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OFFICIAL REPORT

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

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

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

House of Lords

Wednesday 25 May 2022

3 pm

Prayers—read by the Lord Bishop of Oxford.

Costs of Living
Question

3.06 pm

Asked by ***Lord Allen of Kensington***

To ask Her Majesty's Government what plans they have to help consumers with rising energy bills and the increased costs of living.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the Government understand the pressures people are facing with the increased costs of living caused by high global energy and goods prices. To help with energy, the Government are providing a £9.1 billion package, worth up to £350 each, for over 28 million households. The energy price cap ensures that prices fairly reflect the underlying cost of supply. The vulnerable continue to receive support through the warm home discount, the winter fuel payment and the cold weather payment.

Lord Allen of Kensington (Lab): I thank the Minister for his reply. He will be aware that the UK inflation rate is now at a 40-year high and expected to rise further, that energy prices are at an all-time high and expected to rise further—in fact, today we are paying £1.70 per litre for fuel—and that interest rates are at their highest for more than a decade and expected to rise further. But rather than giving families a helping hand, our Chancellor has dipped his hand into their pockets, with the biggest cut in out-of-work benefits in 50 years, the biggest cut in pensions in 50 years, and the biggest tax burden in 70 years. Can the Minister say what the Government will do to reverse this situation—where more than 4 million people say they have gone without food, more than 6 million people say they have gone without heating, water or electricity, and more than one in five adults say they are worried about being able to pay their bills?

Lord Callanan (Con): I do not doubt that it is an incredibly difficult time, and the Government are fully aware of the pressures facing many households. I can tell the noble Lord that we are monitoring the situation very closely, and the Chancellor and the rest of the Government stand ready to take any further steps, if they are needed, to support households.

Lord Teverson (LD): My Lords, the Government are going to make a windfall gain—because of the electricity price contracts for difference, the price of the market will move above the strike price. How many billions extra will the Treasury get over the next year, and will that be fed back to hard-pressed consumers?

Lord Callanan (Con): Of course, those payments do not go back to the Treasury. They are all contained within the electricity price system, so, ultimately, they go into either subsidising further renewable energy or providing additional policies that are paid for through levies on bills.

Lord Cormack (Con): My Lords, as the expression "Conservative ideology" is an oxymoron, why is it being called in evidence by those who are arguing against putting a windfall tax on fuel?

Lord Callanan (Con): This is a complicated issue, and there are clearly a variety of views. I think everybody across the House wants to see huge amounts of extra investment going into our renewable energy system in particular, and it is important to bear in mind that that will, of course, be provided by those same companies.

Baroness Greengross (CB): My Lords, the Institute for Fiscal Studies has pointed out that, since council tax is still based on 1991 property values, the recent £150 support for people in council tax bands A to D in England will mean that some people are missing out on the support that neighbours in similarly valued properties receive, just because their home is worth more than their neighbours' were 30 years ago. How will the Government address this issue to ensure that support is targeted where it is really needed?

Lord Callanan (Con): The noble Baroness makes a very good point. This is caused by the fact that council tax bands have not been revalued for a considerable time. That is why the Government are providing £144 million of discretionary funding for local authorities to support households that need support, regardless of the council tax band they are in—precisely the kind of people to whom the noble Baroness refers.

The Lord Bishop of Oxford: My Lords, the Minister and other noble Lords will be aware of the paradox that it is often the very poorest people in society who pay a higher tariff for their electricity through pre-payment meters and the like. They may not have bank accounts or the ability to pay on any kind of credit. Are the Government proposing to do anything to help and support those who are locked into these higher energy prices when they can least afford then?

Lord Callanan (Con): I understand the point that the right reverend Prelate is making, but, of course, those households are also subject to a price cap. The slightly higher price for prepayment meters reflects the fact that they cost energy suppliers more to serve.

Baroness Jones of Moulsecoomb (GP): My Lords, can the Minister explain to me very simply why energy prices are going up when renewable energy prices are as cheap as they have ever been, and falling? Does that mean that the Government did not invest enough in renewable energy when, for example, the Greens started telling them that they should?

Lord Callanan (Con): As the noble Baroness knows—and we have debated this extensively—we have the largest offshore renewable sector in Europe, so we have been investing considerable sums in renewable energy. In fact, in the energy Statement a couple of weeks ago, we announced an even further ramping up of what has been a very successful sector.

Baroness Hayman of Ullock (Lab): My Lords, I have been listening very carefully to the Minister's responses about everything that the Government are doing, but more families are falling into poverty. We need more than the monitoring he talked about: we need steps, and we need them now. I genuinely do not understand his response to the noble Lord about the windfall tax. Why will the Government not bring that in now?

Lord Callanan (Con): I know that the Opposition like to use these easy soundbites, as if there were an enormous pot of free money that we can somehow access, but, of course, money that is taken off those companies is also money that does not go to shareholders, many of which are pension funds that pay the pensions of people up and down this country. They are not greedy plutocrats who can just absorb the money. We are, of course, keeping all options under review, but it is not a cost-free option: it would result in lower investment in the renewable energies, which everybody keeps telling me they want to see in the future.

Lord Howell of Guildford (Con): My Lords, since China has stopped demanding extra gas because its rate of growth has come to a halt, and as there is now plenty of gas available on the high seas, for both contract and spot prices, why can we not get some benefit from that for our consumers? Why do we have to assume that gas prices remain five or six times as high as last year, when there is plentiful gas—LNG in particular—around?

Lord Callanan (Con): The noble Lord makes a good point, but, as a result of the price cap, most energy companies are hedging their supplies, based on current prices. There are plentiful supplies of LNG, but, of course, capacity able to be injected into the system is limited, due to our number of offshore loading points. We actually have a good number in the UK, but they are being fully utilised.

Lord Rooker (Lab): What is the technical difficulty of changing benefits mid-year? Surely the big advantage of universal credit, bearing in mind that probably 60% of those who are really badly affected are in work, is that there is no distinction between being in or out of work. I do not understand the technical problem that has been raised. Universal credit is the quickest, easiest, most targeted thing for the Government to do. They do not need to wait, so why are they waiting?

Lord Callanan (Con): As I said, the Chancellor is considering a range of options to mitigate the expected further energy price cap rise in October, and we keep that and all other matters under constant review.

Lord Lancaster of Kimbolton (Con): My Lords, supply is a key factor when it comes to price, so, given the conflict in Ukraine, can my noble friend outline what the Government are doing to ensure that we have security of energy supply?

Lord Callanan (Con): My noble friend makes an important point. The best thing we can do to ensure security of supply is to generate more of our supply here in the UK. For that, we need to keep producing as much oil and gas as we can from the North Sea during the transition period, and to ramp up the amount of homegrown renewables and nuclear, which we are also doing.

Baroness Watkins of Tavistock (CB): My Lords, some of the Government's current plans to improve the situation—I recognise that that is what they are trying to do—will not necessarily benefit those who are on disability benefits. We must accept that people who cannot move easily in order to stay warm demand greater help with the resource of fuel. Will the Minister please comment on that?

Lord Callanan (Con): The noble Baroness is referring to the warm home discount. We are increasing the amount of money generated for the warm home discount and it is going to a wider cohort of people, but we are trying to concentrate those payments on those who need them most.

Border Checks on Imported Goods: New IT Systems

Question

3.16 pm

Asked by ***Baroness Randerson***

To ask Her Majesty's Government what progress they have made with developing the new IT systems required to implement the planned border checks on imported goods; and when they expect to be able to implement those plans.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, IT systems required for the introduction of border import controls are in place and have been live since 2021. The Government set out plans for border import controls more fully in a Written Ministerial Statement on 28 April.

Baroness Randerson (LD): My Lords, the Government recently announced the fourth postponement of the introduction of SPS tests on goods from the EU, until the end of next year. Previous postponements were excused on the grounds that the ports needed more time to build the infrastructure required, but they have now done that and they are complaining that they have invested £100 million in redundant equipment. Vets and farmers are warning of the dangers of importing disease along with unchecked goods. Do the Government still intend to introduce those checks; how will they manage the risks until they do so; and will they be

compensating port authorities for the cost of expensive investment at a time when life is very hard indeed for all those involved in international trade?

Lord True (Con): My Lords, there were a number of questions there. My right honourable friend has decided that we hope to accelerate to the end of 2023 the move to a new regime. In that light, a decision was taken to continue with the present system, with the changes he has announced. As for the ports, I recognise what the noble Baroness said. We are aware that ports will have questions about the decision, and we will certainly be working with them to understand the implications. However, it is important that we invest in a more mechanised border, and that is our objective: a fully modern border, the most modern in the world, as soon as possible.

Viscount Hailsham (Con): My Lords, on the matter of border checks, is my noble friend aware that those boarding the Eurostar at St Pancras have to pass through two passport controls separated by a few yards—the United Kingdom one and the French one? Is it not possible to have a single passport control, or is this one of the hitherto unidentified benefits of Brexit?

Lord True (Con): My Lords, I fear I have not had the pleasure of travelling on Eurostar lately. I will take up my noble friend's comments with the appropriate authorities and provide him with an answer.

Lord Bassam of Brighton (Lab): My Lords, while the decision to delay the imposition of new import checks spared businesses additional costs at a challenging time, it also called into question the Government's commitment to preserving high standards of animal and human health. Does the Minister think it fair that our domestic farmers must meet such stringent export controls while their European competitors enjoy comparatively simple access to the UK market, with all the attendant public health risks that that brings? Could not this situation be partially resolved by a mutual veterinary agreement?

Lord True (Con): My Lords, we have taken the decision. As the noble Lord referred to in the first part of his question, the fact is that, at the moment, one does not wish to add particular difficulties against the international background. However, we have introduced, and will maintain, checks on high-risk animal and plant products. The noble Lord's point is important. I can assure him that we respect the input of the British Veterinary Association—this was referred to in a previous question—and that of other expert bodies, and we will work closely with it over the next year and a half to design the new regime of control.

Viscount Waverley (CB): My Lords, it certainly appears that secure, digital and paperless are synonymous with tomorrow's world. However, would the Minister care to expand on his initial response as to what assessment has been made of business readiness for the closure of CHIEF and migrations to the CDS for imports and exports? How does this align with the Government's timeline for border changes as part of the border 2025 strategy?

Lord True (Con): My Lords, the replacement of CHIEF with the CDS, which is proceeding, is the responsibility of HMRC rather than my department, although I obviously answer for the whole Government. It is a major contributor to the strategy overall. The Cabinet Office and HMRC are working closely to ensure that work is aligned but it is still the expectation that CHIEF will close and migrate when the new procedure is in place. I can assure the noble Viscount that we will maintain close liaison with business on that matter.

Lord Bellingham (Con): My Lords, when it comes to the movement of goods between the British mainland and Northern Ireland, could the Minister look urgently at IT systems that incorporate trusted trader schemes and the implementation of red and green channels? Surely, with a dose of common sense, the current impasse over the protocol could be sorted out.

Lord True (Con): My Lords, as my noble friend will know, consideration is being given to these matters. I will not tread into that in this particular answer, but I can assure him that elements of trust should certainly play a part in any wisely conducted border. That is why my right honourable friend Mr Rees-Mogg has set up a pilot project called Ecosystem of Trust—not my phrase—to work with the private sector. It is designed to prove the concept of trusted supply chains across the board, not simply in relation to Northern Ireland.

Lord Wallace of Saltaire (LD): My Lords, the Prime Minister promised two-and-a-half years ago to get Brexit done. It seems extremely inefficient that this key element of our future trading relationship with the European Union has to be postponed time and again. Does the Minister not think it is time that the Minister for Government Efficiency has some sharp words with the Minister for Brexit Opportunities?

Lord True (Con): My Lords, I am sure that my right honourable friend is capable of almost any form of conversation. I repeat: this is not a delay. It is a deliberate decision to take a different approach and part of that decision is that the 2025 target is being brought forward, as I explained to your Lordships earlier.

Baroness Blackwood of North Oxford (Con): My Lords, as the Minister develops the border protocols for 2025, will he reconsider prioritisation for medicines and other life-saving products? If we have learned anything for the pandemic, it is that some of these supply chains really are quite fragile. This could do with another look.

Lord True (Con): My Lords, my noble friend makes an important point. I will certainly take it away and discuss it with colleagues.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, if this is not implemented by the new deadline, who will, in the words of the Prime Minister, accept full responsibility? Will that also mean blaming everyone else?

Lord True (Con): My Lords, it will be implemented. We will publish a target operating model this autumn, which will set out how and when the new and improved global regime—not just with the EU—of border import controls will come in. As the noble Lord on the Front Bench opposite asked, that will be based on a proper assessment of risk. It will, as the noble Viscount asked, harness the power of data and technology. Also, as I have told noble Lords, we will target the end of 2023 as a revised introduction date for this regime.

Lord Purvis of Tweed (LD): My Lords, this is the fourth deliberate and previously unannounced delay. The Minister has said that it is to save businesses' costs, so what are the estimated business savings of this deliberate delay?

Lord True (Con): My Lords, we have estimated that there are significant potential savings in annual costs, but I repeat my fundamental point that this is not a delay but a deliberate decision to move towards a new target date.

Lord Kirkhope of Harrogate (Con): My Lords, pursuing the issue raised by my noble friend Lord Hailsham, I seem to recollect that at the time of the construction of the tunnel, we agreed in writing with the French that a little piece of England would become French and, on the other side of the channel, a little bit of France would become England for the purposes of border checks. Can my noble friend the Minister confirm that that arrangement is still in place, or have we now asked our friends in France to give us back that territory?

Lord True (Con): My Lords, I am not aware of any such suggestion, but as I have said to my noble friend Lord Hailsham, I will look into the operation of passport controls on Eurostar. I will take into account the other border that he refers to and will write to noble Lords.

Sugar Reduction Programme: Bread

Question

3.27 pm

Asked by ***Lord Brooke of Alverthorpe***

To ask Her Majesty's Government why the recent sugar reduction programme, which challenged businesses to reduce the amount of sugar in food, did not include bread.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): The sugar reduction programme focuses on those products which contribute the most to children's intakes of sugar. Sweeter bread products such as buns, fruit loaves and bagels are within scope of the programme. Plain and savoury breads—for example, garlic bread—are included in the salt reduction programme, as these products make greater contributions to salt intakes than sugar intakes. Garlic breads are also included in the calorie reduction programme.

Lord Brooke of Alverthorpe (Lab): I thank the Minister for that reply. Sugar is in so many products these days and is so damaging. As the Minister knows, we have a crisis with diabetes and with obesity. Does he not agree that we should endeavour to remove sugar wherever we can? There was no sugar in bread 60 years ago. Why is there sugar now? Why do the Government not look at this again and stop it?

Lord Kamall (Con): I pay tribute to the noble Lord. Since my first day at the Dispatch Box, he has challenged me on both sugar reduction and alcohol abuse. There comes a stage where it is diminishing returns. I know that the noble Lord and I are very keen on puns and dad jokes. When bread is being made, sugar is needed—kneaded; excuse the pun—because it extends shelf life by reducing the oxidation which causes food to deteriorate, it reduces the rate at which bread becomes stale, it activates yeast for fermentation, it adds the colour during the baking process, and it adds to the texture. The sugar contributes only about 2% of free sugars intakes in children. Therefore, it is much more worth while and targeted to focus on products that are higher in sugar.

Baroness Walmsley (LD): My Lords, will the Minister join me in congratulating Tesco and Sainsbury's? They have announced that, even though the Government are backtracking on the proposed ban on volume promotion offers of foods high in sugar, salt and fat, they will do it voluntarily anyway, and on time, to support the anti-obesity campaign. Will he encourage other retailers to join them and to work with their suppliers to reformulate and reduce sugar?

Lord Kamall (Con): We should welcome moves by those in the industry, including retailers; if they can meet deadlines earlier, that is all to be welcomed. Perhaps I might correct the noble Baroness on one inaccuracy. The Government have not backtracked; we have delayed location measures until October 2022.

Noble Lords: Oh!

Lord Kamall (Con): Delaying is different from backtracking.

Noble Lords: Oh!

Lord Kamall (Con): Next time I will bring a copy of the *Oxford English Dictionary*. Volume price will come in in October 2023 and advertising in 2024. We did that in full consultation with industry, and it is welcome when industry asks for deadlines and is able to meet them early.

Lord Mackenzie of Framwellgate (Non-Afl): My Lords, if the Minister is right that the Government are not backtracking but delaying, perhaps he could persuade the supermarkets that, instead of reducing the price of foods that are bad for you, they should reduce the price of good foods such as fruit and vegetables.

Lord Kamall (Con): That is a very sensible suggestion. Across government, and with the Office for Health Improvement and Disparities, we are trying to work with both the food-supply industry and retailers to

look at how we can pull customers towards healthier products and work with companies to reduce sugar, salt and other bad things in terms of food reformulation to make sure that we have a healthier population in the longer term.

Baroness Boycott (CB): My Lords, in respect of the cost of living crisis and healthy food, why do the Government not make automatic enrolment in Healthy Start vouchers immediately happen? At the moment, only about 60% of people take up this good measure to spend on healthy food. This would certainly be a good counteraction to the delay in banning two for the price of one on sugary foods.

Lord Kamall (Con): On the direct question that the noble Baroness asked, I will have to go back to find out more and will write to her. The Government are very keen on some campaigns that she will be aware of, such as the Better Health campaign, launched in July 2020. In January 2022 it took over from Change4Life. We now have the NHS Food Scanner app; with a quick scan of a barcode, families can see how much sugar, saturated fat and salt is in their everyday food and drink. There is also a campaign on on-demand video, as well as on YouTube, and we encourage people to download the app from the App Store or Google Play. More campaign resources are available, and I am sure that noble Lords would like to help promote them.

Lord Suri (Con): My Lords, the staple food of many people's day is bread. The sugar content in the average slice of processed bread varies but can be up to 3 grams. Sugar is formed naturally in the baking process, but it is often added into it. The benefits of adding sugar are favourable for the bread-making process but not for the people consuming it. Bread can be baked without adding sugar and, yes, that will indeed alter its texture, taste, freshness and the speed of its rise. If we look at the ancient history of bread, we see that making it uses grain and wheat flour; chapatis, naans and numerous Middle Eastern flatbreads usually do not have sugar added. These recipes are healthy and are still being consumed today. Health is wealth; take care of it.

Lord Kamall (Con): Right. I begin by thanking my noble friend for that very comprehensive question. As I said earlier, some sugar is needed in the process, but he makes an important point about how we reduce the unneeded additional sugar that is added. I have already given the reasons why there is some sugar, and no doubt the chemical processes will be improved over time: as mankind's innovation and ingenuity increase, we will see more substitutes for sugar. I was also interested in the point made by the noble Lord about chapatis; next time I go to a restaurant I will ask about their sugar content.

Baroness Merron (Lab): My Lords, with the UK attending the 75th World Health Assembly in Geneva as we speak, it is concerning that the Government have delayed their planned measures to encourage a move away from foods that are high in fat, sugar and salt. To compensate for this, particularly for those who are experiencing higher levels of deprivation, can the Minister tell your Lordships' House in what specific ways the Government intend to show the leadership that is so urgently needed?

Lord Kamall (Con): I thank the noble Baroness for raising that point. Part of my role is in international health diplomacy, where other countries come to the UK wanting to learn from us. It is very interesting that a number of other countries are asking to learn from our sugar and salt reduction programmes, our alcohol and anti-tobacco programmes and our campaigns for healthy eating—not just telling people they should not do things but encouraging them to have a healthier lifestyle

Baroness Hayman (CB): My Lords, the Minister has said that the Government accept the need for sugar in bread, which is controversial with many authorities and Members of this House, but they seem to be taking an extraordinarily long time to accept the fortification with folic acid of the flour used for bread. As the Minister has heard many times, this would have undoubted health benefits. Since the noble Lord, Lord Rooker, is not in his place, I felt the need to ask the question.

