industry and to promote construction careers. I share the hope of the noble Lord, Lord Watson, that in three years, when we debate this instrument again, the make-up of the sector will look very different from where it is today.

The CITB is funding the training of industry construction ambassadors on fairness, inclusion and respect, who contribute to a dedicated industry project which creates resources for employers to promote and celebrate best practice across the sector. It is also funding a digital resilience hub, which is a free and accessible tool that brings together mental health resources for those working in the construction industry. Finally, it is funding the on-site hubs that support individuals to become employment-ready and site-ready to take up opportunities in construction. Their target is to support underrepresented groups, including women and those from black, Asian and other minority-ethnic backgrounds, to secure sustainable job outcomes. It is fair to say that representation from those groups remains disproportionately low. The CITB continues to work with partners to try to address that.

The noble Lords, Lord Watson and Lord Storey, questioned the value of the CITB and raised some of the criticisms that have been lodged against it, and asked whether there would be an alternative model for funding skills development in the construction industry. The Government seek to evaluate the rationale for and effectiveness of its arm's-length bodies through a programme of regular reviews, and that includes the ITBs. In 2017, the review of ITBs confirmed that there remains an ongoing need for a central skills body and recommended that the CITB should make stronger efforts to address the skills gap and market failure within the industry. That included the requirement for the CITB to lead on emerging needs, such as supporting the Government's ambitions for housing.

Lord Watson of Invergowrie (Lab): I mentioned earlier that the impact assessment shows that 75% of employers, when asked, said that they wanted the current scheme to continue. Is it not unthinkable that, with that kind of backing, the Government might move away from the current model?

Baroness Barran (Con): Obviously I cannot predict the future. I can only repeat what the review of 2017 said, on which basis the Government are moving forward. The review showed that there is an ongoing need for a central skills body and, as the noble Lord says, employers support it.

Following that review, the CITB's implementation of its three-year transformation process, *Vision 2020*, has helped to make it a more focused and more agile partner to industry, and, as a result of the initiative, the CITB has implemented new governance structures so that industry voices are at the heart of decision-making, has launched new funding systems to allow employers to have easier access to support—the noble Lord, Lord Storey, referred to bureaucracy being a barrier to accessing support—and has moved to an investment model based on strategic commissioning. As I noted, the industry has expressed concerns about the performance of the CITB, but we are confident that it has worked hard to increase industry involvement in its strategic planning to address those concerns.

The noble Lord, Lord Storey, asked about the funding model and exactly what it pays for. The levy provides an investment in skills through a redistributive and collective fund, and it provides value through strategic initiatives that benefit the whole industry—I have referred to some of them already—such as attracting new entrants, identifying common standards and common training solutions, encouraging the transferability of skills, quality control of training provision, leadership and project management development, and collaborative behavioural training programmes.

[Baroness Barran]

The noble Lord, Lord Watson, asked about the relationship between the amount of levy that is paid and the grants that an employer might receive. We believe that employers receive value for money, but they do not expect to receive a direct financial return via the training grants that is equal to the levy that is paid. As I mentioned, the levy is an investment in skills through a redistributive and collective fund that benefits all employers.

The noble Lord, Lord Jones, asked about our housebuilding targets. One of the priorities from the DfE to the CITB for 2022-23 is providing support to the industry to meet our ambition to build 300,000 homes each year.

There continues to be the collective view across the sector that training should be funded through a statutory levy system and that that system should be used to contribute to a pool of skilled labour, now and in the future, for this critical sector. There is a firm belief that without the levy there would be a serious deterioration in the quality and quantity of training in the construction industry, leading to a deficiency in skills levels and in capacity. That would create particular challenges in the current economic environment, when skilled workers are needed to deliver the infrastructure projects required to meet the environmental challenge of reducing the UK's carbon emissions to zero by 2050, as well as all the other ambitions that we have referred to in relation to other infrastructure and housebuilding projects.

Motion agreed.

Coronavirus Act 2020 (Delay in Expiry: Inquests, Courts and Tribunals, and Statutory Sick Pay) (England and Wales and Northern Ireland) Regulations 2022

Considered in Grand Committee

4.30 pm

Moved by ***Lord Stewart of Dirleton***

That the Grand Committee do consider the Coronavirus Act 2020 (Delay in Expiry: Inquests, Courts and Tribunals, and Statutory Sick Pay) (England and Wales and Northern Ireland) Regulations 2022.

The Advocate-General for Scotland (Lord Stewart of Dirleton) (Con): My Lords, last month, 25 March marked two years since the Coronavirus Act gained Royal Assent. This Act gave us the necessary powers to tackle the direct health impacts of the Covid-19 virus, support individuals, businesses and the economy, and maintain our critical public services during the pandemic. When the Act was introduced, this House and the other place agreed for the temporary provisions within it to have a two-year lifespan. The Government have always been clear that these provisions would remain in place only as long as they are necessary and proportionate to respond to the pandemic. Thanks to the progress made in the fight against the virus, the Government have been able to repeal the vast majority of the temporary non-devolved provisions in this Act. There are now only five temporary non-devolved provisions remaining in force, which are extended by the regulations before us today.

Four of these provisions, at Sections 30, 53, 54 and 55 of the Act, relate to the justice system. They have allowed the system to continue to function throughout the pandemic, enabling the courts to deal promptly and safely with proceedings, and to avoid unnecessary social contact and travel while upholding the principle of open justice. They are now proving vital in our efforts to support court recovery. These temporary measures are so important to court recovery that we intend to replace them with permanent legislation, but we cannot afford any gap in provision while we wait for that legislation to complete its passage through Parliament, albeit some of it is comparatively well-advanced.

Section 30 removes the obligations for coroners to hold inquests with a jury where Covid-19 is the suspected cause of death. An equivalent measure is included in the Judicial Review and Courts Bill, which is expected to receive Royal Assent later this spring. The replacement measure has effect for two years and can be extended by regulations made by the Secretary of State. Neither Section 30 nor the new Judicial Review and Courts Bill prevents coroners from holding jury inquests in cases where they consider it appropriate. I think it is important to emphasise this element of discretion vesting in the coroner.

Sections 53, 54 and 55 enable participation in court and tribunal hearings to take place remotely by video or audio links. They also allow audio or video footage to be transmitted to remote observers and create new offences to prohibit the unauthorised recording or transmission of any live links sent from court. Essentially, it is an updating of the power inherent in the court already to regulate the behaviour of those observing its proceedings.

They are due to be replaced this summer with new provisions in the Police, Crime, Sentencing and Courts Bill, subject to parliamentary approval. In the meantime, it is vital that these measures remain in place so that our courts and tribunals can continue to hold virtual hearings in an open and transparent manner. These measures continue to be crucial in helping our courts and tribunals to work more quickly through the backlog of cases that has built up during the pandemic.

Currently, around 10,000 hearings each week take place using some form of remote technology. On 14 February, the Lord Chief Justice issued guidance on the circumstances and types of proceedings where it might continue to be appropriate for advocates to attend Crown Court hearings remotely under these provisions. This includes bail applications, ground rules hearings, custody time limit extensions, uncontested Proceeds of Crime Act hearings and those hearings which involve legal argument only. Conducting these types of hearings via audio and video links means that court-rooms can be reserved for hearings which require participants to attend in person, including trials and sentencing hearings.