Lord Kamall (Con): I would have hoped that the noble Baroness would have lined up the noble Lord, Lord Rooker, to be in his place. Only yesterday, I had a meeting with him, the noble Lord, Lord Patel, and a number of other noble Lords, together with departmental officials.

We have to do this within the general picture of the Bread and Flour Regulations. At one stage, the dispute was about the upper limit of folic acid. We have agreed that we will push forward as quickly as possible. We were waiting for the Northern Ireland elections. It has now been confirmed that the Northern Ireland Minister will remain in place until a new Executive is formed. He has promised to push his officials to give approval so that we can get on with the consultation and get this measure in place as soon as possible. I hope that the noble Lord, Lord Rooker, was happy with the progress we made yesterday. I am sure he will tell us in due course.

Baroness Uddin (Non-Afl): My Lords, addiction to sugar begins very early. It is included in baby foods. Will the Minister ensure that manufacturers attend to this sector as a critical component of the Government's strategy? Does he accept that many people who are digitally excluded may not have adequate access to these campaigns and information from the Government?

Lord Kamall (Con): The noble Baroness makes a very important point. Following our commitment in the *Advancing Our Health: Prevention in the 2020s* Green Paper, we launched a consultation on baby food. We are aware how important it is to reduce sugar intake. Those aged four to six should have no more than 19 grams of sugar—five cubes—per day. From the age of 11, this increases slightly to seven cubes. This shows the importance of addressing this issue at a very early age, and we are speaking to manufacturers about possible formulations.

The Lord Speaker (Lord McFall of Alcluith): My Lords, for the next Oral Question, the noble Baroness, Lady Brinton, will be contributing virtually.

High-rise Buildings: Evacuation of Disabled Residents

Question

3.38 pm

Asked by ***Baroness Brinton***

To ask Her Majesty's Government what steps they are taking to provide for legally-binding evacuation plans for all disabled residents in high-rise buildings.

The Minister of State, Home Office and Department for Levelling Up, Housing & Communities (Lord Greenhalgh) (Con): My Lords, the Government have launched a new consultation on proposals to support the fire safety of residents unable to self-evacuate in an emergency. These include a person-centred fire risk assessment for these residents, simultaneous evacuation of buildings and the provision of information to fire and rescue services to feed into their emergency response. The Government's response to the PEEPs consultation was published on 18 May. It sets out the difficulties in mandating PEEPs in high-rise residential settings.

Baroness Brinton (LD) [V]: My Lords, the Government's consultation says that PEEPs would not be proportionate, practical or safe. Instead, it proposes that they stay put. But staying put is what killed 40% of disabled residents in Grenfell Tower. Sir Martin Moore-Bick's inquiry recommended PEEPs and a premises information box. The fire chiefs' guidance makes it clear that PEEPs and an information box would help them to evacuate disabled people. *Inside Housing* has reported that the Government rejected PEEPs after a single meeting with building owners. So how will disabled people be able to get out of a burning high-rise building if fire and safety officers cannot get to them?

Lord Greenhalgh (Con): It is quite clear that, while we are not mandating PEEPs in high-rise residential buildings, we are consulting on these EEIS proposals. This does not remove the ability of responsible persons to implement PEEPs if they agree with residents that it is appropriate.

Baroness Masham of Ilton (CB): My Lords, would it be possible to have evacuation lifts in all high-rise buildings? This would benefit everybody.

Lord Greenhalgh (Con): Having evacuation lifts in high rises, as well as more than a single staircase, is the sort of thing we need to capture and make very clear in building regulations. This will become something of the purview of the new building safety regulator. It is a very good point.

Baroness Sanderson of Welton (Con): My Lords, I declare my interest as a community adviser on Grenfell, so I really do understand the anger at the decision not to implement PEEPs. In this instance, it is important to acknowledge that this was done not just on a whim or after a single meeting. The truth is that a tremendous amount of work has been done on this behind the scenes, but we have not arrived at a satisfactory place. To that end, would my noble friend agree that it is hugely important that all the interested parties follow the lead of Andy Roe, the LFB commissioner, take part in the new consultation and make their concerns known so that we can make progress and get to a better place?

Lord Greenhalgh (Con): I thank my noble friend for her recognition of the hard work it has taken to get to this position. There were nearly 400 responses. All were carefully gone through and responded to as part of the previous consultation. I join her in encouraging all parties to come forward and respond to the EEIS+ consultation. The Government really are listening and it is important that we hear from as many diverse stakeholders as possible.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I draw the attention of the House to my relevant interest as a vice-president of the Local Government Association. As the noble Baroness, Lady Brinton, said, the Government's position is that personal emergency evacuation plans for people who would struggle to get out of a burning building are not proportionate, practical or safe to implement. Can the noble Lord please explain the Government's reasoning for coming to that conclusion? I am sure he can acknowledge that disabled people, their families and friends and campaigners are very worried about that. We need an explanation of why the Government have taken this position.

Lord Greenhalgh (Con): There are real concerns based on the previous consultation around practicality—the measures that get mobility-impaired residents out in advance of fire and rescue services, which on average respond in six to seven minutes—proportionality in a residential setting, where there are rarely 24-hour staff to carry out evacuations, and safety around evacuation of all residents that does not hinder the fire and rescue services fighting the fire. Those are the concerns we have outlined in the current consultation.

Lord Young of Cookham (Con): Does my noble friend agree that the need to evacuate disabled residents from high-rise flats would be greatly reduced if the remediation measures to reduce fire risks took place? Following the passage of the Building Safety Act, can my noble friend now say what progress is being made in eliminating those risks from high-rise buildings?

Lord Greenhalgh (Con): My noble friend is right that the concern is ultimately for those buildings where simultaneous evacuation is in place. We are making progress in ACM buildings and high-rises with other forms of flammable cladding. Most importantly, we now have a situation where we are getting the polluters to pay and the funding in place to get remediation done as quickly as is practical.

Lord Stunell (LD): My Lords, the Prime Minister gave an undertaking that every recommendation of the Grenfell inquiry would be implemented in full.

PEEPs were a clear recommendation of that inquiry. That commitment was underlined by the Secretary of State for what was then the Ministry of Housing, Communities and Local Government. The Minister himself made similar comments during the passage of the Building Safety Act. Can he not understand the anger, fear and frustration of disabled people living in high-rise blocks about what, from an earlier question, appears to be what we might understand to be a delay but might be a U-turn on the Government's commitment to implement PEEPs?

Lord Greenhalgh (Con): I genuinely understand the concerns and frustrations, but we have come forward with what we believe to be a sensible proposal. This is a genuine consultation with a call for evidence for examples of practical, proportionate and safe PEEPs and other fire safety initiatives. It also includes a working group with responsible persons, residents and disability groups to examine the role that neighbours and friends can play in supporting the evacuation of vulnerable residents. We are listening and it is important that we get a policy position that works.

Baroness Altmann (Con): My Lords, I congratulate my noble friend on all the work being done and encourage him and his department to make sure that it is completed as soon as possible. May I ask for an assurance that the needs of frail elderly people, who might not be registered as disabled, are also taken into account, as they might be equally unable to self-evacuate in an emergency?

Lord Greenhalgh (Con): My noble friend is right that we need to capture those people who may not present themselves as disabled but who clearly have mobility impairments. That is the purpose of the EEIS proposal, which is around ensuring that we can identify those people, that we can organise person-centred fire risk assessments and have home safety visits to come up with measures that do the best to keep them safe. That applies to all mobility-impaired residents.

Lord Berkeley (Lab): My Lords, behind all these fine words is a practical question: how do you evacuate someone in a wheelchair from an 11, 12 or 13-storey building? The Minister seems to be saying that there will not be any more fires in buildings because of the insulation that the noble Lord, Lord Young, mentioned, but there are practical problems in getting people out in a wheelchair down one staircase when the fire people are trying to come up and do other things. Is there a solution?

Lord Greenhalgh (Con): This is the real issue, which is why I think the noble Baroness raised the importance of evacuation lifts and having means of exiting a building in that very case. We need to recognise that fire and rescue services need to work as fast as possible to respond and contain the fire. Above all, we need to keep all residents in that building safe.

Baroness Walmsley (LD): Did I understand the Minister to say in a previous answer, that in the absence of PEEPs, in the case of a fire, it could be up to family and friends to get a disabled person out?

Lord Greenhalgh (Con): No, I was saying that we have a working group looking at the role that friends, neighbours and other residents may play in supporting the evacuation. That is essentially what I was saying: it is a working group to bring together evidence and information as part of the consultation.

Baroness Uddin (Non-Afl): My Lords, is the fundamental question not why people with mobility issues are housed in these unsafe environments and conditions? Is it because there is simply not enough accommodation available to local authorities and housing associations? What are the Government doing to address mobility issues in their housing planning?

Lord Greenhalgh (Con): Obviously we need to provide more affordable housing, which I think is what underpinned the question. We have invested £11.5 billion as part of the affordable homeless programme and plan to build around 32,000 socially rented homes, double the current amount.

Identity and Language (Northern Ireland) Bill [HL]

First Reading

3.47 pm

A Bill to make provision about the national and cultural identity and language in Northern Ireland.

The Bill was introduced by Earl Howe (on behalf of Lord Caine), read a first time and ordered to be printed.

Heritage Railways and Tramways (Voluntary Work) Bill [HL]

First Reading

3.47 pm

A Bill to permit young persons to carry out voluntary work on a heritage railway or tramway.

The Bill was introduced by Lord Faulkner of Worcester, read a first time and ordered to be printed.

Climate and Ecology Bill [HL]

First Reading

3.48 pm

A Bill to require the Secretary of State to achieve climate and nature targets for the United Kingdom; to give the Secretary of State a duty to implement a strategy to achieve those targets; to establish a Climate and Nature Assembly to advise the Secretary of State in creating that strategy; to give duties to the Committee on Climate Change and the Joint Nature Conservation Committee regarding the strategy and targets; and for connected purposes.

The Bill was introduced by Lord Redesdale, read a first time and ordered to be printed.

Pharmacy (Preparation and Dispensing Errors—Hospital and Other Pharmacy Services) Order 2022

Motion to Approve

3.49 pm

Moved by ***Lord Kamall***

That the draft Order laid before the House on 28 April be approved. *Considered in Grand Committee on 23 May.*

Motion agreed.

Passport (Fees) Regulations 2022

Motion to Approve

3.49 pm

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

That the draft Regulations laid before the House on 25 April be approved. *Considered in Grand Committee on 23 May.*

Motion agreed.

Xinjiang Internment Camps: Shoot-to-Kill Policy

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Tuesday 24 May.

"Today's reports provide further shocking details of China's gross human rights violations in Xinjiang. They add to an already extensive body of evidence from Chinese government documents, first-hand testimony, satellite imagery and visits by our own diplomats to the region. The reports suggest a shoot-to-kill policy was in place at re-education camps for detainees seeking to escape. This is just one of many details that fatally undermine China's repeated assertions that these brutal places of detention were in fact vocational training centres, or a legitimate response to concerns about extremism. On the contrary, the compelling evidence we see before us reveals the extraordinary scale of China's targeting of Uighur Muslims and other ethnic minorities, including forced labour, severe restrictions on freedom of religion, the separation of parents from their children, forced birth control and mass incarceration.

We have already taken robust action in response. We have imposed sanctions, led joint statements at the UN, taken measures to tackle forced labour in supply chains, funded research to expose China's actions and consistently raised our concerns with Beijing at the highest levels. The Prime Minister did so most recently in a phone call with President Xi on 25 March. In 2019, we were the first country to lead a joint statement on China's human rights record in Xinjiang at the UN. Our leadership has sustained pressure on China to change its behaviour. We work tirelessly to increase the number of countries speaking out. By October 2021, our efforts had helped to secure the support of 43 countries for a joint statement on Xinjiang at the UN Third Committee, including Muslim-majority Turkey and Albania. In response to today's revelations, we will continue to work with our partners to raise the cost to China of its actions. We will continue to develop our domestic policy response, including introducing further measures to tackle forced labour in UK supply chains.

The UK stands with our international partners in calling out China's appalling persecution of Uighur Muslims and other minorities. We remain committed to holding China to account."

3.50 pm

Lord Collins of Highbury (Lab): My Lords, for some time this House has called on the United Kingdom Government to back a UN visit to Xinjiang to assess the scale of human rights abuses, which we have now seen so shockingly illustrated by the BBC report. Michelle Bachelet has finally arrived. However, it is reported that her access is being restricted, with the UN stressing that the visit cannot be considered an investigation. While Amanda Milling reiterated yesterday the call for unfettered access, can the Minister tell us what steps the Government are taking, with our allies, to secure proper access for the UN?

On future policy, Amanda Milling said the Government

"will continue to develop our domestic policy response, including introducing further measures to tackle forced labour in UK supply chains."—[*Official Report*, Commons, 24/5/22; col. 159.]

An opportunity starts with the Procurement Bill, which has its Second Reading this afternoon, to protect British customers and consumers from complicity in the Uighur genocide. Will the Minister support amendments to back British businesses which generally want to do the right thing?

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, the noble Lord, Lord Collins, and I have been working together, and I am conscious of and grateful for the strong support on the issue of Xinjiang. The continuing trials, tribulations and persecution of, and indeed violations against, the Uighur community in Xinjiang are appalling and abhorrent, and my right honourable friend the Foreign Secretary has put out a statement to that effect.

On the noble Lord's first point on Michelle Bachelet, the High Commissioner is well known to me. Indeed, the United Kingdom was the first country to call, both directly in a bilateral meeting with her and at the Human Rights Council, for a visit to Xinjiang, which, as the noble Lord acknowledged, is under way. However, he is quite right that it is, to use quite diplomatic terms, a managed visit. Clearly, access will be quite limited. We are certainly working with our friends and partners. We also press the High Commissioner for a specific report on the situation in Xinjiang. Earlier today I was scoping as to either a direct call or a visit to Geneva to pursue that very issue. I will update your Lordships' House on that specifically.

The Government are committed to tackling the issue of Uighur forced labour in supply chains. In September 2020, there was an ambitious package of changes to the Modern Slavery Act. I am sure the noble Lord noted that these measures will be included in the modern slavery Bill, which was announced as

part of the Queen's Speech in May this year. On the other point he raised on procurement, I do not know and cannot predict what amendments will come forward, but the Procurement Bill is also looking quite specifically at supply chain issues. From experience, I am sure that many a noble Lord will look at that Bill quite specifically.

Lord Purvis of Tweed (LD): My Lords, the fact that we have been able to witness this dreadful information is testimony to there being a free and open media, in stark contrast to what the people of China themselves will be denied seeing by their Government. I have asked this on three occasions now. Given that we are trade dependent on China for goods, with a trade deficit now of more than £40 billion—the biggest trade deficit with a single country in our country's history—our leverage is limited, but what are the areas in which preferential access to UK markets will be restricted by state-owned enterprises, especially in the financial services sector? The Government have signed a number of agreements with the People's Republic of China, but the Government have not been able to say whether any triggering mechanisms on human rights abuses exist. Are there any areas in which the Government will restrict access to China on the basis of these grotesque human rights abuses?

Lord Ahmad of Wimbledon (Con): First of all, I agree with the noble Lord about the issue of human rights abuses. As the UK's Human Rights Minister, it is something very specific to the agenda that I am following directly and with partners through all networks. We raise issues and concerns directly and bilaterally, and through various UN and multilateral fora.

On the specific issues of our trade with China, we must make sure that our trade with China is reliable, but that it avoids any kind of strategic dependency, and of course the important issues that the noble Lord draws to our focus about human rights abuses. One hopes also that, through some of the measures we are taking in the Bill that I announced on modern slavery, and also the discussions that we will have on whatever legislation comes forward, we will continue to focus on eradicating those human rights abuses, and that those companies which still seek to trade in that capacity will be held to account.

Lord Alton of Liverpool (CB): My Lords, I declare an interest as a member of the All-Party Parliamentary Group on Uyghurs. It was the Foreign Secretary, Liz Truss, who said that a genocide is under way in Xinjiang: the ultimate human rights violation, the crime above all crimes. At a meeting with her and the Prime Minister, held with sanctioned parliamentarians, we were promised that government policy on genocide determination would be reformed. Will the noble Lord tell us how this can be expedited, and whether he will arrange a follow-up meeting with the Foreign Secretary? Will he urgently draw John Sudworth's admirable BBC documentary to the attention of the UN's Michelle Bachelet during her current visit to the region?

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Lord's final point, that documentary—I have certainly seen part of it, not in full, but I have also seen many of the images associated with it—really makes your stomach churn, in every sense. It is abhorrent, in every sense. I was pleased that my right honourable friend the Foreign Secretary, and the Prime Minister, met with the noble Lord, amongst others. I am also aware that the PM at that meeting demonstrated how seriously we are taking this issue. I will follow up and of course update the noble Lord.

Lord Polak (Con): My Lords, 20 months ago I asked my noble friend whether he could confirm that we will not support China's election to the Human Rights Council. It seems clear that China continues to abuse its position at that council. I ask my noble friend the Minister, following John Sudworth's harrowing report, whether the UK Government will now do the right thing, and lead a campaign to suspend China from the Human Rights Council.

Lord Ahmad of Wimbledon (Con): My Lords, first of all I pay tribute to my noble friend's persistent focus on this particular issue. On the issue he raises about the Human Rights Council, every country that stands for election to the Human Rights Council, and is present in its 47 members, needs to demonstrate a strong human rights record domestically. There is now precedent established within the UN, but removing a particular country from a particular UN body is never easy. However, what I would say to my noble friend is that the fact that China persists and seeks to campaign for continued membership of the Human Rights Council also provides a huge opportunity—notwithstanding the fact that its human rights record is deplorable—for us to raise issues with it quite directly, and also demonstrate and showcase the consistent abuse that takes place, particularly against the Uighur community.

Lord Mackenzie of Framwellgate (Non-Afl): My Lords, these horrific matters have been raised many times in your Lordships' House. There is clear evidence of genocide, forced organ harvesting and other human rights abuses, clearly recorded by Sir Geoffrey Nice. We did not act decisively enough when Putin seized Crimea eight years ago and went on to commit murder in Salisbury, and we saw the consequences. Could the Minister say what further action the UK will take, in conjunction with democratic partners, to call China to account, or will history simply repeat itself with the invasion of Taiwan?

Lord Ahmad of Wimbledon (Con): My Lords, we are certainly working with our partners. As I am sure the noble Lord acknowledges, we have acted to hold to account senior officials and organisations who are responsible for egregious abuse of human rights within Xinjiang. That said, we keep policy constantly under review and it remains very much on the table. We will continue to work in co-ordination with our partners in that respect.

Baroness Bennett of Manor Castle (GP): My Lords, the Answer given in the other place made no reference to an asylum response to these shocking reports. As it is very clear that the Uighurs are being persecuted

[Baroness Bennett of Manor Castle]
because of their religion and ethnicity, and are in need of legal protection, will the Government issue visas for Uighurs fleeing persecution in China, including or perhaps particularly those who are in countries where they face the risk of deportation to China?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Baroness raises a very valid point, and I assure her that the United Kingdom has been and remains very much a place where people seek sanctuary. That applies to the Uighurs specifically and indeed to any other persecuted community around the world. This is a tradition and a right that continues to be alive—and long may it continue.

Baroness Sugg (Con): My Lords, can my noble friend share the Government's assessment of British business's supply chain activity in Xinjiang? What support is being provided to enhance transparency for British consumers who wish to know the origin of the products they are purchasing?

Lord Ahmad of Wimbledon (Con): My noble friend raises a valid point. In terms of practical steps, the Department for International Trade is very much focused on the provisions we will bring forward in the modern slavery Bill. Within that, we will seek to provide advice to business on this specific issue. Alluding to the sourcing of particular products is a valid suggestion, and I will certainly share that with colleagues at the FCDO and DIT.

Procurement Bill [HL]

Second Reading

4 pm

Moved by ***Lord True***

That the Bill be now read a second time.

The Minister of State, Cabinet Office (Lord True) (Con): Since the British people voted to leave the European Union, and we finally got it done, this country is being freed from many bureaucratic and process-driven regulations that stifled our country and businesses for many years—

Noble Lords: Oh!

Lord True (Con): Noble Lords opposite laugh at the concept, but one of the most prominent of these regulations was the EU public procurement network. Frankly, I would have thought that noble Lords would have heard that cry from businesses up and down this country. We now have the opportunity to reform it. I am delighted that the Second Reading of this important Bill has come to your Lordships' House because it has a particular capacity to scrutinise complex matters. I look forward to working with your Lordships across the House on that basis.

Public procurement is one of the most important and influential duties of Her Majesty's Government: £1 in every £3 of public money—some £300 billion a year—is spent on public procurement. Imagine the power of the most efficient and effective use of that money every year. Imagine the extra small businesses that we could help to hire more workers, expand their operations and contribute to the wealth of this nation. Imagine the efficiencies that we could achieve so that we could spend more on our National Health Service and other vital public services.

The Procurement Bill reflects over two years of intense policy development—I pay tribute to all those involved—a Green Paper, government responses and meetings with hundreds of stakeholders. This work is being carried forward by my right honourable friend the Minister for Government Efficiency, Mr Rees-Mogg. The Bill will reform the UK's public procurement regime, making it quicker, simpler, more transparent and better able to meet the UK's needs, while remaining compliant with our international obligations. It will introduce a new regime that is based on value for money, competition and objective criteria in decision-making. It will create a simpler and more flexible commercial system that better meets our country's needs, and it will more effectively open up public procurement to new entrants such as small businesses and social enterprises, so that they can compete for and win more public contracts.

Before rising to speak, I listened to your Lordships' concern on the matter of human rights abuses in China; I agree with many of the comments that were made. The Bill will strengthen the approach to excluding suppliers where there is clear evidence of their involvement in modern slavery practices—for example, in the increasing number of reports of human rights abuses in Xinjiang. Running through each part of the Bill is the theme of transparency. We want to deliver the highest possible standards of transparency in public procurement, and the Bill paves the way for that.

Leaving the EU has provided the UK with the responsibility and opportunity to overhaul the public procurement regulations. The current regimes for awarding public contracts are too restrictive, with too much red tape for buyers and suppliers alike, which results in attention being focused on the wrong activities rather than on value for money. There are currently over 350 different procurement regulations spread over a number of different regimes for different types of procurement, including defence and security. The Procurement Bill will consolidate these into a single regime that is quicker, simpler and better meets the needs of the UK. We have removed the duplication and overlap in the current four regimes to create one rulebook which everyone can use. The Bill will also enable the creation of a digital platform for suppliers to register their details once for use in any bids, while a central online transparency platform will allow suppliers to see all opportunities in one place. We hope that this will accelerate spending with SMEs.

This is a large and technical Bill. It includes a number of regulation-making powers, and I have no doubt that your Lordships will want to consider those carefully. We submit—and hope to convince your Lordships—that these powers are necessary to ensure that the legislation will continue to facilitate a modern procurement structure for many years to come, so that we can put in place a lasting model which will allow us to keep pace with technological advances and new trade agreements, and to stay ahead of those who may

try to use procurement improperly. As we continue to scrutinise this legislation, we will revisit some of the powers included and will seek to improve on those, if necessary. I also accept that there are some areas that will need refinement, and we will come back at Committee with appropriate amendments.

I will now provide a more detailed overview of some of the key aspects of the Bill. Turning first to territorial application, we have delivered this Bill in a spirit of co-operation with the other nations of the United Kingdom—I welcome this. As part of the policy development process, we welcomed Welsh and Northern Irish policy officials into our team so that they had a critical role in shaping this legislation from the very beginning. The result is legislation whose general scope applies to all contracting authorities in England, Wales and Northern Ireland. This will ensure that contracting authorities and suppliers can benefit from the efficiencies of having a broadly consistent regime operating across the constituent parts of the United Kingdom. The Scottish Government have opted not to join the UK Government Bill and will retain their own procurement regulations in respect of devolved Scottish authorities. This is similar to how the current regulations operate, with the Scottish Government having transposed the EU directives into their own statute book. There may be some in both Houses who will regret this. I am sure that we would all welcome our Scottish friends if they wished to join the new system proposed by the Bill; taxpayers and public services alike would benefit across the whole United Kingdom.

Part 1 of the Bill sets out which authorities and contracts it applies to. It covers contracts awarded by most central government departments, their arms-length bodies and the wider public sector, including local government and health authorities. This also includes contracts awarded by utilities companies operating in the water, energy and transport sectors, and concession contracts. The Bill also sets out a small number of simpler rules which apply to lower-value contracts, and it makes provision to carve out those procurements regulated by the Health and Care Act in order to ensure clarity about which regime applies.

The Bill consolidates the current procurement regimes and therefore extends to defence and security contracts. Defence procurement will benefit from the simplification and increased flexibility of the core regime. There are a limited number of derogations that meet the specific needs of defence and security procurements, and which will support delivery of the *Defence and Security Industrial Strategy* published in March 2021. A national security exemption has also been retained to protect our national interest. The Bill also includes a separate schedule to enable reforms to the Single Source Contract Regulations 2014. The proposed reforms seek to ensure that these regulations fully support the delivery of the *Defence and Security Industrial Strategy* by supporting a more strategic relationship between government and the defence and security industries. My noble friend Lady Goldie will be assisting your Lordships on these provisions.

Part 2 of the Bill is focused on the principles and objectives that must underlie the awarding of a public contract. Contracting authorities must have regard to delivering value for money, maximising public benefit, transparency, and acting with integrity. Integrity must sit at the heart of the process. It means that there must be good management, prevention of misconduct, and control to prevent fraud and corruption.

Part 5 of the Bill sets out the particular requirements on contracting authorities to identify and manage conflicts of interest.

Public procurement should also support the delivery of strategic national priorities, and this part of the Bill makes provision for a national procurement policy statement and a Wales procurement policy statement to support this.

In Part 3, the Bill sets out how a contracting authority can undertake a procurement and award a contract. Competition is at the heart of the regime. The Bill introduces a new procedure for running a competitive tendering process colloquially known as the "competitive flexible procedure"—I am not quite sure how colloquial that is—ensuring for the very first time that contracting authorities can design a competition to best suit the particular needs of their contract and market.

There will continue to be a special regime for certain social, health and education services, specifically identified by secondary legislation, which may be procured as "light-touch contracts", leaving room for authorities to design procurement procedures that are more appropriate for these types of services. These light-touch contracts are still subject to the necessary safeguarding requirements.

The Bill also continues the existing ability to reserve certain contracts for public service mutuals and for supported employment providers. There are a limited number of circumstances in which it may be necessary to award a contract without competition. The Bill sets these out, including new rules governing the award of contracts to protect life and public order.

Part 3 also sets out the circumstances in which a supplier may be excluded from a procurement due to serious misconduct, unacceptably poor performance or other circumstances which make the supplier unfit to bid for public contracts. Contracting authorities will be able more easily to reject bids from suppliers which pose unacceptable risks.

Part 3 also legislates for the introduction of a public debarment list for serious cases of misconduct. For far too long, too many unscrupulous suppliers have continued to win public sector contracts due to the ambiguity of the rules, multiplicity of systems and lack of central effective oversight.

The important work on procurement does not stop once a contract has been awarded, so Part 4 of the Bill sets out steps that must be taken to manage a contract. This includes the strengthening of rules ensuring that suppliers are paid on time and new requirements to assess and publish information about how suppliers are performing.

Running throughout the Bill are requirements to publish notices. These are the foundations for the new standards of transparency which will play such a crucial role in the new regime. Our ambitions are high, and we want to ensure that procurement information is publicly available, not only to support effective competition but to provide the public with insight into

[LORD TRUE]
how their money is being spent. Part 8 of the Bill provides for regulations which will require contracting authorities to publish these notices, resulting in more transparency and greater scrutiny.

In respect of Covid-19 contracts, the Government are clear that all offers for PPE, regardless of the route through which they were identified, underwent rigorous financial, commercial, legal and policy assessment led by officials from various government departments.

Part 9 details what remedies are available to suppliers for breach of the new regime by contracting authorities where that has resulted in loss or damage. Having an effective and well-functioning remedies regime is essential to the successful operation of any public procurement regime.

Any claims made during an applicable standstill period—between the award decision and the entering into of the contract—will result in the procurement being automatically suspended. We will introduce a new test for the court to consider, when hearing applications for the automatic suspension to be lifted, that is better suited to procurement than the one currently applied.

Part 10 of the Bill gives an appropriate authority oversight over contracting authorities and the power to investigate their compliance with this new Act as part of a new procurement review unit.

The UK is already party to a number of international agreements which guarantee valuable market access for UK suppliers. For example, our membership of the WTO's Agreement on Government Procurement gives British businesses access to £1.3 trillion in public procurement opportunities overseas. Access to these markets is a two-way street and requires the UK to ensure that treaty state suppliers have equivalent access to UK markets. Part 7 prohibits a contracting authority from discriminating against suppliers from those states. This part also contains a power to make regulations specifying the agreements listed in that schedule. This provides greater flexibility to be able to extend the procurement regime to cover matters covered by the UK's international procurement agreements, both current and future. This is a well-defined and tightly restricted power which will enable the procurement aspects of future trade agreements to be enacted efficiently, but I have no doubt we will discuss this in Committee. It is not an open door to changing UK procurement regulations to meet international commitments. This power allows only for the extension of the UK procurement regime to cover overseas suppliers covered by such agreements. Amendment of the UK's procurement rules is outside the scope of this power, even if it were to be required as part of an international agreement. It would not, for example, allow the opening up of NHS clinical healthcare procurements to private providers from any state. To do so would require broader legislative changes, and this power has been carefully drafted so as not to allow for that.

In conclusion, there has never been a piece of UK procurement legislation as comprehensive as this. I hope that I will be able to demonstrate, in our discussions on the Bill, how this Government plan to reform procurement so that we can collectively boost business, spread opportunity, level up the country and strengthen our union. I very much look forward to taking the Bill through your Lordships' House and I will be keen to hear any questions and suggestions your Lordships may have, today and throughout our proceedings. I commend the Bill to the House, and I beg to move.

4.17 pm

Baroness Hayman of Ullock (Lab): My Lords, I thank the Minister for his comprehensive introduction to the Bill, which is quite complex in some areas. I begin by saying that we welcome this Bill. Changes to the procurement regime are long overdue, not least as a procurement Bill was promised in the last Session, so it is good that we finally have it before us today. I know from my experience of navigating *OJEU* just how complicated the EU procurement regime can be, so we support the Government's stated ambition of speeding up and simplifying the processes. We welcome particularly the move from awarding contracts based on most advantageous tender, or MAT, rather than MEAT, the most economically advantageous tender, which will allow more flexibility around procurement, and the duty to consider breaking contracts into lots will also help social enterprises and SMEs.

The first part of the Bill, which replaces definitions that came about from long negotiations between EU member states with clearer definitions, has been welcomed across the board, as has the ambition to simplify rules and bring a range of existing rules together into one place. Having said that, recent events and investigations have shone a light on the clear failures of the current procurement regime and government practices during the Covid pandemic, with huge concerns raised in a time of great sacrifice for many people.

I heard what the Minister said on this matter in his introduction, but taxpayers' money was wasted—£9 billion spent on PPE was written off, with £2.6 billion spent on items that were "not suitable" for the NHS. That is one in 10 of all items. There is also £800 million of additional stock that has not been used. We also know that there were major issues with direct awards. We appreciate that Governments have to act quickly during a crisis, but contracts worth tens of millions that were given out through the VIP fast lane, totalling almost £2 billion, lacked scrutiny or transparency. This Bill gives us the opportunity to fix that—to put in place a rigorous procurement regime which would prevent these practices happening again.

We are concerned that transparency seems to have slipped down the agenda when compared to the original proposals in the Green Paper. The Public Contracts Regulations 2015 have more on transparency than the Bill before us, so why are the Government taking a step backwards? Since the Government did not comply with the current transparency rules during the pandemic, can the Minister reassure noble Lords that this is not because they are finding transparency rules a little bit tricky to comply with? While we welcome the Bill, we do have concerns that many of the positive changes proposed in the 2020 Green Paper and the Government's response to the consultation appear to be either missing or watered down, despite being welcomed by business, industry, trade unions and other stakeholders.

What we need from this Bill is a genuine commitment to reshape procurement to the very highest standards—from the integrity of the process to the delivery of real social and economic value. While we will no doubt explore these issues in more detail in Committee, I would like to raise some of my key concerns with the Minister at this stage. I look forward to clarification in his response today and further discussion on how improvements can be made as the Bill progresses through your Lordships' House.

Turning first to the principles, the majority of the more than 600 respondents to the Green Paper consultation supported legal principles for procurement. In their response, the Government stated that they would

"introduce the proposed principles of public procurement into legislation as described".

The proposed principles are

"public good, value for money, transparency, integrity, fair treatment of suppliers and non-discrimination",

and we absolutely support them.

However, disappointingly, Part 2—"Principles and objectives"—does not have the principles laid out clearly in a clause on the face of the Bill, despite doing so for the objectives. The principles are an integral part of procurement. They are a vital tool for setting out what legislation is designed to achieve and by what its success will be judged. The rest of the world knows this; almost every other piece of procurement legislation in the world starts with clear principles, so it is surprising that this is not in the Bill, and we believe that this needs to be revised. Furthermore,

"acting, and being seen to act, with integrity",

as set out in the objectives, could also include a wider duty of transparency. Even in the midst of a crisis, integrity and transparency should be non-negotiable.

Looking at the objectives, we believe that the Government are wasting a huge opportunity to put the environment and tackling climate change right at the centre of how public money is spent. Why is there no mention of this in the objectives, no commitment to sustainable procurement, and no duty for all government departments to comply with the carbon reduction plan and demonstrate sustainable procurement performance? If the Government are to achieve their goal of net zero, climate and nature goals must be an integral part of any new legislation that will have an impact on its delivery. Does the Minister not agree that sustainable procurement will help avoid damage to the environment while at the same time generating benefits for business, society and the economy?

Another gap in the Bill is a commitment to social value, which does not appear at all. There should be specific reference to social value being part of the public benefit in order to provide clarity to public bodies, companies and social enterprises. Social value should be embedded in the procurement system through appropriate guidance and reporting requirements for public bodies, as seemed to be the case in the Green Paper proposals. In fact, the Government's response to the consultation stated:

"A procurement regime that is simple, flexible and takes greater account of social value can play a big role in contributing to the Government's levelling-up goals."

I absolutely agree. As a matter of principle, social value will improve circumstances for residents by bringing money and jobs to local areas, which should in turn go some way towards helping to level up the country.

This is especially true in more disadvantaged areas. A more responsive, community-focused supply chain spreads the social value net further, helping to maximise environmental and social well-being at every level, and would contribute positively to the Government's levelling-up ambitions. So why is it no longer in the Bill? Have the Government already given up on their levelling-up goals, or does the Minister recognise that this is an oversight in the drafting that needs to be corrected?

The Government's 2019 manifesto asserted that the public sector should

"'Buy British' to support our farmers and reduce environmental costs."

Public procurement has the potential to create thousands of jobs for UK farmers and food producers and to help deliver the Government's climate and nature emergency commitments. Can the Minister outline how the Bill before us will achieve those commitments? We need to do what we can to ensure that far more public contracts are awarded to British businesses—something that will have a positive effect on our economy but also support those who are struggling to get through the current cost of living crisis.

Moving on to the fair treatment of suppliers, we have concerns that the language on requiring contracting authorities to make impartial decisions without conflict of interest has been weakened, as too has the important principle of non-discrimination. I hope that the Government will therefore commit to tightening up these areas of the Bill as we move into Committee.

The Green Paper included a positive commitment to the digital single suppliers portal, operating on a "tell us once" principle. This would not quite level the playing field between supersized corporate bidders such as Serco and SMEs from across the country, but it would certainly be a step in the right direction, removing an unnecessary obstacle for smaller, less well-resourced options. My understanding is that this is still the Government's intention, but I can see nothing in the Bill to ensure that it will actually happen. Do the Government remain committed to putting this on a statutory footing, or will further regulation and guidance be published? If this is linked to other digital systems such as Contracts Finder—again, I hope the Minister can confirm that this is still happening—it could also help to level the playing field when contracting authorities are making decisions.

There are also several areas of exemption in the Bill. Part 13 includes powers

"to disapply this Act in relation to procurement by NHS in England"

and

"to amend this Act in relation to private utilities".

Schedule 2, "Exempted contracts", includes defence and security contracts, which my noble friend Lord Coaker will consider further in his winding-up speech. What criteria were used to draw up this group of exemptions? Following the Minister's introduction,

[Baroness Hayman of Ullock]
can he clarify exactly how ministerial discretion for NHS procurement will apply? For example, what services is this intended to cover? Will it apply just to clinical services? I am sure your Lordships' House will agree that we do not want to see a repeat of what happened during the pandemic.

The Minister mentioned—and we are aware—that there is going to be a six-month lead-in for the implementation of the Act's provisions once it is passed. Even so, there will be significant challenges to meet the timescales, considering the number of changes proposed in the Bill. Does the Minister agree that the Government will need to provide substantial support; for example, for staff training, for communicating the many changes to the system to prospective suppliers, and to cash-strapped local authorities? If so, will he outline what that support will look like?

This really is an opportunity for the Government to be bold, to address these concerns, and to help rebuild public confidence in how taxpayers' money is spent. There is much in the Bill that I have not had the time to cover today, and we will, of course, be tabling amendments to try to improve it. I offer the Minister our constructive support to work closely with him and his department officials so that, by the time it leaves this place, it will be truly fit for purpose.

4.30 pm

Lord Fox (LD): My Lords, it is a great pleasure to be working on this Bill with a new set of colleagues: a new set of Front-Bench spokespeople from Her Majesty's loyal Opposition and a new Minister. I look forward, as the noble Baroness does, to a fruitful process in working on this Bill.

In framing the Bill, the Government explained that they had three options: to do nothing, to do the minimum or to carry out wholesale reform. They have chosen reform, which we welcome; the Bill is the result of that reform process. What is it for, and how wholesale are those reforms? The reforms are less wholesale than the Green Paper suggested they might be, as the noble Baroness, Lady Hayman, just said in her excellent speech. I will not try to cover the same ground that she did, but I associate myself with all of her comments.

I will, however, start with the point with which she started: the missing principles for the Bill. Without those principles, it will be difficult to guide the rest of what we are doing. There are objectives, and they appear in Clause 11. As we have seen, they are value for money, maximising public benefit, sharing information and acting with integrity. We would all sign up to those. Elsewhere in the Bill documentation, there are all sorts of other lists that are all similar, but different in a subtle way. This is not nit-picking, because it is important to understand where the Bill is headed and what it is seeking to achieve. Some of the objectives are potentially conflicting, and we need to know where the priority lies.