Without Section 30, the backlogs in our coroners' courts would be significantly larger, further increasing the demand on local authority-funded coroner services. Hundreds, possibly thousands of individuals, would

have to serve on Covid-19 inquest juries and coroner services would have been overwhelmed by the logistics. If the courts are unable to continue to use these provisions, even for a few months, I submit that it will have a significant impact on our court recovery programme. It will mean that defendants are waiting longer than necessary for trial, more complainers are waiting longer than necessary for justice and the bereaved are waiting longer than necessary for inquests. Therefore, we cannot, I submit, allow these powers to lapse. A maximum six-month extension will enable a smooth transition and avoid any disruption to service before replacement primary legislation comes into force. The provisions we are discussing today will be repealed once this new primary legislation is in force.

I turn to address a provision at Section 43 which relates to statutory sick pay in Northern Ireland. Section 43 is extended by this statutory instrument for a period of six months. This enables statutory sick pay to be paid from day one in Northern Ireland for absences relating to Covid-19. While statutory sick pay is ordinarily a transferred matter in Northern Ireland, Section 43 confers on the Secretary of State the power to make regulations in respect of this provision. In this provision, the UK Government are facilitating the extension of Section 43 on the formal request of the Department for Communities in Northern Ireland.

I take the opportunity today on behalf of the Government to note an addendum in the 12th two-monthly report of the Act, which was published on 24 March. This addendum addresses omission of status updates for two temporary provisions in previous reports. These are Sections 42 and 43 that relate to statutory sick pay and extend to Northern Ireland only. On behalf of the Government, I apologise for this omission and welcome the opportunity to correct it. The addendum provides information about the status of these provisions over the course of the pandemic. I have made inquiry of the Bill team about the way in which this addendum is promulgated and I am told that it together with an accompanying apology is placed in prominent view in the report.

I reassure the Committee and the House in general on behalf of the Government that the reporting omission has not impacted the policy relating to these provisions. The addendum provides information about the status of these provisions over the course of the pandemic.

On behalf of the Government, I thank all front-line workers and those working in our courts, tribunals and coroner services for the sterling work they have done to keep the system running.

Lord Ponsonby of Shulbrede (Lab): My Lords, I thank the Minister for introducing this statutory instrument. It is fairly technical in the sense that it is a six-month extension of the current emergency provisions —starting from 25 March—to cover the coming into effect and Royal Assent for the two Bills which the Minister mentioned. In that spirit, we do not oppose this statutory instrument.

The Minister set out the importance of this emergency legislation in dealing with the situation we were in during the pandemic. I remind the Committee that I sit as a magistrate in the adult, youth and family jurisdictions, and have sat in a lot of these courts over that two-year period. I have been active in the two Bills the Minister mentioned, in trying to take the best of that experience and use it in continuing to work with an overburdened court system. I accept the points that he made that we are dealing with 10,000 hearings a week that have some form of remote technology in them and that we should do what we can to do hearings remotely, because it frees up court rooms to try to address the backlog.

Understandably, given the nature of this statutory instrument, the Minister did not address the BBC's headline news today about the continuing and worsening backlogs for sexual offences. I was just looking up the statistics while waiting for this debate and the figures are getting worse: the average case length for sexual offences is 266 days—nine months waiting for suitable cases to come to court. This is getting worse, so I ask the Minister what the nature of the bottleneck is. Is it, as the criminal barristers are saying, that the number of criminal barristers has fallen over recent years? Is it because the number of judges' sitting days has reduced? Or is it, as I have also heard, that there is a difficulty and a bottleneck in recruiting a sufficient number of judges to deal with these backlogs, that of sexual offences in particular? The Minister's predecessor, the noble Lord, Lord Wolfson, made the point in previous debates that the lack of availability is not of courts as such but of appropriate judges. I would be interested to hear from the Minister whether that is still the case.

The Minister talked about Section 43 of the Coronavirus Act 2020 and statutory sick pay provision in Northern Ireland. I noted the correction that he highlighted, which I am happy to take as read; I do not want to go into that any further.

As I opened, we support this statutory instrument. It is a technical measure as provisions within other Bills come into place. Nevertheless, I think the Minister should say something about the seriously bad figures that were produced in BBC programmes and made headline news today.

Lord Stewart of Dirleton (Con): My Lords, I am grateful to the noble Lord for his contribution and the spirit in which he framed his remarks, acknowledging the justification for this measure to extend the powers brought in under the peculiar and unique circumstances of Covid and the value that they had. As always with the noble Lord, he speaks from a position of expertise and experience of the value of such measures from his position as a magistrate—or, rather, his position as a magistrate informs his remarks.

The noble Lord posed a question on the figures. He sought an answer on the bottleneck and advanced a number of potential causes for it. I can tell the Committee something of the scale of the investment that the Government are making in the criminal justice system over the next three years. The sum of £477 million is to be invested in the system overall, which will allow us to reduce the Crown Court backlog to an estimated 53,000 by March 2025.

To provide additional capacity in the Crown Court, we are extending the sentencing powers in the magistrates' courts from six to 12 months' imprisonment for a

[Lord Stewart of Dirleton]
single triable-either-way offence to allow more cases to be heard at that level in the magistrates' court and drive down the backlog of cases over the coming years.

The figures we have indicate that these measures are already having a beneficial effect in that the case load in the Crown Court reduced from around 61,000 cases in June 2021 to around 58,500 at the end of February 2022. As a result, we expect to get through 20% more Crown Court cases this financial year than we did pre-Covid. The figures would be 117,000 in 2022-23, compared to 97,000 in 2019-20.

4.45 pm

As to the specific causes for the backlog, I am not at this stage able to present the Committee with a view on or answer to the noble Lord's question. However, if he is content, I undertake to have officials explore the question in detail and revert to him in writing. On the basis of this short debate, I beg to move.

Motion agreed.

Licensing Act 2003 (Platinum Jubilee Licensing Hours) Order 2022

Considered in Grand Committee

4.47 pm

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

That the Grand Committee do consider the Licensing Act 2003 (Platinum Jubilee Licensing Hours) Order 2022.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I beg to move the instrument before the Committee today to extend the licensing hours in recognition of Her Majesty the Queen's Platinum Jubilee. I am asking the Committee to support the instrument to extend licensing hours on Thursday 2 June, Friday 3 June and Saturday 4 June. Section 172 of the Licensing Act 2003 allows the Secretary of State to make an order relaxing opening hours for licensed premises to mark occasions of

"exceptional international, national or local significance".

The Government consider the Platinum Jubilee to be such an occasion. This will be a period in which we celebrate Her Majesty the Queen's incredible service and remarkable dedication, and many people will want to gather with their family and friends and raise a glass to mark this historic milestone.

The extension will apply to premises licences and club premises certificates in England and Wales, which license the sale of alcohol for consumption on the premises. These premises will be allowed to remain open until 1 am without having to notify the licensing authority and police via a temporary event notice, as would usually be the case. Premises that are licensed to provide regulated entertainment will be able to do so until 1 am on the nights covered by the order, even where those premises are not licensed to sell alcohol. This includes, for example, venues holding musical events or dances as well as theatres and cinemas.