For example, to create greater opportunities for small businesses and social enterprises, which I understand and agree is one of the important elements of the Bill, there might be a higher initial cost attached. How will the Government calculate the public benefit that they get from the process of broadening the remit? What priority will they give to value for money? The impact assessment says that the highest priority is value for money. However, it also says that the Bill will be required to take into account national strategic priorities such as job-creation potential, improving supply resilience and tackling climate change. There is no help as to how these trade off, and there is no understanding of what "take into account" means. Of course, none of these is on the face of the Bill, so we do not have a definition of "public benefit" anywhere.

All the language so far completely avoids the issue of supplier ethics and human rights. I know that the noble Lord on my left and others will bring this up, and I expect to agree with them. My noble friend Lady Parminter will no doubt speak to the need for a central role for procurement in fighting climate change. I also believe that that has to be written into the Bill and I hope that the Minister will hear that from others as well.

There are other definitions in the Bill which are not helpful. The Explanatory Notes refer to "fair treatment", so perhaps the Minister could explain what "fair" means in the context of this new process. Perhaps he will agree with me that "equal" might have been a better word. Here is an example: it is unclear how the Bill, in its present form, will replace the regulatory framework for accessibility within public procurement legislation. Therefore, can the Minister please explain how the new regime will ensure that specifications take into account accessibility criteria and design for all users? This is just one example of what is potentially dropping out.

For the Bill to be implemented, it needs to be understood. For that to happen, the Government need to differentiate what they are seeking to achieve and be very clear about the Bill's moral, as well as economic, objectives. I am sure that we will give Ministers plenty of opportunity to do that in Committee.

One of the benefits paraded in various government publications is that the new data platform will deliver centralised data. How will the Government use that data and who will use it? On the data protection front, the UK has to date employed GDPR as its tool. However, changes in data protection law heralded by the new data reform Bill set out in the consultation *Data: A New Direction* call into question the level of proper oversight of that data. We already see companies from the US sweeping up and using data that is currently available; for example, within the NHS. They operate free, in effect, from proper scrutiny. Without explicit safeguards in the legislation, there will be a real opportunity for data abuse.

The Government talk of visibility and transparency in the Bill. If those are realised that will be thoroughly welcome and we encourage that process. However, if we needed an example of how the lack of visibility leads to corruption, there is the example given by the noble Baroness, Lady Hayman, and which I think my noble friend Lord Strasburger will give, of the abuses of what I might describe as a system based on Ministers' WhatsApp rather than a transparent system. That was a scandal, and we must have a system that ensures that that sort of thing can never happen again.

How transparent is the legislation? I note that, alongside defence and security interests, the Advanced Research and Invention Agency—ARIA—is exempted. Not only is ARIA carved out of the Freedom of Information Act, it is able to procure in secret. Why should we not know from whom this agency buys its electricity? Overall, much of the information the public might seek about public contracts has been or is being put beyond the reach of the Freedom of Information Act. Although the Government talk about transparency, their legislation seems to demonstrate a drift—if not a jump—in the opposite direction.

The Minister sought to defuse the treaty state supplier issue by using the NHS opt-out as an example but, of course, that is in only one sector. My noble friend Lady Brinton will be talking to that issue, but let us remember what Clause 82(1) says:

"A contracting authority may not, in carrying out a procurement, below-threshold procurement or international organisation procurement, discriminate against a treaty state supplier."

Can the Minister confirm that if a UK contracting authority wanted specifically to buy British food from a British farmer, it would be unable to do so at the expense of a treaty state supplier such as, in future, an Australian farmer, selling a similar product at a lower price? That not only flies in the face of many social objectives, it seems to fly in the face of the Subsidy Control Act, which includes provision for purchasing under a subsidy scheme to support local businesses and certain products. Which of these two factors prevails? Is it the treaty state supplier rule or the subsidy control rule, because they do not work in the same direction?

More broadly, essentially, if the market is opened by a treaty, the contracting authority is bound to buy the product that offers the best value for money—remember, that was the number one criterion of the four set out in the government documents. I fear that that will be headline price, irrespective of what it does to local capability in future. Other countries may be looking at reshoring; the Bill delivers the opposite.

The regulation-making power in Clause 8(2) relates to common procurement vocabulary—or CPV—codes, which the Cabinet Office has explained will be used to decide which contracts benefit from the light-touch regime. Understandably, this legislation does not include the long list of what might be on that CPV list, but I feel sure that there will be some important issues here.

I would like to ask the Minister what "light touch" actually means. If it means service contracts of the sort that the Minister hinted at, then far from "light touch", "rigorous oversight" might be more appropriate. I give the example of the children's homes issue, which is currently live. Perhaps the Minister can help us before we get to Committee by publishing either a draft or an indicative list of what the Government expect to be in the statutory instrument that will bring the CPV codes to your Lordship's House.

I am also in the dark about how this Bill, the Sewel convention, the Trade Act and the UK Internal Market Act intersect. For example, if a Scottish-based public authority seeks to purchase a product from a treaty state supplier, does the Minister agree that it is up to the Scottish Government whether the regulations in Scotland need to be the same as those in the rest of the United Kingdom?

Secondly, can the Minister please explain what happens if that Scottish public authority offer then extends to the rest of the United Kingdom—for example, across the border to England? The Procurement Bill seems to say that once it crosses the border and there is a difference, Westminster regulations need to be applied, not Edinburgh's. However, I suggest that the non-discrimination parts of the UK Internal Market Act mandate the exact opposite, and I think an interpretation of the Sewel convention is a moot point. Further, there is the common frameworks process, which is still live. Can the Minister please reconcile all these issues for your Lordships' House?

As I reach the end, I turn to implementation, which will not be trivial. We know that the Government are very challenged when it comes to digital projects. In its report, *The Challenges in Implementing Digital Change*, the National Audit Office reviewed the implementation of digital programmes by government, going back, I think, over 25 years.

Its comments are extremely apposite. It said:

"Initiating digital change involves taking a difficult set of decisions about risk and opportunity, but these decisions often do not reflect the reality of the legacy environment and do not fit comfortably into government's standard mechanisms for approval, procurement, funding and assurance."

The report also found that digital leaders

"often struggle to get the attention, understanding and support they need from senior decision-makers"

who lack sufficient digital expertise. It will be important to remember that as this project progresses. We know from past government IT disasters that delivery is always harder than it is portrayed when launched at the Dispatch Box.

As far as I can tell from the impact assessment, the estimated cost of launching this platform is £36 million, which seems ambitious to say the least, given the Government's 25 years of underperformance on digital projects. In Whitehall alone, this involves a lot of people. The Cabinet Office Civil Service statistics for 2021 say there were 12,340 civil servants in the procurement commercial function that year. Of course, as we have heard, there are many more people in local authorities and public utilities being brought into this system.

For some of the Whitehall departments, these numbers are huge. In the Ministry of Defence, including agencies, more than 2,000 employees are involved in procurement. In the Minister's own Cabinet Office, again including agencies, it is more than 1,700 employees. I know from experience of working in the private sector that when a large enterprise implements a cross-business digital programme, the systems analysts always meet the same response. They go into a department, which says, "Yes, I agree that this is a very good idea, but you have to understand that we are different".

There are two ways of dealing with this response. One is to instigate local variations to comply with all the perceived differences; the other is to use this digital platform to lead cultural change. In my experience—I have helped on a number of company-wide ERP implementations, and in a way this is a much bigger version of that—if you choose the variation route, it is

[LORD FOX]
a road to confusion and cost. But the second one, invoking real cultural change, is still a challenge. These departments are supertankers of departmental culture that will take years of sustained activity to turn around. A couple of days' training here or there will not do it; these people have to own this system, believe in it and want it to succeed.

Any Bill that seeks to do what this Bill seeks to do is ambitious. It is a long Bill and covers all sorts of different departments. The process we are about to embark on will be long and detailed. There is a lot of work to do before the Bill is fit to be enacted, but we will work very hard with the Minister and Her Majesty's loyal Opposition to help that to happen.

4.46 pm

Lord Stevens of Birmingham (CB): My Lords, I may be a relatively new Member of your Lordships' House, but I suspect that the Second Reading of the Procurement Bill may not capture the public's imagination today in quite the way that certain other events and reports taking place in Westminster will. But that should not in any way detract from the importance of the measures before us, because the Bill represents an important advance on a number of the predecessor EU procurement regimes that we have been subject to and generally moves us in the right direction. As the Minister said, it has the potential to simplify and accelerate public procurement and to deal with some of the lessons, both positive and negative, that have arisen during the coronavirus pandemic.

I will briefly mention three avenues that may be worth considering further as the Bill progresses through your Lordships' House. The first is the connection between the procurement regime and supply chain resilience for the UK. No doubt we will discuss multiple times this afternoon the experience that arose as the UK Government and the Department of Health and Social Care sought to procure PPE and testing for the National Health Service during the pandemic and, as was the case with many other European countries, faced a supply crunch as Chinese factories closed down. The problem has been sustained as China pursues its zero Covid policy, now overlaid with Ukrainian disruptions as a result of the war.

The question is not simply: what are the procurement mechanisms that the Government use in spot markets at times of crisis? It is: what strategic assessment have the Government made of which aspects of our supply chains need onshoring? The orthodoxy for many years has been that just-in-time logistics are the most efficient way—until you get a shock such as the pandemic, in which case it becomes blatantly obvious that they are not. At that point you wish you had stockpiles or onshore capability. In the same way that, for example, Sir John Parker's national shipbuilding review looked at what the supply chain might look like for naval vessel procurement, I wonder whether the Minister can tell us how he thinks a similar approach will be taken to supply chain resilience for other aspects of what the public service will need in the future.

Secondly, I suspect that your Lordships will be looking for greater clarity, as this Bill proceeds, on aspects of these proposals which at the moment are remitted to regulation or guidance. Only a few short weeks ago, Royal Assent was given to the Health and Care Act 2022. Many noble Lords participated in the extensive discussions around what the procurement regime that was set out in that Act should be as it applies to the National Health Service. On the Health and Care Act 2022, the Cabinet Office memo of 11 May to the Delegated Powers and Regulatory Reform Committee says:

> "It has not been possible to set out on the face of that Act the scope of procurement Regulations made under it, so this Bill"—

the Procurement Bill—

> "needs to be able to make provision to manage the overlap."

Therefore, Clause 108 would grant Ministers the power to "disapply" provisions in relation to

> "services or goods to which health procurement rules apply".

I suspect that your Lordships will want much greater clarity on the circumstances under which those will or will not be disapplied.

Frankly, that will go in both directions: there will be some services where, having had the debate as part of the Health and Care Act, we will be clear that they should not be subject to competitive market principles; and there will be other areas where they must be, even where industry partners will sometimes try to exclude them from that scope. An example of this is the importance of using competitive procurement mechanisms for the purchase of medicines, where in some cases, I am afraid, some of our life sciences partners would rather that market mechanisms were not used to drive value for taxpayers and for patients. Indeed, when the National Health Service was seeking to procure medicines for hepatitis C so that we could eliminate that virus and save hundreds of millions of pounds in the process, it was sued for daring to use procurement mechanisms in those circumstances.

So we must be quite precise as to the circumstances under which we will and will not do this. Simply leaving it to regulatory guidance is not good enough, because some of us—I say this gently—have buyer's remorse about some aspects of the Health and Care Act, including aspects which were left to regulation or ministerial discretion. I am thinking particularly of the debate we had around childhood obesity just a few short weeks ago, where we were promised that we would indeed be cutting out junk food advertising on TV aimed at kids. Days later, however, that commitment was ditched—actually, the noble Lord, Lord Kamall, said that it was not a backtrack but a delay. I read elsewhere that this is part of scraping the barnacles off the boat. Most of us do not regard children's health as a barnacle to be scraped off the broadcasting boat. Therefore, we will want more clarity on some of these distinctions, rather than leaving them purely to regulation and future ministerial fiat.

Thirdly and finally, as we think about the application of these new procurement rules to infrastructure and big capital projects, we should have the humility to recognise that, by themselves, the rules will not speed up delivery. To will the end is to will the means. Frankly, the root cause of stalled and delayed infrastructure—be it energy, defence or health—is more often not the procurement rulebook per se but the absence of multiyear capital allocations funded at the

correct level, the result of delayed business case approval and the result of a lack of constancy in political direction on the results we seek to achieve.

We have seen that in the defence sector: the House of Commons Defence Committee made the point in respect of naval procurement in its memorably named report published before Christmas, *We're Going to Need a Bigger Navy*. I am afraid that we are seeing that right now in connection with the proposed building of 40 new hospitals. This is going to be a major piece of procurement for the Government and the National Health Service. It was a very welcome commitment that the Prime Minister made in the run-up to the 2019 general election on a visit to North Manchester General Hospital. As I pointed out at the time, that hospital was opened in 1876 when the then Prime Minister was Benjamin Disraeli. So there is a need to get on with it, but the fact is that we have only a three-year capital allocation—£3.7 billion—and that does not buy you 40 hospitals. Matt Hancock, the then Secretary of State, said back in 2019 that the first eight of them hospitals were "ready to go", but we now see in the latest Department of Health and Social Care publication that their planned start date is "TBC".

So the fact is that the procurement processes will help but by themselves they will not get us the result. We need greater clarity on how the totality of the Government's effort can help advance these important goals, we need greater clarity on the circumstances under which these rules will or will not apply in the health sector and elsewhere, and—that is not my phone, by the way—we need greater clarity in respect of the way in which other social goals will be advanced.

Finally, no doubt we will hear a certain amount this afternoon about the net-zero agenda and how that could be incorporated. A friendly suggestion would be that the Government could follow their own precedent in very wisely incorporating a set of amendments in the Health and Care Act. All we really need is for the amendments the Government accepted there to be incorporated in this Bill and perhaps we will be 9/10ths of the way home and dry.

4.55 pm

Lord Lansley (Con): My Lords, I am very glad to follow the noble Lord, Lord Stevens. He very helpfully reminded us that we might legislate but it is the Government's job to execute. The ability with which the execution of policy is carried out is a fundamental part of this. I might also say that, as the noble Lord unfortunately discovered in the particular respect he mentioned, we can legislate but if we leave loopholes we allow the Government to drive coaches and horses through them from time to time. That is why we sometimes have to look very hard at Bills to make sure they very clearly express Parliament's intentions. Important and detailed as this Bill is—the way my noble friend Lord True very clearly set out the Bill's intentions was most helpful—as the noble Baroness, Lady Hayman, said, we want constructively now to engage with that and to seek to improve the Bill before we send it to the other place.

In terms of interests, I am a director and adviser to LOW Associates, which is a beneficiary of procurement contracts with the European Union. I have looked quite carefully: we have a number of contracts with the European Commission and we advise on European procurement. Although that gives me experience in this respect, I do not think it gives rise to any direct conflict of interest—but I make the declaration in case anybody wants to check it out.

The noble Lord, Lord Stevens, is absolutely right. Where the NHS is concerned, "light touch" should not mean without proper transparency, processes and the ability to understand what is being bought and why. Indeed, there has been some activity in the NHS that should be paralleled across government. Procurement is increasingly seen as an essential part of the quality of management. That is happening through things such as Getting It Right First Time and the benefit of the report from the noble Lord, Lord Carter of Coles, on procurement in the NHS, which included building a procurement profession inside the NHS, which hardly existed. Right across government, we need chief procurement officers to be seen as often as important as chief financial officers in getting the quality of service and value right.

Because this is Second Reading and time is necessarily short, I will mention just two things—there will be further detail on the Bill—that I want to raise in this debate and that I hope to follow up in Committee and on Report. The Chancellor the Exchequer, in his Spring Statement in March, said that

"over the last 50 years, innovation drove around half the UK's productivity growth, but since the financial crisis, the rate of increase has slowed more than in other countries. Our lower rate of innovation explains almost all our productivity gap with the United States."—[*Official Report*, Commons, 23/3/22; col. 341.]

It is clear from the research that innovation and procurement are intimately related in an economy. Procurement, as a mechanism for fostering innovation in an economy, is probably more important than the grant-led systems that we often focus on. We often operate on the supply side, saying, "We must have more scientists, start-ups and grants for innovation", but actually we need to remember that the demand side may have at least equal impact, because demand pulls through innovation. The home market—the UK market—in particular can be of additional and significant importance to innovative suppliers, enabling them to establish and bring forward innovation in an economy. Innovation needs to be an essential part of our procurement process.

I acknowledge that the objective of procurement is not innovation but to secure quality and value in public services and to do so in a transparent and fair way. But the consequences of procurement to society are terrifically important. What the noble Baroness and the noble Lord, Lord Fox, were saying about social value is terrifically important. We should acknowledge and understand the externalities of procurement, and, through the legislation, we should tell the public contracting authorities that they should take account of them. There was an interesting exchange on this.

The Government's national procurement policy statement, published in June 2021, acknowledged that the national priority is social value. In that context, "social value" was defined as

"new businesses, new jobs and new skills; tackling climate change and reducing waste, and improving supplier diversity, innovation and resilience."

[Lord Lansley]
This relates to the point that the noble Lord, Lord Stevens, was making, and to my own point about innovation. These things are all in there, but they are not in the Bill, because the day after the Bill comes into force, the Government could write a new national procurement policy statement.

My initial submission at Second Reading is that government should be very clear that the procurement objectives include not only public benefit but social value, and the latter must be defined in the national procurement policy statement in the ways that we specify in the Bill. I hope to include all those points, including the issues relating to climate change, supply chain resilience and the importance, from my point of view, of procurement-led innovation in the economy.

I will make one other point about treaty state suppliers—this is not the point that was previously made. The International Agreements Committee, of which I am a member, is scrutinising the Australia and New Zealand free trade agreements, which are the first of their kind. The Trade (Australia and New Zealand) Bill has been introduced in the other place, and the purpose of this legislation will be to repeal that when the time comes. So, at the same moment, we have a Bill at each end, with one repealing the other—why is that the case? Looking at the Explanatory Notes to the Bill in the other place, I see that it is clearly because the Government expect that Bill to pass rapidly and this one to pass slowly. Therefore, the consequence is that they need that legislation quickly but will subsequently repeal it using this legislation. This is the way that such legislative matters proceed.

My problem is that Schedule 12 to this Bill simply repeals that legislation. So, if we were to amend the Trade (Australia and New Zealand) Bill at any point in the future, it could—or, in fact, would—be repealed by government by virtue of Schedule 12, so any debate on the Trade (Australia and New Zealand) Bill is pointless. I hope that we make sure that that does not happen. We must therefore have a serious debate about whether we are happy for future free trade agreements with procurement chapters to be implemented solely by secondary, rather than primary, legislation. We had this debate on the Trade Act, and I think that we will need to come back to it.

Overall, this is an important Bill, very well introduced by my noble friend—

Lord Wallace of Saltaire (LD): There are only 11 schedules to my copy of the Bill.

Lord Lansley (Con): Forgive me—it was actually added to Schedule 9. But I am referring to paragraph 3 in Schedule 11, on repeals. None the less, I welcome the Bill and look forward to our debates on it.

5.05 pm

Lord Mendelsohn (Lab): My Lords, I thank the Minister for his very impressive introduction. This is an important new framework, representing some progress and some decent measures of reform. Of course, as ever, language overstates the problems and usually the benefits, but ambition is no bad thing in this area. We saw from the excellent speeches of my noble friend Lady Hayman of Ullock and the noble Lord, Lord Fox, that there are a lot of issues here which will lead to a very interesting and useful debate.