The order does not extend to premises which sell alcohol for consumption off the premises, such as off-licences and supermarkets. Premises which provide late-night refreshment, which is the supply of hot food or hot drinks to the public, between the hours of 11 pm and 5 am, but do not sell alcohol for consumption on the premises will not be covered by the order; such premises will only be able to provide late-night refreshment until 1 am if their existing licence already permits this.

The Home Office conducted a public consultation, which ran for a month and concluded on 26 January this year. The majority of respondents agreed with the extension for the three-day period and that it should apply to England and Wales. The consultation also received responses from numerous trade organisations, which were supportive of the extension of licensing hours. The National Police Chiefs' Council, the Local Government Association and the National Association of Licensing and Enforcement Officers were all in agreement with the proposed extension to licensing hours for Her Majesty the Queen's Platinum Jubilee.

I am sure the Committee will support this order to help celebrate a special and historic moment in our national history. I beg to move.

Baroness McIntosh of Pickering (Con): My Lords, I congratulate my noble friend on bringing forward the order, which I entirely endorse. It recognises and reflects that there is a willingness, as we come out of the pandemic, to celebrate such an auspicious occasion. It has been a particularly tough time for the hospitality sector over the last two years or so.

I refer briefly to my chairmanship of PASS, the Proof of Age Standards Scheme, where I work closely with the hospitality sector. Not having to pay the TEN fee, as referred to in the Explanatory Memorandum, will be very welcome in saving not just the fee but the time that would have had to be spent.

I have one hesitation. I am sure my noble friend will be aware of the agent of change issues that have been flagged up. She will be aware that we are just concluding a follow-up report to our previous Select Committee inquiry on the Licensing Act 2003. I am not yet at liberty to say what our recommendations will be because we have not yet concluded that, but there is an issue where there may have been a recent application for an outlet in the hospitality sector to open its doors in an area that has previously been primarily residential. Is that something that both the Government and those acquiescing to these licences will be mindful of, given that it will be, as my noble friend said, a four-day bank holiday? That is my only reservation. Otherwise, I entirely endorse the order.

Lord Paddick (LD): My Lords, I thank the Minister for introducing this instrument. If ever there was an occasion of exceptional national significance, surely it must be Her Majesty the Queen's Platinum Jubilee. Therefore, we are generally supportive.

However, my concern is over the fact that the Government listened to the consultation that was run and, according to what they have published:

"Out of the 74 respondents, 58 agreed that the extension should only apply to on sales",

not to off-sales. As a consequence, this instrument does not apply to off-sales.

4.53 pm

Sitting suspended for a Division in the House.

4.56 pm

Lord Paddick (LD): My concern is Section 11 of the Business and Planning Act 2020, which allowed on-licence premises to sell alcohol as an off-licence for a period of time, because of the Covid pandemic. That included sales in open containers and alcohol for delivery to residential or work premises. Effectively, on-licence premises could act as off-licences. The ability of on-licence premises to act as off-licences does not cease until 30 September. That is my understanding of the legislation.

As I said, of the 74 respondents, 58 agreed that the extension should apply only to on-sales, presumably because they were concerned about disorder in the streets if people were allowed to buy alcohol in off-licence premises and take it away, rather than consume alcohol in regulated on-licence premises. Therefore, there is a flaw in the instrument, in that the concern about increased alcohol-related crime and disorder as a result of the extension being applied to off-licence premises has not taken into account that all on-licence premises are, until 30 September this year, able to act as off-licence premises. What does the Minister have to say about that?

Other than that concern, I hope that people will celebrate in a manner fitting with the Queen's Platinum Jubilee.

Lord Ponsonby of Shulbrede (Lab): My Lords, we in the Labour Party also support this statutory instrument and wish the Queen a happy birthday. I hope that the country enjoys a weekend to celebrate this happy occasion.

This is a usual extension of licensing hours, if I can put it like that, for royal events and major sporting events. For example, we did this for the wedding of the Duke and Duchess of Cambridge, for that of Prince Harry and Meghan Markle, and for the Queen's Diamond Jubilee.

We have heard about the consultation. The noble Lord, Lord Paddick, was kind enough to mention his concern before today's debate, and I will be interested to hear the Minister's response to the point he raised. It is a fair question.

Finally, my question to the Minister is this: does she propose raising a glass until 1 am, as a fitting tribute to mark the Queen's Platinum Jubilee?

5 pm

Baroness Williams of Trafford (Con): I thank all noble Lords for their contributions. On that very tricky question, I might raise a glass beyond 1 o'clock, but in my own home. I am very much looking forward to the weekend, as I am sure all noble Lords are, and I am reassured by the general consensus.

On the point made by the noble Lord, Lord Paddick, we gave careful consideration to the responses that raised concerns about the potential for a rise in crime and disorder as a result of the extension, and any impact on public resources, including policing requirements. As I said, the National Police Chiefs' Council raised no concern about the proposed extension. The police have been given early notice of the Government's plans and have a range of mitigating actions available to them to prevent and to deal with any isolated problems, should they arise.

The noble Lord, Lord Ponsonby, drew attention to previous extensions: namely, for the royal wedding, the Queen's Diamond Jubilee in 2012 and Her 90th birthday in 2016. We are not aware of any increased crime or disorder during those occasions. The SI itself specifically excludes sale for consumption off the premises. It is for a short duration, and many people will want to celebrate the Platinum Jubilee together in their local pub. Pubs may also wish to put on special celebrations for the occasion.

I agree with my noble friend Lady McIntosh that the potential boost to trade is very welcome, given the financial pressures that businesses have been under. She also pointed out the cost saving of £21 for a temporary event notice. I am very much looking forward to reading the agent of change report that she referred to, and we will comment on it in due course.

On the point made by the noble Lord, Lord Paddick, about off-sales for the coronavirus period interacting with this, this is purely for premises licences which establishments have in ordinary times, but I have asked those in the Box behind me what this will mean for off-sales, so I shall get back to him on that. In the meantime, I beg to move, and God save the Queen.

Motion agreed.

Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022

Considered in Grand Committee

5.03 pm

Moved by ***Baroness Vere of Norbiton***

That the Grand Committee do consider the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022.

Relevant documents: 29th and 34th Reports from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, the regulations before the Committee today meet a commitment made by the Prime Minister in the 2020 policy statement *Gear Change: A Bold Vision for Walking and Cycling* to give local authorities outside London powers conferred in Part 6 of the Traffic Management Act 2004 to enforce contraventions of moving traffic restrictions. These powers are being commenced to coincide with these regulations, which are due to come into force on 31 May. The regulations before the Committee today form part of a package: an affirmative statutory instrument and a negative one. I shall refer to the former as the appeals regulations, and it is these are being considered by the Committee today.

[Baroness Vere of Norbiton]

The appeals regulations consolidate the rights of representation and appeal which have been in place England-wide since 2007 for vehicle owners who are or may be liable to pay penalty charge notices—PCNs—in respect of parking contraventions. They also extend those rights to disputed bus lane and moving traffic PCNs outside London. However, noble Lords should also note the negative procedure instrument: the Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022. This instrument includes wider provisions for evidence, penalty charge notices, adjudication, penalty charge levels, and income and expenditure.