The Minister said that this would deliver an effective and efficient regime. As we heard from the last speakers, a variety of things not inherently in the Bill would lead to an effective and efficient regime. We must give due regard to those and ensure that we have the right skills, the right capacity, and the right objectives. A few areas are not present which I would be keen for the Minister or this House to give a view on, to ensure that we get them right.

I am concerned that the Minister gave a clean bill of health to the Covid procurement process. In my experience in business, it is untenable to say that there were rigorous evaluations. If you were procuring based on selecting people who did not have one moment's experience in being able to source effectively, and if you do not know how to do quality control or logistics, then it is untenable. The number of companies in that list that got it shows that it was not done properly. I am concerned that we do not have the mechanisms reflected in this Bill to ensure that those things which are important once you have a framework are there.

I also think we must consider one of the things that is not there, and which has led to many unsuccessful procurements: late changes being made to the system. Whether that is mending or meddling—I hope that it is more the first than the latter—these are significant areas which affect the capacity of procurement and its success. We must work out how those can be done better, not least with the changes to parcelling to allow for small businesses to be part of it.

I reinforce the point so excellently expressed by the noble Lord, Lord Stevens, that our supply chain resilience is an important part of this. The noble Lord, Lord Lansley, talked about innovation, but the general use of market-making, not as a central mechanism but as an important function of £300 billion-worth of expenditure, and the way that has been so successfully used by many other countries to improve their capacity to deal with cybersecurity, regional variations, or other things—that resilience—is really important.

Notwithstanding that, I greatly congratulate the Government. I am very heartened by the increased focus on small businesses and on late payment and payment terms. This is to be warmly applauded and welcomed, and I am very grateful to the Government for making these changes. I can see a wry smile from a previous Minister because I am banging the same drum, but I will carry on doing so.

In Part 4, Clauses 63 and 64 set a maximum 30 days for payment, so there is no real change for government. However, if my interpretation of Schedule 2 is correct, this is all-encompassing, and this deals with supply chains and utility companies—a major step forward, so again I greatly congratulate the Government on doing that. I hope that this means that they will amend the late payment of commercial debts Act by setting maximum payment terms of 30 days for all suppliers, bringing the procurement Act, the Prompt Payment Code and the Late Payment of Commercial Debts Regulations into alignment.

I would also be very keen for the Minister to guarantee that after the Government have defined supply chains, they will have also dealt with the increasing practice of putting in a financial service company between the main contractors, with whom they contract and where there is an obligation for 30 days in the supply chain, to offset the supplier to a contract with another party which gives them 90 days. That is a way in which that mechanism has been subverted. I hope that the Government can be consistent in ensuring that this is applied throughout. It would be of great benefit to small businesses.

In Clause 65, there are strong provisions on information about payments under public contracts. Again, this appears to require public bodies to submit information along the lines of the duty to report. It would be sensible for the Government to use the existing mechanism available under duty to report, which gives a single point of reference for businesses to review public and private payment performance, and it would be a helpful addition.

In Part 8, Clauses 85(2)(a) and 85(2)(b) concern some potential exclusions to the duties to publish and provide information, and it talks about prejudicing interests. I would be grateful if the Minister could ensure that payment terms are never part of those exclusions, to make sure that that information continues to flow consistently.

The Bill provides for a contracting authority's duty to comply with Parts 1 to 5, 7 and 8, saying that only enforceable and civil proceedings are covered under this part. The Government really need to recognise the litigation costs required. Lord Justice Jackson's review of civil litigation costs found that the claimant's costs for cases in the £50,000 to £110,000 region are likely to exceed £110,000, while the defendant can expect costs in excess of £129,000. It is unrealistic to expect small businesses that are trying to break into this market to be able to rely on that as a protection. I therefore suggest that, as an alternative, small businesses be able to report abuses to the Small Business Commissioner so that it can investigate them. I further suggest that the Small Business Commissioner be given both the budget and autonomy to act independently on such claims.

In Part 10, Clause 96(1) and Part 13, Clause 111(1)(a), an appropriate authority may investigate compliance under the Act. The appropriate authority is, of course, a Minister of the Crown. I remind the House that the Small Business Commissioner is already well versed in matters pertaining to late payments and, with that in mind, I strongly suggest that it could also be called upon to perform that duty.

Finally, in Schedule 2 there is one area of concern on which it would be useful if the Government expanded during Committee: how far do the 30-day terms extend? Is it just government purchases—for example, the petrol for ambulances—or does it fully affect the whole supply chain of a utility company's expenditure on, for example, branding, refit costs and so on? If it is the latter, this is even more excellent news and a first step in reducing all contracts to a maximum of 30 days, and it is to be warmly welcomed.

Although there are many wider issues, which I look forward to examining, I welcome the provisions on small businesses and hope that the Minister and his department will take extra care to make sure that they remain consistent, and that the advances they have developed to the benefit of small businesses are carried through the entirety of the Bill.

5.12 pm

Baroness Smith of Newnham (LD): My Lords, speaking on defence matters, I am not used to having detailed legislative scrutiny. We rarely have legislation, and when it comes forward it is often like the Armed Forces Act (Continuation) Order, which is on half a side of A4, and the Explanatory Notes are equally short and, in most cases, rather unnecessary. The message is essentially: "We need this legislation in order to carry on having the Armed Forces".

On this occasion, I rise to speak with some trepidation on the Procurement Bill, because as the noble Lord, Lord True, pointed out in his opening remarks, it is a very detailed Bill and not one to which I would normally put my name. On this occasion, therefore, I am extremely grateful for the Explanatory Notes. I will speak to the core part of the Bill that I welcome: the fact that if we are to have a single procurement regime, it should include defence. However much we might endorse Her Majesty's Armed Forces and welcome what they do, it is very rare for anybody to stand up and say that the defence procurement regime works incredibly well and cannot be improved. So in that sense, this is a welcome Bill.

By way of preamble, I would very much like to welcome the comments of the noble Lord, Lord True, in introducing the Bill and in his response to a previous question from the noble Baroness, Lady Sugg—that this Bill could have relevance to genocide and modern slavery. I assume that my noble friend Lord Alton will raise this issue in his contribution. The opportunity for us to raise questions about values in procurement is hugely welcome. That the Government were willing to make some amendments to the then Health and Care Bill was also very welcome in this regard. If a single procurement regime were to lead to best practice, ensuring that contracts which could be seen as corrupt were not let, or that people's What's App groups were not relevant to procurement, this would all be very welcome.

The noble Lord, Lord Mendelsohn, has just pointed out that procurement is sometimes about trying to change the spec—maybe mending or meddling. In defence procurement, contracts regularly run over length and over budget. Many civilians, many of whom are not interested in defence, may not have noticed, for example, questions about the A400M or Ajax armoured vehicles. It is a bit similar to Crossrail, now welcomed as the Elizabeth line, being four years over time and over budget. In a whole series of reports, most recently in November 2021, the House of Commons Public Accounts Committee has pointed out some of the problems with defence procurement. Cumulatively, various pieces of defence equipment are running 21 years behind schedule—although one assumes that no single item is 21 years overdue.

The noble Lord, Lord West of Spithead—he is not in his place today, although he may appear at some later point in proceedings on the Bill—has on many occasions asked questions of the noble Baroness, Lady

[Baroness Smith of Newnham]
Goldie, about the number of ships and the procurement process, including when a certain class of ship will come on stream. We keep being told that this may be in the mid or late-2020s. Delay is a perennial problem in defence procurement. If this legislation is to offer a single approach to procurement, of which defence is part, that sounds very welcome.

As my noble friend Lord Fox pointed out, there are a number of exemptions in the legislation. A whole clause lists various exemptions, chief among them being those relating to defence. I would be grateful if the Minister, either today or in writing, or the noble Baroness, Lady Goldie, when preparing for the Bill Committee, could indicate to your Lordships the Government's thinking on exemptions, particularly those linked to defence. Some would appear straightforward. If a tank or armoured vehicle is in another country, it would not necessarily be brought back to the United Kingdom to be repaired. If there are larger procurement issues to do with repairs, maybe we need to think about not exempting these provisions. What is Her Majesty's Government's thinking on exemptions?

As is so often the case, there are some weasel words in the schedules about national security, which is mentioned twice as an exclusion and as an exemption. Procurement might be exempted from this regime if there are national security reasons to do so. Who determines whether something is a matter of national security? Is it the National Security Council? Is it the Home Office if it is a domestic matter? Will it be the organisation seeking to procure—whether that be the MoD, the Home Office or some other body—who say: "This is a matter of national security, and therefore it should be exempt"? Is the legislation sufficiently clear on that? If not, then that is an area where perhaps we need to bring some amendments to tighten the legislation. Those who advocated Brexit would say that this new approach to procurement legislation gives us more control over procurement and allows this House and the other place to scrutinise legislation so we should be doing it properly. Exemptions in terms of national security are a concern.

There will also be exclusions on the basis of national security. That clearly sounds very sensible on the face of it. You would not seek to procure equipment—particularly defence equipment—from a provider which might jeopardise British security. That seems a no-brainer. But again, who is making that decision about providers potentially jeopardising national security? Will there be a register? Will companies be on a list of providers that cannot be used because they jeopardise national security? That might be an area where there could be some probing amendments.

In terms of defence, having some improved procurement mechanisms might be very welcome. In its November report, the Public Accounts Committee argued that:

"To meet the aspirations of the Integrated Review, the Department's—

that is, the MoD's—

"broken system for acquiring military equipment needs an urgent rethink, led by HM Treasury and the Cabinet Office."

Is this Bill the Cabinet Office's response to the need for the MoD to improve its behaviour and its procurement provisions? Personally, I think it would be quite good to keep Her Majesty's Treasury out of these things because, while we might want value for money in defence procurement, we also need to ensure that we are procuring the right things, and the Treasury's approach to the bottom line might not be the right way forward.

In defence procurement in particular, having the right legislation will matter, but so will scrutiny of the actual contracts that are being let. It will be vital not just to get this legislation right but to ensure that, in major complex procurements in the future, we do not allow the politicisation of procurement to allow Ministers and officials to keep going back asking, "Could we just amend this contract? Could we add a few more bells and whistles?" Every time that happens, the cost of a contract goes up and the overruns go on longer.

This legislation offers some opportunities, but it will still be incumbent on your Lordships' House and the other place to ensure that, in defence procurement, we really scrutinise everything that the MoD is doing.

5.23 pm

Lord Alton of Liverpool (CB): My Lords, with his customary thoroughness in opening today's debate, the noble Lord, Lord True, outlined the purpose of this Procurement Bill with its 13 parts, 116 clauses and 11 schedules. We have just heard a very incisive speech from my good friend the noble Baroness, Lady Smith of Newnham, about defence procurement. I will not follow her on that particular line of argument today—I certainly will be interested in amendments later on—but I simply draw to her attention, and that of the noble Baroness, Lady Goldie, and the noble Lord, Lord True, the evidence given this morning by Sir Nick Carter, former Chief of the Defence Staff, and expert witnesses on procurement by the Royal Navy to the International Relations and Defence Select Committee, which I think will have a bearing on what the noble Baroness has just said to the House.

At the very outset, I thank the noble Lord, Lord True, for setting aside time to meet on two occasions to discuss the Government's policy in connection with the procurement of goods made in states credibly accused of genocide and states using slave labour. I particularly welcome what he said at the very outset of the debate, following that Urgent Question earlier on about John Sudworth's harrowing documentary, which was broadcast by the BBC, documenting the terrible excesses taking place in Xinjiang. He, and the noble Lord, Lord Fox, are right that work is being done across both Houses already to bring forward amendments to tackle ethical procurement, slave labour and national resilience. So, although I welcome this Bill, and the intentions which lie behind it—not least the ambition outlined in the Green Paper and in the Explanatory Notes that value for money must always be conditioned by the public good, transparency, integrity, equal treatment and non-discrimination—I would add to that list, as the noble Lord, Lord Lansley, added in his remarks, words like "ethical" and "resilience".

In drawing attention to my non-financial interests in the register, I think the House will not be surprised to learn that, as the Bill proceeds, I would like to return to the purchase of products made by slave labour in terrible conditions by Uighurs in the genocidal state of Xinjiang, which I have pursued as an issue

with others, including the noble Baroness, Lady Smith, and the noble Lord, Lord Fox, during the passage of recent legislation. I see the noble Lord, Lord Coaker, is in his place, and it has been a pleasure to work with him too on the Health and Care Bill, the Nationality and Borders Bill, the telecommunications Bills and the Trade Bill, in bringing in amendments on this theme.

The very welcome decision of Parliament to insist that the eradication of slavery is a lodestar for the National Health Service procurement is a curtain-raiser for this Bill, and I congratulate the Government on that. Some of these issues are addressed in the—still undebated—report of the International Relations and Defence Committee, published in September last, on China, trade and security, which we subtitled *A Strategic Void*. This Bill offers an opportunity to fill some of that void, and I would commend the report to the noble Lord, Lord True, as a very good background document to these specific issues.

Essentially, procurement should strengthen national resilience. It should reduce dependency on states which pose risks to our national security. It should protect British manufacturing from competitors that use slave labour, or grossly exploited labour, and send a signal to the private sector that it is simply unethical to buy cheap goods from states where citizens are being subjected to appalling inhumanity, including genocide. After all—this is not hyperbole or some piece of sloganeering or virtue signalling—it is the Foreign Secretary, Elizabeth Truss, who has said that a genocide is under way.

A third of all UK public expenditure, around £300 billion a year, is earmarked for public procurement. This is a staggering amount of money, which—as the noble Baroness, Lady Hayman, was quite right to say—can be used to achieve a great deal of public good. I know the noble Lord well enough to know that he is not lighting a bonfire of 350 regulations simply to create a fertile ground for anarchy. It is a perfectly reasonable public policy objective to try and accelerate and simplify public procurement, but we must use this opportunity to do more than that. I know that the noble Lord shares my strongly held belief that we should tackle the strategic void, the incoherence, and in some quarters the unwillingness to squarely face the threat posed by rising authoritarianism. I am certain that this Bill provides an admirable opportunity to put flesh on the bones.

When it comes to challenging authoritarianism and ridding companies and actors that do their bidding from our procurement supply chain, we are streets behind our Five Eyes partners, like Australia and the bipartisan approach now being evidenced in the United States. We must better co-ordinate procurement policies with our allies. Let me give just two examples. Two years ago, the US Government blacklisted Hikvision and Dahua Technology from their procurement supply chain and, alongside Australia, has actively been removing Chinese cameras and technology from sensitive government buildings.

Since January 2020, on 25 occasions in speeches and questions in this House, I have raised the UK's decision to procure 1 million Hikvision cameras. Yet we continue to use them in government departments, local authorities, NHS trusts and schools. I am told that they may even be bought and placed alongside the entire length of HS2—perhaps the Minister could tell us if that is indeed the case. A negligent procurement policy means that we will ultimately end up stripping them out, as we did with Huawei, at huge public cost.

Last week, IPVM, the world's leading video surveillance information source, released a 32-page white paper on Hikvision. It noted that the company has been

"contracted to design, implement, and directly operate Xinjiang surveillance"

as part of the network of concentration camps where over a million Uighur Muslims are detained until 2040. Hikvision even actively collaborates with the Chinese Government as a co-author of national and provincial standards of surveillance and the development of cameras that target Uighurs. More than 42% of Hikvision is owned by the Chinese state. During the first half of 2021, the company received RMB 223 million in state subsidies, and its chairman, Chen Zongnian, is a member of the National People's Congress.

I believe the Government privately recognise the threat posed by Hikvision and Dahua Technology, and I welcome the steps taken by the Secretary of State for Health and Social Care, Sajid Javid, who acted recently to remove their cameras and technology from his department. What is needed is a cross-departmental strategy to remove cameras not only from government departments but from the UK procurement supply chains as a whole. In a letter to the Cabinet Secretary dated 21 April, Professor Fraser Sampson, the Biometrics and Surveillance Camera Commissioner, said he was

"encouraged to see reports … that the Secretary of State for Health and Social Care has now prohibited any further procurement of Hikvision surveillance technology by his department".

Will the Minister undertake to share his own department's response to that letter from Professor Sampson, and will he explain why, if this is the right thing to do in one department, is it not right to do it across government? It cannot be right that the domestic surveillance market is dominated by a Chinese company which is complicit in genocide and has been blacklisted by our closest partner, and yet is able to use state subsidies to undercut its competitors.

On 2 February, in a debate on a Motion to Regret, I set out at length the arguments about Hikvision, and pointed out:

"In the 1940s, we did not allow the widespread use of IBM's machines, or other tools of genocide used in Nazi Germany and manufactured by slave labour in factories and concentration camps, to be sold in the United Kingdom".—[*Official Report*, 2/2/22; col. 987.]

This Procurement Bill should set a bar as high as that. Mass surveillance systems have always been the handmaiden of fascism. The Government should come forward with a timetable to remove these cameras and technology from the public sector supply chain, and campaign to encourage and support businesses in the private sector to do the same. We simply cannot allow the tools of genocide to continue to be used so readily in our daily lives.

My second and very brief point concerns resilience and dependency. I have regularly raised my concerns about the potential sale of Newport Wafer Fab, the country's biggest producer of semiconductors and microchips, to a company with links to China and,

[Lord Alton of Liverpool]
inevitably, the CCP. We will always be purchasers of microchips and semiconductors; perhaps the Minister can tell us how many contracts it has had over the past 10 years with the Ministry of Defence, and their worth —and it is particularly helpful that the noble Baroness, Lady Goldie, is in her place to help him with that response. What is more, there is an urgent need for a strategic, joined-up and coherent approach.

To conclude, I hope the Minister will consider amending Part 2 of the Bill to include a duty to have regard to national resilience, and to reduce dependency on states with interests that are hostile to those of the United Kingdom. Like my noble friend Lord Stevens of Birmingham and the noble Lord, Lord Mendelsohn, I have pointed regularly to the £10 billion we have spent with China on 1 billion items of PPE. That amount is about the size of our entire reduced budget for our overseas aid programme. A duty to have regard to national resilience might be a good way of challenging this.

I thank Minister for his courtesy and his time in meeting to discuss these issues and I look forward to participating during the passage of this important and timely Bill.

5.34 pm

Lord Maude of Horsham (Con): My Lords, it is a pleasure to follow the noble Lord, Lord Alton. I start by drawing attention to my entry in the register of interests, particularly my majority shareholding in FMA, a company that supports the implementation of reforms for Governments outside—I stress "outside"—the United Kingdom; this includes supporting them on the reform and operation of their procurement systems. I should also draw attention to the 2020 review that I conducted pro bono for the Government, the Cabinet Office and the Treasury on cross-cutting functions across the British Government, including the commercial and procurement functions.

There are not many people for whom public procurement is a subject that sets the pulse racing, but they are all here in the Chamber. For those of us who have lived and breathed this subject, it is a pleasure to speak on it and welcome the Bill that my noble friend the Minister has introduced.

A number of contributions so far have pointed to things that noble Lords would like to see in the Bill but are not in the Bill. My concern is slightly in the other direction. I would prefer the Bill not to be too constraining and restrictive because I have observed that it is possible to have perfect procurement law and terrible procurement outcomes, and really bad procurement law and much better procurement outcomes.