This regulatory package, introduced under Part 6 of the Traffic Management Act 2004, consolidates existing legislation. At the same time, it makes powers available to local authorities outside London to issue PCNs for contraventions of safety-critical moving traffic restrictions, such as no entry, banned turns and unlawful entry into box junctions. From now on, local authorities wanting to undertake moving traffic enforcement may apply for formal designation of these powers to enable enforcement to begin in practice by using CCTV cameras that have been certified by the Secretary of State. We plan to lay an order designating the first group of LAs as soon as practicable and will lay further orders as demand dictates.

When using these powers, local authorities have a duty to act fairly. These regulations therefore make provisions entitling drivers who are or may be liable to pay penalty charges for contravening certain traffic restrictions, including the moving traffic restrictions, to make representations to the enforcement authority and, if their case is rejected, to appeal to an independent adjudicator against the penalty charge. The regulations prescribe the information that must be given when a penalty charge is imposed about the right to make representations or appeal against that charge. The regulations also prescribe time limits for each stage of these processes, within which both the motorist and the local authority must respond, and create an offence of knowingly or recklessly making false representations under these regulations or in connection with an appeal.

I assure noble Lords that these regulations merely extend long-established provisions for motorists wishing to dispute parking penalties to the forthcoming civil enforcement regime for moving traffic contraventions. To create parity across the board outside London, we have also used this opportunity to repeal the bus lane enforcement regime, in place since 2005 under the Transport Act 2000, to create a single enforcement regime under the 2004 Act; that includes bus lane enforcement. It was always envisaged that this would happen soon after the 2004 Act was introduced.

By doing so, we have removed some of the inconsistencies in the legislation. Motorists challenging bus lane penalties will therefore benefit from representations and appeals provisions not previously available to them. These will apply to all contraventions. For example, they can challenge a penalty charge on the grounds of "procedural impropriety". There will also be an express duty on local authorities to consider any "compelling reasons" that the motorist gives for the cancellation of the charge; express powers for adjudicators to refer cases back to the local authority where there are no grounds to allow the appeal but the adjudicator considers that the authority should reconsider whether the appellant should pay all or some of the penalty; and a requirement for the authority to respond to representations within 56 calendar days.

Bringing bus lane powers under the 2004 Act also has an allied benefit, in that it enables Ministers to publish for local authorities, for the first time, statutory guidance to cover all contraventions to which local authorities must have regard. This will simplify the system for the local authority so that it does not have lots of different types of enforcement considerations when it plans how to operationalise them.

However, I am clear that civil enforcement of moving traffic contraventions—or, indeed, of any traffic contraventions—should be a last resort. If contraventions are preventable through other means, such as improvements to road layout or traffic signing, I expect this to be done before enforcement is considered. We will issue statutory guidance to ensure that local authorities use these powers correctly.

Before enforcement can begin in practice, local authorities must apply to the department for an order by means of a letter to the Secretary of State. To ensure due diligence, designation of a local authority will be conditional on them having already consulted local residents and businesses on where existing restrictions have been earmarked for enforcement, and due consideration must have been given to any legitimate concerns.

Local authorities will also be expected to issue warning notices for first-time moving traffic contraventions at each camera location for six months following enforcement going live. This will apply to any new camera location in the future. These requirements will be enshrined in the statutory guidance to ensure that enforcement is targeted only at problem sites, that road users clearly understand the new powers and that enforcement is carried out fairly.

I stress that traffic enforcement must be aimed at increasing compliance and not raising revenue. Local authorities will not have a free hand in how any resulting surplus is used, which will be strictly ring-fenced for covering enforcement costs or specified local authority funded local transport schemes or environmental measures. Neither will local authorities have a free hand in setting penalty charge levels for moving traffic contraventions, as these are banded and set out in the regulations in line with existing penalties for higher-level parking contraventions. As moving traffic and bus lane contraventions are of a type, we are increasing bus lane penalties by £10 to align with contraventions of moving traffic and higher-level parking contraventions—for example, parking in a disabled bay.

These regulations support the enforcement of moving traffic contraventions and play a key role in reducing congestion, with consequent benefits to air quality and to well-being. I commend the regulations to the Committee.

Baroness McIntosh of Pickering (Con): My Lords, I have just two brief points to make. I thank and congratulate my noble friend on bringing forward the regulations this afternoon. First, I understand that

there was a delay and that the statutory instruments had to be withdrawn and re-laid. I would very much like to understand why that was the case and have an assurance that that will not happen with future SIs.

My second concern relates to the Secondary Legislation Scrutiny Committee's 29th report, dated 10 February 2022. At paragraph 40 it says:

"To free up police officers' time, these Regulations extend the range of offences that can be dealt with by civil enforcement officers acting on behalf of local authorities, or in some cases traffic cameras."

I would like to understand from which budget the civil enforcement officers will be taking on this work. I am mindful of the extent to which local authorities' budgets are under severe pressure at this time.

Who will be responsible for the traffic cameras? In north Yorkshire and County Durham we have very few fixed cameras; the traffic cameras are mostly mobile. When I was an MP in north Yorkshire, I was informed, on the quiet, that in many instances there is no film in static cameras in north Yorkshire—they are just there to alarm people, in the hope that their behaviour will be reformed because they see a traffic camera in front of them. Are we relying on mobile traffic cameras, which are still the province of the police, or are there some other traffic cameras of which I am not aware?

With those few remarks, I wish the SI good speed.

Baroness Scott of Needham Market (LD): My Lords, on this side we very much support these measures; it would be odd if we did not, as my noble friend Lord Bradshaw has been arguing for this move for pretty much as long as I have been in the House, which is over 20 years now. Civil enforcement of moving traffic offences is, as he has argued, really important in improving the flow of traffic generally and particularly for buses. Bringing the rest of England in line with London is a welcome step. I also agree with the Government that we need better enforcement for safety reasons for cycle lanes, pedestrian crossings, and so on.

5.15 pm

I very much agree with the Minister: we need to ensure that these penalties are a means to achieve those objectives on congestion and safety, not a revenue raiser. I welcome the protections that have been put in place. The AA has done a huge amount of work gathering data on all this. One of the things it has found is that most drivers faced with a penalty just pay up even where they do not believe that they have done anything wrong or think that they have a good mitigating reason; because they are afraid of the penalty going up if they do not pay immediately, they decide that it is easier to pay. That is concerning.

Similarly, in its data gathering, the AA has picked up locations where the volume of violations is such that it suggests there is a problem with either the layout or the signage. Clearly something should be done about that, not just simply issuing more and more fines. It argues for a sort of automatic review mechanism when particular locations reach a certain point. I wonder whether the department has thought about that. The AA also argues that first-time offenders should receive a warning letter no matter how long the measures have been in place, not just within six months. Again, I wonder what the Government have thought about this.