The legacy regime includes the EU's public procurement directives, the first iteration of which I was involved in negotiating way back in the 1980s. They became somewhat more convoluted subsequently, it is fair to say, but they were not terrible. Yet, in 2010, when the coalition Government were formed—the noble Lord, Lord Wallace of Saltaire, will remember this—we discovered a horrendous legacy of dreadful contracts that the Government had entered into right across the piece. Our task, which was to drive out cost from the overhead running costs of government, involved us renegotiating many of those contracts and making substantial savings very quickly. However, it was not the fault of the law, which was not bad at all; it was all about the way in which the laws were being operated. Through the efficiency drive we led at that time, with enormous support from our coalition partners in the Liberal Democrat party—particularly Danny Alexander, the then Chief Secretary, and the noble Lord, Lord Wallace—we made savings, cumulatively over five years, of some £52 billion, essentially from the running costs of government.

So the law is not the most important part of government procurement. I urge your Lordships, as this Bill goes through its time, to resist the temptation that there will certainly be—we have heard some of this so far—to add things to it. At the end of it, procurement is primarily, although not exclusively, about buying goods and services that are needed to serve our security and citizens in the most effective way. That is about quality and cost and requires good practices; the practices have not always been good.

When we came into government in 2010, I discovered that the time taken for formal tender processes to be completed was double what it was in Germany. The rules were followed properly yet the time taken was, on average, twice as long. We made changes and cut the time for British procurements to half of Germany's average time, all without making any changes to the law—that is, just by reforming practices. Suppliers would tell me that it cost them four times as much to bid for public sector contracts as it did for private sector contracts.

There are two malign effects of that. One is that the extra costs involved in bidding for such contracts get put on to the price bid, and the taxpayer picks up the tab for that. The second, of course, is that the extra costs and the restrictive practices which are completely unnecessarily incorporated into so many procurements mean that smaller and younger vendors are often—generally, actually—frozen out. Just in the field of IT and digital, we found that 87% of the Government's spend on IT was with seven vendors, all multinationals.

One of the problems with building a really successful tech sector or ecosystem in the UK was that vendors had no, or very little, opportunity to bid for and win public sector contracts due to a combination of turnover thresholds, the routine requirement for companies to show three years of audited accounts, the requirement to show that you had insurance in place to cover the cost of the bid at the time of bidding, often huge performance bonds, and excessively complicated pre-procurement questionnaires—none of which was necessary under the law. All were avoidable but they had the effect of freezing out smaller, newer, and often more dynamic and innovative, suppliers. My noble friend Lord Lansley is quite right to say that supporting innovation is not the purpose of procurement, but innovation can be incredibly important in making procurement more effective and enabling newer ideas to come to the service of the country. It is really important that that should happen.

Within the constraints of the EU procurement regulations and directives, we exceeded our aim of 25% of government procurement by value going to SMEs. Understandably, we were not allowed to discriminate

in favour of UK suppliers but, of course, SMEs are much more likely to be local and UK-based, and that was a big part of supporting the supply side of the economy. There was a tendency for too many contracts to be large—huge—multi-year contracts which smaller businesses were unable to bid for.

On central procurement, I found that there were 800 people employed at the centre of government—at that stage, under the aegis of the Treasury—yet they could not tell me who the 20 biggest suppliers to government were. We had to guess at that, write to the chief executives of the companies we guessed were the biggest suppliers, and invite them to give us full transparency, or full visibility, over it. Of course, there are huge savings to be made by central procurement, for the whole of government, of commodities, goods and services. However, as the noble Lord, Lord Fox, rightly said, when you try to do that—we succeeded in making some limited progress down that path—it is amazing, with the rich vein of creativity you tap into, to hear the reasons why it cannot possibly be done. People say, "We totally agree with it in principle. It makes very good sense, but our needs are completely unique and distinctive", and exceptionalism becomes a religion. Again, the law does not operate on that area—these are operational decisions to be made by the Government when it comes to implementing and executing this law.

This brings me to the most important part—the people who operate procurement. There are three parts in any procurement: pre-tender market engagement, the formal tender process and post-award contract management. However, in most Governments, it is the middle part of that—the formal tender process—which attracts all the attention. Just as in the world of defence and security there is a class of public servants we affectionately know as "securocrats", I came to know the people—often many people—who work in procurement, and I fondly refer to them as "procurocrats". They are people for whom process is king, and for whom process will always trump the outcome. They thought that if they could say that they followed the process, even if it arrived at a stupid outcome with poor value for money, no one could criticise them.

You need to have commercial DNA injected into public procurement so that the pre-tender market engagement can be done in a confident and knowledgeable way, and therefore to frame the procurement tender in much more effectively. The process of tenders is often embarked on too early, without real knowledge of what you are trying to achieve or what it is possible to achieve, and then of course you get into endless alterations and changes to the procurement, which is where the suppliers make their money. Some suppliers told me that changes in the operation of a contract could deliver them a rate of return of 40%. Then there is post-award contract management, which we discovered was weak across the Government. Again, that is where the suppliers were too often making too much money.

It is that lack of experienced, confident, commercial operators inside government that often leads to these problems. I would sometimes hear procurement people in government saying, "But, Minister, we're not allowed to exercise judgment". What? Surely that is what we pay them for. The danger of excessively prescriptive procurement processes is that the focus is all on just buying what looks like it is cheapest so that no one can criticise you; it is just about the maths. If you have not allowed innovative vendors to look at new and different ways of delivering the goods or services, it just boils down to whatever is cheapest—and that is a bad outcome for the Government and the taxpayer.

The National Audit Office and the Public Accounts Committee fulfil an important function but cast a long shadow, and officials can become nervous of exercising judgment and not going for what looks like the cheapest option, for fear that they will subsequently be taken to task. That is one reason why the role of departmental boards can be so important. Strong and experienced commercial non-execs on those boards can support officials in exercising judgments effectively.

I submit that the professionalisation of the procurement function is more important than the precise letter of the law that we are debating today. I believe that a full assessment of the commercial function is now nearly complete, with accreditation of those professionals and support for those who fail to meet the standards to meet them subsequently.

On the Bill itself, I urge the House not to make the mistake of thinking that the law is the only thing that matters. Of course, it is important and necessary to replace the EU regime, but I urge us not to import into it more and more changes that make the Government a prisoner of the process. Some changes were made under the law to require pre-procurement questionnaires to be much more standardised and unified, supporting smaller companies to be able to bid for and win these contracts. I support the single digital platform, which builds on the Contracts Finder website that was created, and the transparency.

The noble Baroness from the Opposition Front Bench talked about the absence of references to social value in the Bill. Unless I am mistaken—perhaps the Minister can deal with this when he closes the debate—the social value Act of 2012 has not been repealed and is still in existence. It allows social value to be incorporated in procurements on a permissive basis.

The debarment register is welcome. It is important for procurement-contracting authorities to be able to look across the piece at the track record of suppliers, not just at what has been done with that particular contracting authority. We sometimes found ourselves obliged to give contracts to companies that were suing the Government, and I know of no other commercial organisation where that would be regarded as remotely accessible.

So I commend the Minister for the elegant way in which he has recommended this Bill and I look forward to discussing it in the course of its passage through the House.

5.50 pm

Lord Whitty (Lab): My Lords, like others, I thank the Minister for his meticulous introduction to this Bill. It is also a great pleasure to follow the noble Lord, Lord Maude. His vast experience as a Minister and an adviser to successive Governments in the public procurement area is important to us, as is his contention that it is not just the law that is important. However, the law does set the context, and that is what we are debating today.

[Lord Whitty]

As has been explained, this Bill is supposed to be part of the Brexit dividend, replacing a complex and allegedly heavy-handed EU system and the four sets of regulations transposed into British law into one single place. I am not sure that a Bill of 115 clauses, 11 sections and umpteen possibilities of secondary legislation is quite the simplification that is sometimes claimed.

Together with the Subsidies Control Act, which we passed a few weeks ago, the Bill, in effect, redefines the formal contractual interface between the private sector and the various aspects of the state. It is bound to be complicated; it is at least as complicated as the EU system. In some senses, it is actually more complicated. I welcome the intentions of the Bill, but I regret, as I will come to, the watering down of some of the intentions that were in the earlier consultative process.

I have a few preliminary questions about the Bill. First, in the EU, the public contracts operation was overseen and enforced by the Commission, which had a degree of independence from the wrangles on the Council of Ministers and, indeed, from the mainstream activity of the Commission itself. It was not entirely immune from that, for obvious reasons, but it had a clear authority. Who is the authority in enforcing this and in ensuring that the umpteen public authorities abide by it and that companies understand it? In the Subsidies Control Act, there is an authority for the CMA. There is no central authority so far—that I can discern—in this Bill.

Secondly, we have to accept that there is a degree to which this is more ambitious than the EU system was. The main aim of the EU system was to ensure that companies in member states had equal access to procurement in member states. It ensured that the contracting and bidding processes went through an EU-defined system, but it did not actually put an obligation on the member states that their contract content should be exactly the same and go through similar processes and similar forms. This Bill goes further in that direction, with the contracts that are going to be extended by public authorities, the devolved Administrations—importantly—and local authorities, and in the actual content of the contracts themselves. So the Bill is actually more ambitious than the EU system in some ways, and goes a long way to defining the contract form itself. It applies to all public authorities within England, Wales and Northern Ireland—but not Scotland. This in itself raises a number of questions if Scottish companies, for example, bid for English-based or Welsh-based contracts.

It also raises certain questions in Northern Ireland. I do not want to go into the morass of the protocol but, because the single market provisions apply in Northern Ireland to a degree, that complicates the system in terms of Northern Ireland adopting it.

I welcome many of the approaches in the Bill. I particularly welcome, as did my noble friend Lady Hayman, the shift away from "best economically advantageous" to simply "most advantageous". That is an important signal, but it is not necessarily followed through. It reflects the representations of many groups that the interests in various levels and types of public sector contracts go well beyond minimising the immediate cost to the taxpayer, the ratepayer and the businesses funding the public authority. Value for money, however, is still seen as the prime objective and is defined in pretty narrow terms.

In reality, local authorities, for example, would need to consider not only the cost minimisation and the cost of delivery of what are the defined aims of a particular contract but the wider economic effects on their communities and local business, and the environmental effect on their areas and beyond. That goes beyond the normal understanding of value for money.

I mention a few of those wider social value issues—the noble Lord, Lord Maude, referred to the social value of legislation—that need to be taken into account in awarding state public authority contracts. They include overseeing the list of potential contractors, including overseas contractors—which I shall come back to. These social value issues also include an environmental dimension, I suggest—especially climate change and greenhouse gas emissions—local preference issues for local companies and local employment, human rights issues, employment rights issues, and accessibility to public services.

The Bill also needs to recognise much more explicitly some of the general points that were made in the consultation and have been made again today. For example, the transparency provisions are not particularly strong and the relationship between transparency and the proposed digital system needs to be spelled out. Accountability and probity in public office need to be emphasised and explicit. We have had a number of recent issues in which probity in public office and the appropriateness of the awarding of contracts have been seriously questioned and suggestions of cronyism made.

Public procurement accounts for roughly 15% of all carbon emissions, and the public benefit of taking into account carbon emissions in the procurement process needs to be reflected in the Bill. That means that tenders which might otherwise be attractive can be rejected if there is a negative impact on carbon emissions, and potential contractors can be excluded if their record on the carbon front is poor. To be safe, that needs to appear in statute. It appears in the national policy statement—well, the draft of it—but, of course, that is not statute.

Likewise, on local preference, it must be possible for local authorities and devolved Administrations to give a degree of preference to local companies—SMEs, start-ups and social enterprises in particular—and for the creation of local employment, and for national public bodies to give preference to UK-based companies in certain respects. In Committee on the then Subsidy Control Bill, I asked whether any such local preference would be classified as a subsidy under the post-Brexit state aid rules. I never received a clear answer and I shall ask again now in relation to this Bill. Will local or national preference be accepted as a public benefit under these new and complex post-Brexit rules?

On human rights and employment rights, I think I heard the Minister say that the Bill will allow the exclusion of potential bidders on the ground of their human rights record—but I should like him to repeat it. For example, on employment rights, would P&O, in view of its recent behaviour, now be excluded from contracts for the development of freeports?

The international dimension here is also important. As the noble Lord, Lord Alton, referred to, we exclude Chinese companies from certain security and communications-based contracts, but does that apply to individual public authorities and their contracts, and other Chinese companies, on similar grounds? Does that require a national policy or can local authorities take their own decisions?

In a more contentious area, I have noticed that the Government have told local authorities and other public bodies that they cannot, for example, ban Israeli companies from their contract lists. I make no comment on the rights and wrongs of that argument, but it indicates that there is a clear, public, national policy on the issue. How does this apply now to, for example, Qatari companies, in view of what we know about their treatment of employees and employment rights in preparation for the World Cup? Would a local authority now be penalised for deleting a Qatari company from that list on those grounds? There must be hundreds of similar examples.

I briefly mention one other point: accessibility. I hope the Minister has seen the submission from the RNIB on this issue, but it is important that the Bill reflects the need for public contracts to take account of their effect on those who are disabled. I hope that is one aspect that can be reflected. It was referred to in the consultation and now needs to be reflected in the Bill. These are a few of the issues that I hope we can explore further at later stages. I look forward to the Minister's response.

6.01 pm

Baroness Brinton (LD) [V]: My Lords, I declare my interest as a vice-president of the Local Government Association. It is a pleasure to follow the noble Lord, Lord Whitty, especially his comments about social values.

Included in Section 70 of the Health and Care Act was a description of changes to the public procurement rules for health services, but most of which will be in regulation and the details of which are woefully short on the sort of information that we have in this Bill. In its 15th report, the Delegated Powers and Regulatory Reform Committee said on the relevant clauses of the Health and Care Bill that "full analysis" of the proposals,

"has not been completed and there has not been time to produce a more developed proposal."

We asked on Report why on earth the Government would wish to bring into force legislation that they themselves admit they have not had time to analyse, let alone to produce a more developed proposal, when everyone knew that a Cabinet Office cross-departmental Bill was not just planned but heavily trailed.

Paragraphs 17 and 18 of the DPRRC report said about the Health and Care Bill:

"We do not accept that the inclusion of regulation-making powers should be a cover for inadequately developed policy"

and:

"Ministers would not ordinarily propose clauses in one Bill possibly requiring imminent amendment in a subsequent Bill without expecting to face questions. The House may wish to seek further and better particulars from the Minister concerning the possible effect of any Cabinet Office procurement Bill on the Health and Care Bill, and … to press the Minister on why it was necessary to include provision, based on inadequately developed policy, in the Health and Care Bill when the Government intend to introduce a procurement Bill."

I have to say that it was no clearer after the passage of the Health and Care Act, and I am even more bemused by the reference in a procurement Bill to only certain health services being excluded, a detail not outlined in the Health and Care Act at all.

May I ask the Minister to write to Peers to explain which elements of NHS contracts are excluded from the Bill and how we can be confident that the protections and transparency that he outlined in his opening speech will also be applied to NHS services excluded from this Bill but covered by the very brief detail in the Health and Care Act? I suspect he might have a problem in doing that, for exactly the reasons that the DPRRC made clear: there is no detail available at all on those health contracts.

Returning to this Bill, paragraphs 19 and 20 of Schedule 2 set out the preferential arrangements for procurement rules of an international organisation or set out in an international agreement. Paragraph 20 says that a contract may be awarded under international obligations even where the award rules would be different from those otherwise set out in the Act. I heard the Minister's comments in his opening speech, but I would be grateful for confirmation that the arrangements in paragraphs 19 and 20 of Schedule 2 are as strong as those we had under the EU public procurement directive, which made it clear that, unlike non-public services, a public body based in an EU member state can accept a contract that is not the cheapest provided it fulfils the quality, continuity, accessibility and comprehensiveness of services and innovation. In the EU directive there was also no need to publish procurement advertisements cross-border. This goes to the heart of my noble friend Lord Fox's question to the Minister about the provision of source of supply when an international treaty is in place.

Although I noticed that the Minister was somewhat scathing in his speech about the previous EU directive, it was this directive that provided a guarantee that US companies could not come in and cherry pick our NHS under the terms of the Transatlantic Trade and Investment Partnership. On 18 November 2014, the noble Lord, Lord Livingston of Parkhead, answered my question in your Lordship's House by quoting an EU Commissioner. He said that

"Commissioner de Gucht has been very clear:

'Public services are always exempted ... The argument is abused in your country for political reasons'.

That is pretty clear. The US has also made it entirely clear. Its chief negotiator"—

on TTIP—

"said that it was not seeking for public services to be incorporated. No one on either side is seeking to have the NHS treated in a different way ... trade agreements to date have always protected public services."—[*Official Report*, 18/11/14; col. 374.]

I also raised these issues in a later debate with the then Minister, the noble Lord, Lord O'Shaughnessy, who responded:

"The noble Baroness, Lady Brinton, and the noble Lord, Lord Brooke, asked about procurement. I can tell them that we have implemented our obligations under the EU directive. The Government are absolutely committed that the NHS is, and always will be, a public service … whether overseas or here. That will be in our gift and we will not put that on the table for trade partners, whatever they say they want."—[*Official Report*, 29/3/18; col. 947.]

[Baroness Brinton]

Can the Minister confirm that it is still the intention, expressed by the noble Lords, Lord O'Shaughnessy and Lord Livingston, in their ministerial roles, that those same protections will exist in the Procurement Bill, not just for the NHS but for other public services, as under the EU directive?

The equality impact assessment for the Bill says at paragraph 6:

"This is a largely technical bill regulating how public procurements are undertaken. The nature of the bill means it has limited equality impacts, whether direct or indirect."

I echo the points made by the noble Lord, Lord Whitty, that the Royal National Institute of Blind People is very concerned that, in replacing existing regulations, the Bill overwrites requirements of particular significance to the 14 million disabled people in the UK that ensure that publicly procured goods and services are accessible to everyone. It is unclear how the Bill in its present form will replace the regulatory framework for accessibility within public procurement legislation. I ask the Minister: how will the new regime ensure that specifications take into account accessibility criteria and design for all users, including those with disabilities?

I echo the points made by the noble Lord, Lord Alton, on procurement of goods in countries where modern slavery or genocide is believed to happen. I look forward to returning to this during later stages of the Bill. I agree that more needs to be done. I also agree with his key points about surveillance equipment sourced from China.

A number of noble Lords referred to emergency contracts issued during the pandemic. Like the noble Lord, Lord Stevens, I am struggling to see how the arrangements in this Bill would work in practice. The noble Lord made critical but gentle points about the need for an emergency power, but I can be blunter than he was prepared to be. Will the arrangements for special exemptions in emergencies be strong enough to prevent the scandal of the "VIP lane" and some of the other contracts made in relation to the pandemic? Will all emergency contracts be transparent, even if publication has to be delayed for a few contracts because of the nature of whatever the emergency is, whether pandemic or war? It appears that Ministers seemed to believe that many of the pandemic contracts across a number of departments, not just health, would never see the light of day. Emergency should not mean secret, not rule-bound and not checked.

The UK Anti-Corruption Coalition says that, despite the warm words in the Green Paper, the Bill does not create a clear, unambiguous imperative in primary legislation for a single rulebook with full transparency. It also makes the point, which I and others have made, that too much is left for secondary legislation—again. The Minister is now hearing that argument across your Lordships' House: there is real concern about far too much not being in primary legislation.

6.10 pm

Lord Aberdare (CB): My Lords, my interest in this large and complex Bill relates to how it will affect the ability of small businesses, particularly in sectors such as construction and engineering services, to access public procurement opportunities. Of course, this is one of the Bill's stated policy objectives.

The six principles on which the Bill is based are welcomed by small businesses in these sectors. However, as ever, the proof of the pudding will be in the eating—will the Bill deliver what it sets out to do, and will it foster the sorts of good practices and professionalism that the noble Lord, Lord Maude, tellingly emphasised from his deep experience? I was also struck by a phrase used by the noble Baroness, Lady Brinton, asking how the arrangements in the Bill will actually work "in practice"; that will be the nub of the Bill's success. Many of the measures required to create the new public procurement culture envisaged in the *Transforming Public Procurement* Green Paper do not feature in the Bill itself; presumably, they will be introduced in subsequent secondary legislation.

The importance of procurement in bringing about needed culture change in the construction sector is recognised in the levelling-up department's recent *Guidance on Collaborative Procurement for Design and Construction to Support Building Safety* and in the Cabinet Office's *Construction Playbook*. One of my concerns during the passage of the Building Safety Bill was about how such guidance would be put into practice, so I hope to hear from the Minister what regulation, oversight and monitoring mechanisms are planned to ensure that this Procurement Bill achieves its policy goals. The Green Paper speaks of a "Procurement Review Unit"; I wonder what role that will play and why it does not appear in the Bill.

The new system proposed in the Green Paper and embodied in the Bill introduces many new approaches and terminologies that small businesses already finding it difficult to access public procurement may find it hard to get to grips with. The Green Paper also speaks of a

"programme of learning and development to meet the varying needs of stakeholders"

during the six-month lead-in period. Can the Minister confirm that this will include access to relevant training and support for small businesses seeking to learn the rules of the game in order to access public contracts? What plans are there to promote the early engagement of contractors and their supply chains in the tendering process? What plans are there for the pre-market engagement of civil servants so that they can gain an understanding of emerging trends and technologies before going to tender? Clause 17's requirement for contracting authorities to consider dividing procurements into "lots" is welcome for small businesses, but what are the levers to ensure that this actually happens, and what are the remedies if it does not?

Small businesses often need to use commercial framework providers to access public procurement. This can add significant costs, often 10% or more, to their market prices, and these costs are not entirely visible to them. So how do the Government plan to ensure transparency in the fees charged by such providers? Will the

"central register of commercial tools"

mentioned in the Green Paper require publication of these fees and charges so that SMEs that use such tools can understand the true costs of doing so? How will the Bill help to deliver the gold standard recommendations of Professor David Mosey's review of public sector construction frameworks?

As the noble Lord, Lord Mendelsohn, mentioned earlier, onerous and unfair contract terms and payment practices are another significant barrier to small businesses accessing public sector contracts. The Green Paper included proposals to give small businesses at all levels in the supply chain

"better access to contracting authorities to expose payment delays."

It also proposed that public bodies look at the payment performance of any supplier in a public sector contract supply chain.

The Government's response confirmed their intention to introduce these proposals into legislation, as does the Bill's impact assessment. Can the Minister confirm that this is still the plan and how it will be implemented? Like the noble Lord, Lord Mendelsohn, I welcome the clauses in the Bill which apparently extend 30-day payment terms right down the supply chain. However, prompt payment initiatives have a history of ineffectiveness, so I would like to know how the Minister plans to ensure that this does not happen this time and what sanctions may be imposed on late payers.

SMEs are often pioneers in their sector: innovating, training and providing real social value impact. As we have heard, social value is another important aspect of the Green Paper which has not surfaced in the Bill. I am glad to say that Wales is leading the way with its Draft Social Partnership and Public Procurement (Wales) Bill. SMEs may be precluded from such innovation if they are not engaged until after tenders have been awarded at the upper tiers of the supply chain. The Bill's emphasis on a value-led, rather than a price-led, approach to procurement—MAT rather than MEAT—is welcome, as long as it becomes more than a neat new acronym. Public sector contracting authorities need to move to awarding contracts at the price that maximises innovation, investment and training, thereby avoiding the scenarios of paying twice or squeezing the margins of suppliers, which ultimately result in behaviours highlighted by the building safety crisis, whereby lowest cost has been prioritised over quality and safety outcomes.

Much of what I have said relates to measures not specifically covered in the Bill as it stands, so I hope that the Minister will tell us what plans he has to publish draft regulations which address some of these areas in the course of the Bill's passage. I welcome the Bill and I hope that the Minister will be able to give some reassurance that the proposed new system will include the necessary regulation, oversight and monitoring mechanisms, not just to enable small businesses to play a much larger and more valuable part in future contracts, including in construction, but to ensure that they do.

6.17 pm

Baroness Noakes (Con): My Lords, there is a lot to like in this Bill and, like my noble friend Lord Maude of Horsham, I do not think that it will be improved by adding a lot of extra things to it.

My favourite kind of Bills are the ones which repeal EU-derived legislation and replace it with legislation designed for the UK. As such, my favourite clause in this Bill is Clause 107, and my favourite schedule is Schedule 11. Unfortunately, some of the new rules still seem to be written in EU-speak. In particular, I have in mind the description of a "public contract" in Clause 2 which uses the term "for pecuniary interest", which I have failed to find in any UK-based legal usage in this context. I am sure we can explore that in Committee.

I have one main problem with the Bill: the public procurement rules are still very complicated. Creating the new procurement system requires over 110 pages of primary legislation in this Bill, and who knows how much more in the secondary legislation. I acknowledge that we must remain compliant with the WTO's Agreement on Government Procurement, and I also pay tribute to the extensive consultation the Government have carried out before bringing this Bill forward. Of course, the Government have made significant changes, reducing seven procurement categories to three, and having a single set of procedures for most public procurement. I will say in passing that I regret that there is a power in the Bill to allow the NHS to go its own way; it would have been very much more satisfactory if a single code had applied across all public procurement. The NHS, in particular, needs to be exposed to more competitive procurement, not protected from it. I would really like to see Clause 108 removed. However, I am a political realist when it comes to the quasi-religion of the NHS, and I accept that I may not achieve that ambition.

My challenge to my noble friend the Minister is whether more simplification could have been achieved. Could the procurement code be even more streamlined and even more principles-based?

My personal knowledge of public procurement is limited to being engaged in a number of public procurements as both a seller and a buyer over the years, and therefore I claim no specialist knowledge of public procurement and I cannot point to a better way to draft it. However, I am aware that there is a whole army of public procurement specialists out there. A number of noble Lords have already referred to the sorts of numbers of people in various parts of the public sector who are handling public procurement. I have a feeling that we should have a way to liberate more of them so that they can be more productively employed in the economy.

My noble friend the Minister will also be aware that the UK's reputation for gold-plating regulations is well known and that we often went voluntarily much further even than we were required to by the EU. Can my noble friend tell the House how the Government satisfied themselves that gold-plating does not live on in this Bill? It would be terrible if we allowed the UK to be dragged down by the kind of bureaucratic groupthink that we really ought to have left behind.

I said earlier that there is a lot to like about the Bill, and, like other noble Lords, I particularly like the way in which the Government have shaped the basis of contract award, shifting from the "most economically advantageous tender" to the "most advantageous tender". The previous formulation had a tendency to drive contracts towards lowest-cost tender and left little scope for longer-term strategic considerations or for innovation, which other noble Lords have spoken about. Although it was entirely possible under the EU system not to award contracts to the lowest bidder, the new formulation makes it clear that a narrow economic evaluation is a part of, but not the heart of, public procurement—and that is good.

[Baroness Noakes]

Turning to SMEs, which other noble Lords have already covered, we know that they have traditionally found the public procurement processes intimidating and inaccessible. With its emphasis on proportionality, the Bill may well help to open up public procurement to more SMEs. The 30-day payment term throughout the supply chain will certainly be welcomed by SMEs if it is actually delivered. The noble Lord, Lord Mendelsohn, who is no longer in his place, made some important points about that.

The Government will be aware that SMEs may still perceive that significant barriers will be associated with engaging with public sector procurement, despite the improvements made in the Bill. What will the Government do to promote SME involvement in public sector procurement and to demystify the new regime and help them to access it?

My final point relates to light-touch contracts, which are allowed under Clause 8. I rather liked the Government's initial proposal in their consultation to subsume light-touch contracts into the mainstream, especially given the reformulation of contract classifications and the articulation of procurement objectives. However, the Government have given in to pressure to keep the light-touch regime going. I do not challenge that, but I hope that the Government will keep it under review.

The extraordinarily wide power to designate light-touch contracts under Clause 8 has already been mentioned, in particular by the noble Lord, Lord Fox. Although there are matters to which the Government must have regard for specifying services as light-touch, there is no actual restriction on what the Government could put in this category. The regulation-making power is the affirmative procedure, which is of course better than the negative procedure, but not by much in practical terms. I hope that my noble friend can explain why the Government have chosen to make the light-touch regime so open-ended, otherwise we may need to look at that very carefully in Committee.

I look forward to scrutinising the Bill in Committee, but also hope that we can get it on to the statute book as quickly as possible so that its benefits can be realised. That hope may well be unrealistic given the evident enthusiasm from other noble Lords for an extensive Committee stage, but I can but hope.

6.24 pm

Baroness Young of Old Scone (Lab): My Lords, I declare my interests, as listed in the register, as a chair, vice-president or commissioner of a range of environmental and conservation NGOs.

I declare today Groundhog Day for two reasons. First, I am following the noble Baroness, Lady Noakes, for the second day in a row. I am pleased to do so; and it proves that the Whips' Office has a sense of humour since I revealed yesterday that I have disagreed with the noble Baroness consistently for the past 44 years.

Baroness Noakes (Con): I think it is actually 34 years.

Baroness Young of Old Scone (Lab): I take the noble Baroness's challenge: I will do the maths shortly and pass her a note, although I did look up her CV yesterday to check the date. It was 1988; the rest of your Lordships can now do the maths.

The second Groundhog Day phenomenon is that, yesterday, I and many other noble Lords pressed the Government on the lack of climate change, environment and biodiversity objectives in the UK Infrastructure Bank Bill. We asked why the Government were missing an opportunity to ensure the delivery of their target to halt species decline by 2030 through the mechanisms of that investment vehicle.

Today, we have a similar—even bigger—real opportunity in the Procurement Bill. Many of the opportunities on the environment and climate change were outlined by my noble friend Lady Hayman of Ullock. The Minister told us that public procurement is big: it was worth £357 billion in the past year, makes up a third of all public expenditure, represents 13% of GDP and is estimated to account for 15% of climate-changing emissions. Public procurement on this scale has the capacity to be a huge influencer for good in terms of the climate change and environmental performance of the whole of the public supply chain. This influence could go even further because public procurement shapes the performance not only of the suppliers of goods and services that are publicly procured but of the wider markets to which the same suppliers also sell. Basically, my message is that it can influence a big slug of the economy.

The twin crises of climate change and biodiversity decline are allegedly two of the Government's highest priorities. We boasted about this on the world stage at COP 26 in Glasgow only a few months ago. Yet when the Minister, the noble Lord, Lord True, signed off the Bill's formal statement under the Environment Act 2021, he never spoke a truer word—if I can pun—when he said that this Bill cannot be construed as environmental legislation. He was absolutely right because it cannot, although it may talk about "maximising public benefit" as a key objective. The Green Paper on which the Government consulted referred to public benefit as including

"the delivery of strategic national priorities",

including those relating to the environment, yet we have no formal definition of "public benefit" in the Bill. Your Lordships' House is being asked to pass the Bill when some key elements of public benefit, climate change and performance in support of targets in the Government's 25-year environment plan are relegated to the *National Procurement Policy Statement* and a set of policy notes.

The current version of the *National Procurement Policy Statement* is pretty flabby. It says:

"All contracting authorities should consider the following national priority outcomes",

which include climate change, the environment and biodiversity. The phrase "should consider" is a bit weak, is it not? It is not "must deliver" or "must adhere to"; it is just "should consider". That is not good enough. We are at a "Thelma & Louise" moment; for those noble Lords who are not cinema buffs, let me explain. We in the world are currently living it up beyond our means and driving madly towards a cliff edge. We need action to meet the Government's urgent environment and climate change targets as an objective of public procurement in the Bill and we need it to be a requirement, not simply a consideration.

Can I also ask the Minister whether we can have sight of whatever upgrade to the national procurement policy statement the Government are planning to issue? It is so important to this Bill—otherwise, we are considering a bit of a pig in a poke. Will the Minister also consider whether the process of changing the NPPS could be improved? Currently, it is subject to a procedure equivalent to the negative procedure. Does the Minister think that this is sufficient parliamentary scrutiny of such an important document?

I turn to two further elements of the Bill. The Government are touting the exclusions section as progressive and praiseworthy. That has some merit. The Bill says that the conviction of an offence involving "significant harm to the environment" constitutes discretionary guidance for excluding suppliers from procurement—but only "discretionary". The exclusion provisions must be much tougher than that, to give a clear signal that only operators who consistently meet high environmental standards will be considered.

Secondly, though the transparency requirements are very welcome, they depend on secondary legislation and do not currently impose requirements for suppliers to report publicly on environmental commitments, either in the NPPS or in individual contracts. The Government's record on tracking performance is not great. The National Audit Office has repeatedly raised concerns about the lack of data and monitoring of compliance with the current government buying standards. It is interesting to see that the Ministry of Justice, the Department for Transport and the Ministry of Defence simply stopped collecting the data because it was so embarrassing to have to report. The Environmental Audit Committee at the other end concluded that it appears impossible to know whether departments have improved their sustainable procurement performance. So should the Minister not consider including reporting environmental commitments in the transparency framework that the Government are proposing to establish, and saying so in the Bill?

Somebody once told me that football would be a terrible game if you did not keep the score. I actually think that football is a terrible game—but let us at least keep a proper, transparent score on how public procurement is delivering these important public benefits.

Along with many other noble Lords, I look forward to returning to these issues at subsequent stages of the Bill, to make sure that this terrific opportunity to use procurement as a powerful lever for improving the performance of the Government's climate change and environmental targets is not lost. We are drinking in the last chance saloon, and if we do not use all the levers at our disposal, we will not meet the climate change and biodiversity decline challenges—and I am amazed that the Government have not recognised how much of an own goal this would be.

6.33 pm

Baroness Parminter (LD): My Lords, I will speak briefly. I associate myself entirely with the remarks of my noble friend Lady Young. I welcome the fact that the Government have set very clear net-zero targets. I hope that they will do similarly for nature targets in the near future, as the Environment Act requires. As my noble friend said, it would be an own goal if the Government were not to take the opportunities in this Bill to create market incentives to ensure that businesses move their supply chains to a more sustainable model. The Government can spend all they want on putting money into green energy and stopping harmful subsidies going into agriculture, but they will be missing a major opportunity if they do not address the opportunities in procurement.

Colleagues around the House have talked about the huge sums of money and the opportunities to do this. The noble Lord, Lord Stevens, talked about the money spent in the NHS and the opportunities, highlighted in the Health and Care Act, to decarbonise procurement. My noble friend Lady Smith of Newnham talked about the massive sums of money in defence. In recent weeks, our own Environment and Climate Change Committee has been looking at the opportunities in the area of food procurement to deliver many benefits by reducing greenhouse gas emissions, at the same time as tackling the growing obesity crisis among our children.

So there are massive opportunities, and when I looked at this Bill I was concerned. The words "net zero", "nature", "biodiversity", "weight loss" and "waste reduction" are not in the Bill, the Explanatory Notes or the impact assessment—and indeed, in his opening remarks, the noble Lord, Lord True, did not mention net zero or the environment at all.

I will be brief. I add my weight to the calls already made by the noble Baroness, Lady Hayman, the noble Lord, Lord Stevens, and others for there to be a mechanism to put our concern for net zero and environmental goals in the Bill. The obvious way is to put it into Clause 11 under the procurement objectives; that would be the clearest way. Otherwise, there is a danger, as the noble Lord, Lord Maude, memorably said, that it will always be just about the money.

Equally, it could be that the Government choose to define in the Bill what they mean by public benefit. The Green Paper is very clear what public benefit means. As the noble Lord, Lord Lansley, who is not in his place, said, the Green Paper explicitly includes the environmental and net-zero goals. If that were in the Bill, that would be another way to do it. Or, as the noble Lord, Lord Stevens, suggested, another way would be to transpose some of the mechanisms put into the Health and Care Act by the Government. So there are plenty of suggestions from around this House, but there is a growing consensus that the Government have to do it.

Secondly, we need to make sure that the national procurement policy statement is as robust as it can be. Clearly, it will help if we get the objectives for the procurements correct. From looking at what was printed in the Cabinet Office procurement notes produced last year, there has been concern that, yes, it talks about meeting net-zero goals, addressing circular waste, reducing the amount of waste and tackling nature, but the carbon reduction plans apply only to central government, as the noble Baroness, Lady Hayman, rightly said. Why? Why are we asking only people who are taking services from central government to produce carbon reduction plans to 2050? Why not all public authorities? We need to make sure that future public procurement statements are as strong as they need to be.

[Baroness Parminter]

For me, that issue is strongly allied to scrutiny by this House of what that national procurement policy statement would be. The noble Baroness, Lady Young, raised a point about procedure in the House: it looks to be almost equivalent to a negative instrument. It may be that the Delegated Powers Committee has said that, because this policy statement does not have the ability to insist that someone does something and can only guide, it has to be a negative instrument. I find that quite amazing, given how powerful this statement could be, and I am sure that we as a House would want to be clear on the reasons for the proposed scrutiny.

Even if it is to be a negative instrument, we in this House have the power to change the period of time we have to scrutinise it. It says here that it is 40 days, but I worked out that, if you take out Fridays, Saturdays and Sundays, it is effectively about three weeks. The reason I feel really quite strongly on this—I think we all feel strongly about parliamentary scrutiny—is that this will be the first document that will control so much of public procurement post Brexit and post the rules we had before.

We have just had a parallel policy statement, the environmental principles policy statement, which was meant to drive environmental protection across the heart of all government, and we in this House were given 21 days to scrutinise it. That is what we allowed for in the Environment Act. I sat through the passage of the Environment Act and I missed it. It is an own goal, and I am refusing to allow us to make the same mistake. I say this as a committee chair—the noble Baroness, Lady Andrews, is also in the Chamber—because, given the difficulty of getting some Ministers to come before us so that we can scrutinise issues, and the need to then bring it back to the House and table a regret Motion or a take-note Motion, 21 days is not enough. This is a really important policy statement, so if the Government do come back and say, "Yes, it's got to be a negative instrument", we would of course accept it if that was legally what we had to accept—but I serve notice now that we will not accept 40-day scrutiny by this House of the national procurement policy statement.

6.39 pm

Lord Thomas of Cwmgiedd (CB): My Lords, I too welcome the Bill but I want to make five short points. First, as a victim of bad government procurement and as someone who has had to look at the law quite carefully, I cannot but emphasise the importance of the remarks of the noble Lord, Lord Maude, that in considering the Bill what matters, as in most legislation, is the delivery and the three stages he described. I shall not weary noble Lords with more stories about it but, believe me, my whole experience is that that is far more important than the law.

Secondly, however, we must get the law right. Therefore, I warmly welcome what was suggested by the noble Baroness, Lady Hayman of Ullock: the Bill should contain principles. It is plain that this was thought of. One can tell from the table of contents and the headings that someone forgot to take the word "principles" out because there are no principles. There is a principle, which I think is self-evident, that you have to procure in accordance with the Bill. There is no point in having a clause to say that, so the draftsman may have had second thoughts. A good lawyer ought to have second, third and fourth thoughts. It would be very helpful to know what the considerations are so that the House can reach a judgment.