Like the noble Baroness, Lady McIntosh, I had a look at Joint Committee on Statutory Instruments' report. The committee has some concerns. It highlighted two instances of defective drafting—I gather that those have been accepted by the department so I will not dwell on them—but there are also two instances of a difference of opinion between the JCSI and the department about whether some provisions are intra vires. One of them is on the question of what happens when a local authority fails to decide what to do with the proceeds of crime.

The second one troubles me a little more. The department asserts that the 15-minute period between the issue of a notice and clamping is a minimum period. The JSCI has argued that, in primary legislation, 15 minutes is the period and, if Parliament had wanted a 15-minute minimum, it would have legislated for that—but it did not and has given it as a definite period. So the committee does not accept that the department is correct. I am slightly troubled about this simply because, as the Minister will know, there is quite an industry in finding legal loopholes to get through fixed-penalty notices and various things. We need to be absolutely sure that we are confident that this will not become a loophole.

Lord Tunnicliffe (Lab): My Lords, I thank the Minister for bring forward these regulations, which I welcome. They will extend the rights of representations and appeals in parking, bus lane and moving traffic cases. I will not seek to detain the Committee for long, given that there is broad consensus on the basic principles. However, I welcome any details as to why it has taken so long to introduce these changes, given that they relate to a policy statement from two years ago.

A colleague was going to be doing this debate today so I came against the regulations only at 11.30 am. My understanding is that this is really a package made up of a commencement order that has no parliamentary procedures, a negative order that nobody has prayed against—so it will go through—and this measured affirmative order, or whatever the right term is. I hope that these regulations do a simple, uniform thing and bring the powers and appeal rights in England and Wales into a uniform piece of legislation. There are lots of nods but I would like to hear the Minister say yes to that because it would simplify how one thinks about this.

I wonder whether the Minister can offer a timeline for what flows from this package. I recognise that she may have done that in her speech but the impressive speed of her delivery was beyond my comprehension in places; I am not suggesting that she was not right and accurate, so I apologise for that. The reason I would like to see a timeline is because, as the Minister knows, the commencement of this order depends on the commencement of the negative order but I do not know when that is proposed to be. It would be useful to have on record when that will happen and when the consultation on the guidance will complete. I got the impression that the guidance might be published on the same day as the commencement. That would be

[Lord Tunnicliffe]
unfortunate but it goes to the general issue of how motorists will know about both the offences and their appeal rights at the same time. I think the Minister said a little about how motorists will know about the offences, but knowledge about their appeal rights seems equally important.

The Committee hopes that these regulations will contribute to making the system of road traffic contraventions fairer and more effective. On broader road traffic issues, the Minister will be aware that the Government recently published an updated private parking code of practice, which caps fines at £80 in London and £50 elsewhere. Welcome as that is, unfortunately, the new code will not come into force fully until 2024. In the meantime, many parking firms are charging more than those caps permit. Does the Minister believe it is right that they are able to charge extortionate amounts before the new code of practice fully comes into force?

Baroness Vere of Norbiton (Con): I thank noble Lords for contributing to this short debate. I apologise at the outset for my speed of delivery. I must slow down; I will slow down. I promise the noble Lord, Lord Tunnicliffe, that, next time I give an opening speech, I will slow down, enunciate and break for breath every now and again.

Some important points have been raised, which I hope to cover. I will write, of course, because I suspect that I will not be able to answer a couple of things in full. I am grateful for the broad welcome for these regulations. I accept that they have been a long time coming, particularly given that the Traffic Management Act was enacted in 2004. Then there was the issue of commencing Part 6. The delay in commencing that part and in putting these regulations before the Committee is partly down to the pressures of the pandemic; it has been a little busy in the Department for Transport. We wanted to get this right, recognising that it will be up to local authorities to put this into operation. They, too, have been suffering from a lack of time and resources during the pandemic.

We did crack on with it when we felt that things looked a little more positive but we had an issue with the JCSI, which was alluded to by my noble friend Lady McIntosh of Pickering. An error was discovered in the affirmative SI, which meant that we withdrew it and then re-laid it with the error resolved. It did not have an impact on the date of its coming into force, so it did not have an impact on the whole process of what was going to happen, but we are grateful to the JCSI for its work on finding the error because it would have been unforgivable for that to have got on to the statute book.

On the issues relating to the JCSI vires, I might write with a little more detail, perhaps to explain why we slightly differ from the JCSI and how we propose to respond to it. I believe that we will make some changes at the earliest opportunity; potentially, there is an opportunity to make a change in the first designation order, which will come soon.

On the point raised by my noble friend Lady McIntosh on resources, cameras and the gubbins that will have to be in place to operationalise these regulations, we know that some places have already put them in place. We know that London already does it but, let us face it, London is not really like everywhere else. But one might look at Cardiff. For example, in Wales, the Welsh Government commenced the Part 6 powers back in 2013 and, to date, Cardiff City Council and Carmarthenshire have acquired the designation of those powers. In Cardiff, we have a little bit of visibility about how they did it, how much it cost them and what the impact was on their budgets. The council's latest *Annual Park and Traffic Enforcement Report* for 2018-19 confirms the following. For the first full year of enforcement, which was actually 2016-17—it is a little while ago, but that was its first full year, and it is the most up to date that we have—it ended up with a combined income of around £3.4 million and a total expenditure of £5.6 million, including parking. We estimate that it probably spent around £3.7 million on bus lane and moving traffic enforcement. So that was a deficit of about £0.3 million. We would expect that, in most circumstances, after the first year when things have settled down, you would end up with a surplus. As I explained in my opening remarks, that surplus can be used only on very specific things.

There is also the issue to consider, if a local authority is putting something in place, that we have said that within the first six months there will be warning notices rather than fines to be paid for any individual attracting a contravention at a particular camera. So that will reduce the income. It is also worth recognising that many of the set-up costs will be one-off costs. There will be ongoing maintenance costs for the CCTV, but they will usually be one-off costs, which can be met more than over just the first year. On the flip side, we know that costs will be mitigated somewhat by the slight increase to the bus lane penalties.

In general, in our new burdens assessment, we suggested that there was no additional burden to local authorities by implementing these regulations, and the Local Government Association did not object to the new burdens assessment. So I think either it will work out cost neutral or there will be a surplus which, as discussed, will be used only for certain areas. I take the point about some sites being very non-compliant and therefore attracting large numbers of fines. Of course, we will make it clear in the guidance how local authorities should deal with those sites. We want the cameras to be in problem sites but, clearly, there will be areas where they can improve their highways layout or, indeed, their traffic signage to make people understand exactly what has happened.

To go back to my noble friend's question about cameras, those that are used for moving traffic contraventions must be certified by the Vehicle Certification Agency. We have very specific cameras that are certified by the VCA, and we certify cameras at no charge to the LA—the department bears the cost. We have a specific fund from which we draw down. But it is local authorities that are responsible for paying for the cameras and then putting them in place, so it is up to them.

That slightly leads on to the point raised by the noble Baroness, Lady Scott. The guidance that we will complete will set out all sorts of things in relation to operating these regulations appropriately. I have mentioned

those areas where there is lots of contravention. We have worked closely with the sector on the development of the detailed statutory guidance. We have had input from a wide range of stakeholders, including the motoring groups—the RAC and the AA have been very involved—and local government: the Local Government Association and local councils. We have also been in touch with and talked to active travel groups, including Sustrans, British Cycling and Living Streets, as well as the British Parking Association and the Traffic Penalty Tribunal. Clearly, we have to get this guidance right. We need to make sure we have the right level of enforcement and in the right places.

5.30 pm

The noble Baroness mentioned the warning letter and asked why it is a six-month thing. It is for many reasons. At the heart of this, drivers should be following the signs anyway. If they have committed a contravention at some stage, they really should pay a penalty for it. When we looked at how long you could keep it for, there were two issues. The first is that to operationalise holding such a significant amount of data was quite tricky. There was also a GDPR consideration: you cannot hold people's data for a vast period of time unless you are going to do something with it. We felt that six months was entirely reasonable, so that is why we landed on that.

I am grateful to the noble Lord, Lord Tunnicliffe, for standing in to do this statutory instrument, possibly at short notice. He asked for categorical confirmation that this was a uniform set of regulations that covered all the representations and appeals for all the different contraventions. I really want to say yes, because I think it is. However, I am fairly sure it will be "yes, but", so I will write with further details as to whether there is any "but" and what currently falls out. The good thing is that we have consolidated bus lanes, parking and moving traffic, but something might have fallen through the gaps.

The timeline will depend very much on local authorities. Should these regulations be approved by your Lordships' House, they will come into force on 31 May. We will be receiving applications from local authorities, but of course they will have to have done their consultation beforehand, which will take time. They will then apply to the department, and we will put them into groups and bring them through in designation orders in groups. It will not happen immediately and, through the consultation, residents in local areas will know that changes are afoot. People who are not from that area potentially will not, but they should be compliant with local traffic laws anyway. If in future they get a penalty charge notice from a local authority, it will specifically say on it where they can find out more information about representations, appeals and, for example, the 50% discount. All those things will be set out on the penalty charge notice, as they often are now for parking fines.

I cannot really say when I expect the first designation order to come through. I certainly expect that it will be this year, but I have not had an update as to how many local authorities have been in touch to say that they are pressing ahead quickly with this. I know that local authorities really want these powers and I think they will make their lives easier, particularly as we take forward the measures in the national bus strategy, which are so important.

The noble Lord, Lord Tunnicliffe, finished by mentioning the private parking consultation. I may write to him on that to make sure I have covered the question he raised. Otherwise, I commend these regulations to the Committee.

Motion agreed.

Money Laundering and Terrorist Financing (High-Risk Countries) (Amendment) Regulations 2022

Considered in Grand Committee

5.34 pm

Moved by ***Baroness Penn***

That the Grand Committee do consider the Money Laundering and Terrorist Financing (High-Risk Countries) (Amendment) Regulations 2022.

Instrument not yet reported by the Joint Committee on Statutory Instruments

Baroness Penn (Con): My Lords, the Government recognise the threat that economic crime poses to the UK and to our international partners, and are committed to combatting money laundering and terrorist financing.

Illicit finance causes significant social and economic costs through its links to serious and organised crime. It is a threat to our national security, and it risks damaging our international reputation as a fair and open rules-based economy. It also undermines the integrity and stability of our financial sector and can reduce opportunities for legitimate businesses in the UK.

That is why we are taking significant action to combat economic crime, including legislating for the economic crime levy and the Economic Crime (Transparency and Enforcement) Act, and progressing the Government's landmark economic crime plan. We are also working closely with the private sector and our international partners to improve the investigation of economic crime, strengthen international standards on corporate transparency and crack down on illicit financial flows.

The money laundering regulations support our overall efforts. As the UK's core legislative framework for tackling money laundering and terrorist financing, they set out various measures that businesses must take to protect the UK from illicit financial flows. Under the regulations, businesses are required to conduct enhanced checks on business relationships and transactions with high-risk third countries. These are countries that are identified as having strategic deficiencies in their anti-money laundering and counterterrorism financing regimes that could pose a significant threat to the UK's financial system.

This statutory instrument amends the money laundering regulations to update the UK's list of high-risk third countries by adding the United Arab Emirates and removing Zimbabwe from the list. This is to mirror lists published by the Financial Action Task Force, the global standard setter for anti-money laundering

[Baroness Penn]
and counterterrorism financing. As the Financial Action Task Force carries out its periodic reviews and regularly updates its public lists of jurisdictions with strategic deficiencies, we also need to update our own. Updating our list shows that we are responsive to the latest economic crime threats and ensures that the UK remains at the forefront of global standards on anti-money laundering and terrorist financing.

This amendment will enable the money laundering regulations to continue to work as effectively as possible to protect the UK financial system. It is crucial for protecting UK businesses and the financial system from money launderers and terrorist financiers. I therefore hope that noble Lords will join me in supporting this legislation. I beg to move.

Lord Purvis of Tweed (LD): My Lords, I support these measures. My noble friend Lady Kramer has been suffering from Covid, as, regrettably, are so many colleagues. She would ordinarily have been here, and I wish her the best and a speedy recovery and return as soon as possible. I spoke to the previous set of measures involving a change to the list when the orders were brought to remove Botswana, Ghana and Mauritius, and I took the opportunity to ask the noble Lord, Lord Agnew, questions about how robust our internal systems were with regard to organised financial crime and the interaction between drug trafficking, money laundering and terrorist activities.

At the time, I also asked when we were likely to get the register of beneficial ownership. It shows how fast time flies, as he is no longer the designated Minister for financial crime and we have moved ahead in so many of these areas. We may well do, but I should be interested to know whether, after the more recent changes in government, we have a Minister with a designated portfolio who has taken over from the noble Lord on money laundering and financial crime. I know it is normal practice that these instruments and schedules are signed off by Government Whips rather than Ministers—the previous ones were too—but I should be grateful to know how that is structured in government.

However, I am grateful to the Minister for introducing these regulations. If she will tolerate me asking a number of questions, I would like to do so because these measures make changes with regards to individual countries and are also a policy change. Apparently, the Government will now automatically use an external set of decision-making for the classification of countries in the grey category by the FATF, the Financial Action Task Force. We have also been told repeatedly that we are moving away from the European Union's approach, in which we would take the Commission's view, so that we have the freedom to set our own approach. However, it seems as if one of our very first acts in having that new freedom is to give it away to another organisation for it to make some decisions on our behalf. I would be interested to know the rationale for that. In the Explanatory Memorandum, the Government simply say that, because we are aligned to the FATF, it makes sense for us to copy it for efficiency purposes. However, we were previously aligned to our European colleagues; I am not really sure what has changed.

One consequence of this, of course, is the change of countries. In particular, there is a difference in Zimbabwe because, as has been stated, it has been removed. I would be interested to know what the Government's representations are, or what the position of UK Ministers is, in the FATF. I understand that it met at a ministerial level last week; I was in Washington while that was taking place. Given that there is Russian investment in Zimbabwe, particularly in mining, and given our interaction with Russia in terms of our sanctions, I am interested to know why decisions have been made with regards to Zimbabwe that may have a negative effect on our reducing the possibility of money laundering—especially when it comes to those who are investing in mineral extraction in these countries—and on trading. I would hate to think that one of the first actions of this measure was to create potential loopholes for Russia.

In that regard, there are new countries on the list. I support that but I see that, for Haiti, Mali, Malta, the Philippines, South Sudan, Turkey and the UAE, there is a difference of approach. In a previous debate on our sanctions regime, I singled out a mercenary group that is under the pay of the Kremlin: the Wagner Group. I have seen it at first hand, on a visit to Khartoum. I know that it is active in Mali, Chad and the Central African Republic, but it also operates in other countries. I am on the record as asking for the process to be started to proscribe the Wagner Group as a terrorist organisation. It would then be under the proscription legislation and would come within this legislation. With Mali being a high-risk third country, I would be interested to know how that interacts with our work in seeking to reduce the scope of the mercenary operations from Russia. I hope that there are no gaps between the way we would operate under this approach and the FATF and our sanctions legislation. The destabilising work of that group in particular needs to be stopped; the UK can play a significant role in that.

With regard to the UAE, I am interested in the lack of information I have seen from the DIT on GOV.UK to inform those operating in our 19th-largest market that this measure is now in place. I understand that there will obviously be a lag in information when legislation has been put in place, but this had been signalled a fair bit in advance. I have seen plenty of government promotional material highlighting the £10 billion UK investment partnership with the UAE sovereign wealth fund, but there is a lack of information stating that the UAE is now in an at-risk category as far as doing trade in that area is concerned.

5.45 pm

I looked at the impact statement. It highlighted that the cost to businesses doing trade with the UAE as a result of this measure—of it now being on the list—will be just £2.5 million, due to them having to conform with the requirements in paragraph 4 of the impact assessment. Given that the investment relationship the Government have promoted is a whole set of complex legal and financial arrangements under that overall banner, I question whether the statement has correctly captured the whole significance of the requirement. I therefore believe that it would have been beneficial for a full impact assessment to have been carried out.

The Government have used as their formula simply adding up all the people conducting this business, but I am not sure whether simply taking into consideration UK nationals doing this work will correctly capture all the implications of this measure regarding our investment portfolios, which by definition involve international bases.

I do not have any criticism of the UAE being part of this. I would like to know from the Government their understanding of why it is now on the high-risk third country list. The Minister simply stated that it was on it. More information on the record as to why that is the case could be helpful. While the Government are promoting more investment from and more business with the UAE, they cannot be silent as to why they now believe it is a high-risk third country to do that business. At the moment I have not seen anything on the DIT website on GOV.UK for doing trade with the UAE, but given its significance I hope that it will appear. In the meantime—before that arrives on the government website—I would be grateful to hear information from the Minister today.

Lord Tunnicliffe (Lab): My Lords, I am grateful to the Minister for introducing these latest updates to the list of high-risk countries. She will know that we fully support mirroring the list produced by the Financial Action Task Force—the FATF—so we will not oppose these regulations remaining on the statute book beyond the 28-day scrutiny period. As has been outlined, the latest iteration of the FATF list sees the removal of Zimbabwe and the addition of the United Arab Emirates.

I wonder whether the Minister can provide a little more information on the FATF's rationale for these changes. Although Zimbabwe is no longer listed in the schedule, can she confirm whether the UK has decided to maintain any specific enhanced measures relating to that country? If she is unable to provide these updates today, can she commit to writing and placing a copy of the correspondence in the Library?

The last time this list of high-risk countries was debated, in November 2021, there was much debate around the absence of both Afghanistan and Russia. Is the Minister able to provide any update on the situation regarding Afghanistan, including any steps taken by the UK outside the FATF framework? Just because there have been other geopolitical developments in recent times, we must not forget that Afghanistan continues to undergo significant social and economic change. Much of that is unrelated to this policy framework but some of it may be. Clearly, the events in Afghanistan do not currently meet the FATF's threshold for the country to be included on this list. However, it would be comforting to know whether and how the UK is keeping these matters under review.

Turning to Russia, the conflict in Ukraine has altered the picture significantly. In response to the actions of Vladimir Putin, the UK Government and other nations have sanctioned a variety of Russian businesses and individuals. The Labour Party has supported this and will continue to do so. Sanctions may act as a brake on Russian money-laundering operations for the time being but can the Minister confirm how such matters will be factored into the eventual winding down of sanctions? We must not return to business as usual.

We all know that the UK has a reputation as a destination for dirty Russian money. After sustained pressure to act, the Government recently brought forward a limited economic crime Bill. That legislation facilitated the creation of a register of overseas entities but it is no secret that it will take time for such a register to be operational. Once it is, it will be a useful tool, but it is no silver bullet. Can the Minister provide any update on the implementation of that register?

The Government committed to a progress report to Parliament within eight weeks of Royal Assent. We have not quite reached that date but we are only a couple of weeks short and mere days away from Prorogation. I would hope that the Treasury and others have made great strides, but have any of the enabling regulations yet been laid? Can the Minister comment on what has become known as the economic crime Bill part II, which has been promised early in the new parliamentary Session? I know that the Government normally resist pre-empting the contents of Her Majesty's most gracious Speech. However, we know that this Bill is coming, and it is vital to get that follow-up legislation right if we are truly to crack down on the illicit acts that the FATF was established to tackle.

I appreciate that these questions go slightly beyond the contents of this particular SI but I am sure that the Minister will agree they deserve to be asked. I look forward to her reply and to the House playing a constructive role in these matters in the months ahead.

I would like to bring up one or two issues that are related not particularly to the SI but to the Explanatory Memorandum. In the past, I have found the very last part of the memorandum, labelled "Contact", a useful device when I was having trouble understanding SIs. The contact on this occasion is Stephanie, who has a surname that I fail to be able to pronounce; I hope she will forgive me for not doing so. She is at HM Treasury and

> "can be contacted with any queries regarding the instrument."

The ability to contact a relevant civil servant has been really helpful to me in the past but, on this occasion, there is neither a contact telephone number nor an email address. I put to the Minister that this is utterly unacceptable. It has crept into Treasury Explanatory Memorandums whereas many other departments—including the Department for Transport, which we previously had here today—have maintained the standard of a telephone number and an email address. I do not expect an answer now but I would like a written response.

The problem with reading paragraph 15.1 is that one is then tempted to read paragraph 15.2, which states:

> "Emily Bayley, Deputy Director for Sanctions and Illicit Finance at HM Treasury can confirm that this Explanatory Memorandum meets the required standard."

I am sure that this has appeared before but it is the first time my eyes have got this far through an Explanatory Memorandum. I have been campaigning for years to know what the standard for Explanatory Memorandums is, particularly in terms of the requirement I believe they should have that they can be understood by people other than those seeped in the detail of the subject. Can the Minister forward to me what the required standard is?

Baroness Penn (Con): My Lords, I thank both noble Lords for their contributions to this debate and join the noble Lord, Lord Purvis, in wishing his colleague, the noble Baroness, Lady Kramer, all the best.

The noble Lord, Lord Purvis, started by asking about the change in approach from the UK Government to mirror the FATF's list for high-risk countries after leaving the EU, rather than setting out our own list. The approach that the UK has taken, to align with the FATF, was first set out in an SI in April 2021. The reason for that approach is that the FATF is the international standard-setting and monitoring body for anti-money laundering, counterterrorist financing and counterproliferation financing. It has a detailed and extensive set of standards, which countries are monitored against using a transparent and rigorous peer-review mechanism.

By aligning the UK's approach to the FATF, the UK is in line with international standards and the identification of countries is underpinned by the FATF's consistent technical methodology and robust assessment processes. As a result, enhanced measures are implemented in a co-ordinated manner by the international community, thereby magnifying the preventive effect. I think that this approach to international standards is welcomed by noble Lords. However, it remains open to the UK to review and amend the list according to our own assessment of risks if necessary.

The noble Lord also referred to the EU's procedures. The EU mostly follows the FATF, with some exemptions; it does not mirror it entirely. For example, EEA countries listed by the FATF are excluded from the EU's list. Also, changes to the EU list happen less frequently than to the UK list, meaning that it is not reflective of geographic changes in risk profiles. That was an issue repeatedly raised by regulated entities in the UK when the EU list had legal effect in the UK. None the less, we will continue to work closely with European countries and the European Union on countering shared money laundering and terrorist financing risks to ensure a co-ordinated and targeted response.

The noble Lords, Lord Purvis of Tweed and Lord Tunnicliffe, both asked further questions as to why the FATF has added the UAE and removed Zimbabwe from its list. The FATF mutual evaluation of the UAE, adopted in February 2020, found significant deficiencies in the UAE's illicit finance regime, with 10 of 11 measures of effectiveness rated low or moderate. As a result, the FATF placed the UAE under enhanced scrutiny. At the March 2022 FATF plenary, the FATF concluded that the UAE should be added to its list of jurisdictions, with significant weaknesses in its regimes for countering illicit finance. The UAE has expressed its high-level political commitment to making further reforms in a number of areas to exit the FATF list. Zimbabwe, following its evaluation in 2016, underwent a process of enhanced monitoring, similar to that of the UAE, but has now completed its FATF action plan to address the key deficiencies that had been identified in its anti-money laundering and terrorist financing regime back in 2016. Therefore, the FATF decided to remove Zimbabwe from its list.

The noble Lord, Lord Purvis of Tweed, asked how the Government have informed those who may be affected by the changes to the list and, in particular, by the addition of the UAE to it. Her Majesty's Treasury engaged with the sector ahead of adding the UAE to the list and published an advisory notice ahead of the change being made. Supervisors are also in communication with the regulated sector about the update to this list.

6 pm

Following the delisting of Zimbabwe, both noble Lords also asked about the UK maintaining any specific enhanced measures in relation to that country. No specific enhanced measures remain in relation to Zimbabwe following the delisting. None the less, firms should continue to apply risk-based measures across their customer base, and to take appropriate measures where higher risks are confirmed. When assessing whether there is a high risk of money laundering or terrorist financing in a particular situation, firms will need to consider customer risk factors, the risk factors of particular products or services, as the noble Lord mentioned, or delivery channels, as well as geographic risk, as identified by credible sources such as the FATF, the EU, the UN, the IMF or the World Bank. When assessing risk, firms also need to take into account information made available to them by anti-money laundering supervisors or the national risk assessment.

Lord Purvis of Tweed (LD): The Minister is being very thorough in responding, and I am grateful. Could she write to me in answer to my next question? I do not expect her to reply now. It has been helpful for her to outline the FATF's position on the UAE, but it is worrying if 10 out of the 11 are within this area of concern. Does the UK sovereign investment partnership with the UAE include elements seeking that the UAE makes progress on the areas that have been highlighted? It is worrying if a partnership investment worth £10 billion does not have within it mechanisms to make progress on areas where we have inserted that country into a high-risk category while having financial investment relationships with that very entity. The Minister does not have to answer that now if she does not want to. I do not expect to her to answer it now, but I shall be very happy if she wishes to write to me.

Baroness Penn (Con): What I can do now is talk about the UK's role and influence at the FATF, which in turn works with countries on the lists that we are discussing, to improve their performance. The UK as a founding member plays a leading role through its place on the FATF's steering group, and makes significant voluntary financial contributions to the FATF and its global network on core projects and through extensive involvement in the FATF assessment. So the UK is absolutely committed through that channel to improving countries' performances. I shall write to the noble Lord on his specific point about the UK's sovereign investment partnership. If he will forgive me, I will also write to him on the specific points he raised in relation to Mali and other specifics in that area.

The noble Lord, Lord Tunnicliffe, asked about an update on the situation in Afghanistan and how the UK is keeping these matters under review. The UK is absolutely keeping the evolving situation in Afghanistan under review, and we continue to work with public

and private sector partners to maintain an up-to-date understanding of money laundering and terrorist financing risks in that country.

The noble Lord also asked about how the current deterrents of sanctions on money laundering from Russia will be factored into the eventual winding down of sanctions. In lockstep with our allies, we are introducing the largest and most severe economic sanctions that Russia has ever faced to help to cripple Putin's war machine. These co-ordinated sanctions go broader, deeper and sharper in punishing the actions of Putin and the Russian Government. They are having an impact on Russia's economy; Putin has acknowledged the problems and difficulties caused by sanctions. Current estimates are that two-thirds of the assets available to the Russian Government have been frozen, strangling access to funding for military aggression.

We are particularly starving Russia's access to finance, with asset freezes on major banks including Russia's largest bank and the removal of selected banks from SWIFT. We have sanctioned Russia's largest banks with global assets worth £500 billion pre-invasion. Since the invasion, we have also sanctioned well over 1,400 high-value individuals, entities and subsidiaries. However, we are not complacent and will continue to revise and reform our response to illicit finance to ensure that, as illicit finance threats evolve, our response does too. As the noble Lord noted, we brought forward the Economic Crime (Transparency and Enforcement) Act and we are preparing a wider economic crime Bill at pace. This is alongside a new kleptocracy cell in the National Crime Agency to target sanctions evasion and corrupt Russian assets hidden in the UK. That means that oligarchs in London will have nowhere to hide.

As I just touched on, the noble Lord asked about the implementation of the measures in the Economic Crime (Transparency and Enforcement) Act, specifically on the overseas entities register. Since the legislation received Royal Assent, the Government have been working at pace to ensure the register is in place as soon as reasonably practicable. The Companies House digital designs team is making strong progress in building the register for operational readiness.

The noble Lord also asked about the planned economic crime Bill part two. We have published details of upcoming legislation, including fundamental reform of Companies House, enhanced information-sharing powers and new powers to seize crypto assets which are designed to clamp down on money laundering and illicit finance. We do not have long to wait for the Queen's Speech at this stage, when I am sure more information will then be made available.

The noble Lord, Lord Tunnicliffe, made a final point on Explanatory Memorandums. His point is well made that we often discuss quite technical matters in this Committee, sometimes at short notice, and therefore the Explanatory Memorandums are incredibly important to noble Lords. Of course, it was not the fault of the official named that their contact details were not there, and it is for Ministers to ultimately take responsibility for the information provided to Parliament. On the noble Lord's specific question about the standards for Explanatory Memorandums, I will undertake to write to him if he permits me to. With that, I beg to move.

Motion agreed.

Committee adjourned at 6.08 pm.