The reason I think there should be principles takes me to my third point. It is plain that there is a relationship between procurement and subsidy. In the discussions on the Subsidy Control Bill, it was accepted that procurement could be used to subsidise and encourage local performance. I cannot find any reference to subsidies in this Bill and it therefore seems very important to put into a principle the relationship between control of subsidies and its use to develop the local economies and procurement. It has to be grappled with and this should not be left to the courts.

Fourthly, in looking at this piece of legislation, which I hope simplifies matters, it is a great misfortune that we will end up with a regime in the United Kingdom—forgetting the Northern Ireland protocol for the moment—that applies to three of the nations but not the fourth. I really hope that the way the Government have been able to bring in Wales and Northern Ireland will influence Scotland. It is surely to its advantage that there is a single procurement regime. It must be to its economic advantage, although I can see why there are arguments that some may think it not to its political advantage.

My fifth point is about the importance of remedies. The noble Lord, Lord Mendelsohn, was quite right in the point to which he drew attention. I am afraid I do not agree with the noble Lord, Lord Whitty, about the Subsidy Control Act. That has the CMA in it but the CMA does not have many teeth and depends on private enforcement. This Bill is wholly dependent on private enforcement. I do not want to develop this point now, but when one looks at Part 9 there are terrible problems, particularly for smaller companies. If you have a dispute about the contract for the west coast line, one can see that money may not be too great an objection, but when you have a much smaller one—and much of this is concerned with smaller sums of money and encouraging SMEs—you must have an enforcement process that is economic.

One resort might be that suggested by the noble Lord, Lord Mendelsohn, which is recourse to an outside body other than the courts. But I very much urge the Minister to engage with the Civil Justice Council to see if a process can be devised that deals with the real problems of procurement. You want to use the power to deal with a difficult contract where the process has been in breach of the regulations by stopping that going forward, but you do not want to end up in the situation where you allow that contract to go forward, without having looked at an alternative available remedy of damages, and the local authority or the Government end up paying all over again.

It may be in the public interest in this case for there to be something short and sharp that comes to a decisive conclusion, but remedies are a key issue which we should not ignore. It requires creatives thinking. We ought not to rely on the traditional way, as the courts have done. It is very good for lawyers—they make a lot of money and will have an even better year

next year—but we must do something to deal with the unique problem of ensuring that the people who breach these regulations do not go forward with a contract and that the taxpayer does not end up paying two people. Those are my five short points.

6.45 pm

Lord Hunt of Kings Heath (Lab): My Lords, it is a great pleasure to follow the noble and learned Lord, who showed how much more interesting a debate on a procurement Bill can be than we thought when we started out on this journey. I declare an interest as president of GS1 and of the Health Care Supply Association, and I pay tribute to NHS procurement officials for the fantastic work that they did during Covid.

Like most other noble Lords,I support the intent of the Bill to make public procurement quicker, simpler and more transparent. However, there is a balance to be struck. I take on board the comments of the noble Lord, Lord Maude, that outcome is more important than process, particularly in relation to the public sector's poor record in supporting innovation and the perennial UK problem that we are a country great at innovation but very slow to adopt it, particularly in the public sector.

We must, however, have some process and tracking of what happens. We saw with Covid what happens when you do not have it. The PAC's report readily acknowledged the challenge faced by the Government, but the failure to be transparent about decisions, publish contracts in a timely manner and maintain proper records left them open to accusations of cronyism and waste. Somehow, the Minister, through the passage of this Bill, must convince us that in moving to a quicker and more efficient system, proper process will continue while also allowing SMEs and innovative companies to take part and win tenders. The state of our economy suggests that unless we invest in innovation, we will be in very challenging times in the years ahead.

On defence, the noble Baroness, Lady Smith, made very trenchant points. Reading the PAC's report this month on the MoD's worrying inability to control costs was sobering. The report said that the MoD's reliance on billions of pounds of future cost reductions to keep within its budget looks like a lot of trouble to come. It currently has no plans to support how these might be delivered and rising inflation will make pressure on affordability worse. The Government, however, are saying that they have done sufficient to ensure that our Armed Forces are in a state of preparedness for many of the challenges to come. That does not add up. The MoD has rejected the PAC's general point, but I know who I would trust more in relation to defence contracts.

I principally wanted to mention the NHS, which the Minister kindly mentioned in his opening speech. We have just had the passage of what is now the Health and Care Act. There was quite a debate about procurement because that Act takes out the enforced tendering of clinical services from the Health and Social Care Act 2012. There is concern that in the Act there is now an all-catching clause which effectively gives the Secretary of State power, through regulations, to change the whole NHS procurement process. This was in anticipation of this Bill.

The noble Lord was very clear in his opening speech that this Bill is not going to be used to turn the clock back and allow for the tendering out of clinical services where it is not required to do so. It would be good to get his confirmation, and also for him to spell out what Clause 108 of this Bill means, which gives the power to Ministers, through regulations, to disapply provisions of this Bill in relation to procurement by the NHS in England. I hope that the two things go together, but it would be good to get some clarification.

I support what the noble Lord, Lord Alton, said very strongly. The noble Lord, Lord Stevens of Birmingham, has also mentioned this. In the Health and Care Act, there was an insertion of Section 81, which provides that:

> "The Secretary of State must … make such provision … with a view to eradicating the use in the health service in England of goods or services that are tainted by slavery and human trafficking."

Will this be replicated in this Bill? Does the Minister further accept—this was raised in the Answer on Xinjiang today—that this Bill should be amended to include at least a discretionary exclusion ground for companies closely associated with serious human rights abuses? I am sure there will be a number of amendments in this field, and past history would suggest that the Government would be advised to accept them, or at least accept the principle.

My final point, which a number of noble Lords have also made, is on the post-award contract management that the noble Lord, Lord Maude, talked about. The monitoring of public procurement contracts has been very poor. Many PFI deals were poorly procured. Many recent deals involving the use of private providers through centrally awarded contracts or frameworks have not proven to be good value for money. We seem to have in the public sector a bureaucratic edifice where huge energy goes into the agreement of a contract, but once that is done, people move on to looking at a new contract. Monitoring and managing the contract is simply not done effectively. In our meeting with the noble Lord, Lord True, a week ago, which was very helpful, he talked about his department, or the Government, engaging in development and training support programmes for procurement professionals, with a particular focus on contract management. That is very welcome. I ask the noble Lord, Lord True, whether that will be extended throughout the public sector. Although we are much concerned here with central government contracts, the principles must be enunciated throughout the public sector. In terms of value for money and for our future confidence in public procurement, it is essential that we up our game in relation to contract management.

6.53 pm

Lord Berkeley (Lab): My Lords, it gives me great pleasure to follow my noble friend. I agree with his views on the public procurement of particularly large projects in this country. As the noble Lord, Lord Maude, also mentioned, the costs of preparing bids are much higher here than in many other European countries, and I believe that the costs relating to HS2 involved spending £15 billion on consultants. Why do we need so much money spent on consultants? Is it because the commissioning authority is frightened of

[Lord Berkeley]
making decisions itself, or is it for some other reason? It is pretty frightening. The costs of HS2 are very high—probably double what the Government are saying at the moment—and ditto with the Ajax tanks, which the noble Baroness, Lady Smith, mentioned, and, of course, Hinkley Point, which is not strictly a government procurement project but which we will all end up paying for in the end. And dear old Crossrail was opened yesterday—a wonderful project, but it is £5 billion over budget and three years late.

One thing that links many of these projects is that they usually fall down on the IT towards the end of the project. In other words, I wonder whether the people who commission these projects—whether in the private or public sector—have realised that we need to keep up with the latest IT developments rather than keeping on making sure that the civil engineering is on programme. I am a civil engineer, and it is lovely to talk about these things, but actually it is the IT which causes many problems and I think we have to learn some lessons from that.

One further point before I get on to what I really want to talk about, which is local authority procurement, is the issue of Scotland not being part of this Bill at the moment. I would like to ask the Minister: if the new HS2 trains that are going to run to Glasgow and Edinburgh are procured in England, will they be allowed to travel into Scotland, or will there be some need for financial or technical approval? It would be very stupid if there was any cost or anything else—and the vice versa would equally apply—but I think it is something we need to think about when we start to scrutinise the Bill. I hope that the Bill will improve things. I support this Bill, but, as other noble Lords have said, there is a lot of work to be done to make it fit for purpose.

I have one other question for the Minister. It may take a year or two before the Bill comes into effect, so what is the current process and rules for local authority procurement? Are we still carrying on with the European Union procurement rules, or is it a sort of free-for-all? It would be interesting to know what the present situation is.

I want to speak briefly about local authority procurement, on which the noble Lord, Lord Stevens, also made some interesting comments. I worry that the system, even as it is set out in the Bill, leaves too much control with Ministers, with very little oversight or enforcement. I think that is quite worrying. As many noble Lords have said, including my noble friend Lady Hayman and the noble Lord, Lord Fox, key principles are wonderful, but we need to get into more detail. We need clear objectives, and I am pleased that the noble Lord, Lord True, mentioned value for money, value for the customer and value for the taxpayer, and competition. But many noble Lords have mentioned—and I think these are missing in its strongest part—transparency of process, transparency of results, which includes the Freedom of Information Act, and some kind of independent scrutiny or overview, and possibly an appeals body. I would be interested also to see what exemptions are being proposed, because it is very easy for exemptions to be used as a quick shortcut to a process which may be quite difficult at the end of the day.

On local authority procurement, I have an example from the Isles of Scilly, which noble Lords may have heard me speak about before, and this week my Select Committee went to Birmingham and Coventry to look at transport—but there are many other similar examples. These things start off with the government bidding process. Local authorities are, as we all know, very short of money, and tendering costs money and time, which they do not have much of. The Government, in their localism programme for town centre improvements or whatever, offer a competition, which I am sure is welcomed by everybody, but do not actually allow the councils or the other responding authorities time to prepare a proper bid. Nor do they allow them to have the funding to do that, when you look at the rules and the amount of information that is required to produce these bids.

What it therefore needs is for the first bid to be for funding to get enough money to prepare a proper bid for the next phase. And so it goes on. We found this on several transport projects we talked about in Birmingham and the West Midlands generally. I have also found it in watching from afar—or not so far—the attempt by the local authority in the Isles of Scilly to get a new ferry through the localism bid, which would involve working with the monopoly supplier of services, for £48 million, to be given a new ferry with no competition. I can understand why it is doing it, because it does not have the money to prepare the bid.

We therefore have to be very careful that this legislation does not allow local authorities to cut corners for political or cost reasons because they cannot afford to do anything else. I could go into great detail on this but I am not going to. It is not just the Isles of Scilly, Birmingham or Coventry transport. If one reads some of the stories that come out quite regularly in *Private Eye*, one sees an awful lot of examples of local authorities that cut corners—and have probably been caught doing it, otherwise it would not be published—because of political expediency, because they could not afford to do anything else or because it was said to be urgent. We have to be very careful when we scrutinise the Bill that we recognise that local authorities do not have much money and that it is very tempting to cut corners politically, because it might be useful for the next election or whatever.

I hope we can allow a bit more devolution of the funding for, say, transport in the West Midlands so that local authorities have an incentive to do it properly, with oversight scrutiny but not total nitpicking of the kind that goes on at the moment. I repeat what I said before: at the moment, the Treasury requires Network Rail to apply to it for approval to paint the railings at a station. That is micromanagement just gone darn stupid.

My last comment is on the role of government in the Bill. It is as the "contracting authority", what is called the "appropriate authority", the compiler of debarment lists—I am sure all noble Lords know what that means—and a sort of appeal body to the Minister of the Crown in Clause 61. As the noble and learned Lord, Lord Thomas, said, there need to be some remedies that do not involve central government. I am not sure what that is—I am no lawyer—but it really is important. All these things coming together under government, with the local authorities also being subject

to their political pressure, means that we could end up with a disaster. We do not want that. There is enormous potential in the Bill, but there will be quite a lot of discussion in Committee, and probably further on, about some changes that will need to be made to make sure it really works properly.

7:04 pm

Lord Strasburger (LD) [V]: My Lords, I will focus my remarks on what went so badly wrong with the procurement of PPE and how it should inform our approach to this Bill. I will also take this opportunity to share with the House one particular PPE contract that ended in suspicious circumstances that should concern us all.

The first problem with PPE procurement was that the UK started the pandemic from a bad place. Much of our stockpile of PPE items had been neglected and allowed to fall out of date, making it unusable due to the risk that it would fail to protect its users. The stockpile was created in 2009 at a cost of £500 million, following an outbreak of swine flu. Sadly, during the eight months prior to Covid being declared a health emergency of international concern, 200 million items in our stockpile went out of date, including 80% of the respirators, and the stockpile included no gowns, visors or testing swabs. So the flying start we should have had in tackling the pandemic was lost.

The next problem was that the Government were slow to respond to this crisis. They were advised several times to build up PPE stocks, but by the time they eventually started looking for PPE, it was well and truly a seller's market and prices had gone through the roof.

These procurement failures intensified the scale of the challenge our country faced to protect healthcare staff and other key workers. The Government scrambled to make up for lost time, and this involved abandoning all the measures designed to prevent corruption in procurement and ensure that taxpayers get value for money. Not only was competitive tendering dropped; until May 2020, the eight-point due diligence process was also suspended.

Worse still, with its secretive decision to set up the VIP lane for companies recommended by politicians and officials, the Government exposed the process to potential cronyism and corruption on a massive scale. Firms in the VIP lane had a 10 times better chance of winning a contract, but they had no special qualities that justified that priority—other than their political connections. In fact, the actual performance of the VIP lane contractors appears to be worse than that of those who had no priority. The Department of Health and Social Care estimates that overall, 53% of VIP lane suppliers delivered PPE not fit for front-line services, compared with 11% of all suppliers.

Billions of pounds-worth of orders were funnelled into the VIP lane companies run by friends and associates of Conservative politicians. For example, the noble Lord, Lord Feldman of Elstree, recommended four successful companies; the then Health Secretary, Matt Hancock, recommended four as well, including his local pub landlord; while Michael Gove referred Meller Designs, a firm run by David Meller, who has donated £60,000 to the Conservative Party, including funding for Mr Gove's leadership bid.

I will not bore the House with the full list of generous politicians, but many successful bidders for PPE contracts were set up on the spur of the moment and had flimsy balance sheets. Many had no prior experience of supplying PPE, or had a controversial history, including tax evasion, fraud and human rights abuses. Trade Markets Direct, a dormant company run by a former bookmaker, was awarded a £3.8 million contract. Michael Saiger, a Miami-based jewellery designer, was awarded £250 million of PPE business and £108 million went to a pest control company, again with no experience of PPE.

Other unlikely companies to benefit from government largesse were a hotel carpeting business, a naval design firm, a luxury packaging company and a month-old firm owned by offshore finance specialists. Transparency International estimates that 20% of the contracts awarded between February and November 2020 contained one or more flags for possible corruption. Some £255 million-worth of contracts went to companies that did not even exist 60 days before they won the business. Meanwhile, many well-established companies with a long history of supplying PPE, but without the seemingly essential ingredient of political clout, could not get a look in. Some offered products several times but never heard back from the Government, presumably because resources had been diverted to the VIP lane.

How has all this frenetic activity turned out for taxpayers? The answer, I am afraid, is not very well. The Department of Health's annual report for 2020-21 reveals that it spent £12.1 billion on emergency PPE and, of that, £8.7 billion—70%—has been written off because the price has fallen, the PPE is unsuitable or it is past its expiry date. This is waste on a monumental scale, brought about by the Government's failure to maintain adequate stocks before the pandemic and their tardiness in getting into the market, despite being advised to do so before prices took off.

These serious blunders were compounded by the chaotic way procurement was managed. As Gareth Davies, head of the National Audit Office, puts it, the department's procurement was vulnerable to fraud due to large numbers of contracts being awarded to new suppliers, many of which came through the controversial VIP lane. He also points to a lack of checks on the quality of goods received and poor inventory management. If you add the wasted £8.7 billion to the £4.3 billion lost in fraudulent Covid grants, it comes to £1 billion more than the Government expect to raise from the increase in national insurance. To put it another way, if PPE procurement and Covid grants had been properly managed, we could have avoided wasting £13 billion of taxpayers' money—and avoided the increase in national insurance at a time when people are struggling with the cost of living crisis.

This huge scandal has passed most of our press by. With a couple of honourable exceptions, the mainstream media has been shamefully silent. The only thorough report I have seen appeared in the *New York Times* in December 2020, and none of our papers picked it up, with the exception of the *Guardian* and *Byline Times*. Most papers have maintained a strict omerta.

Who has carried the can for this massive scandal? Which Ministers or officials have fallen on their swords or been fired? As we all know, nobody has taken

[LORD STRASBURGER]
responsibility; nobody has even apologised. As is always the way with this Government, seemingly no-one is to blame—which leaves us exposed to similarly poor performance when the next crisis arrives. It also means that the relatives and friends of the NHS workers and the staff and residents of care homes who perished through lack of PPE will get no explanation or apology.

As I promised at the start, I shall now tell the fascinating and deeply worrying story of Adrian Buckley, a gentleman from Yorkshire who has been trading with China for 32 years and has a full-time sourcing manager based in China on his payroll, not merely an agent. I am recounting his experiences in the summer of 2020 as an illustration of what can go wrong when competitive tendering is abandoned and individual Ministers and officials are given too much untrammelled discretion to select contractors.

In May 2020, Mr Buckley's company, Buckley Healthcare Ltd, fulfilled an order for 1 million surgical gowns for a hospital trust in Yorkshire. The procurement director was so satisfied that he recommended Mr Buckley's company to the NHS procurement officer, who informed Mr Buckley that he was putting his company forward to the Cabinet Office to supply 24 million gowns nationally. Mr Buckley and his sourcing manager scoured China for a factory with the capacity and skills to handle such a large order. They also thoroughly checked that the factory had access to the necessary raw materials and that the factory and its staff could meet the required specification for the products. After some time, they found a factory that met all the requirements, which was no mean feat in the frenzied market that existed at that time.

On 4 June 2020, Mr Buckley sent full details and prices to the NHS procurement officer, who forwarded them to the Cabinet Office. After a two-week silence, the details were re-sent to the office of the noble Lord, Lord Deighton, who was managing PPE procurement for the Government from the Cabinet Office. The email included the full specification and photos and videos from inside the factory.

On 25 June, three days after the company had been told that its proposal had been sent for approval, it was informed that the contract had been placed elsewhere. The company was surprised and disappointed, but assumed that it had been outbid and accepted the outcome.

A few days later, however, the company received an agitated phone call from the owner of the Chinese factory saying that he had been contacted by an agent for a company of which he had never heard concerning an order identical to the one he had planned with Mr Buckley. From the naive questions being asked, it was clear that this new company had no experience of buying PPE. Now suspicious that his company's extensive investigation work and detailed proposal had been passed by the Government to another company—a debutant in the market—Mr Buckley emailed the noble Lord, Lord Deighton, asking what was going on. He received a reply from a civil servant offering first one and then another phoney reason for rejecting the Buckley bid, both of which were quickly dispensed with.

On 12 September, the contract with the other company was published, 30 days later than it should have been. It revealed that the contract had been awarded to a company called Inivos, which appears to have no previous experience of PPE. But the most startling revelation in the contract details was that the price paid to Inivos was £12 million higher than Mr Buckley's proposal. So, there is every reason to suspect that the details of Mr Buckley's supply arrangements were passed to Inivos, and that taxpayers have been robbed of £12 million in the process.

There is a full audit trail of all communications between the Cabinet Office and Mr Buckley's company to support his version of events. I should say, by the way, that Mr Buckley and I have totally different political outlooks. He was a strong advocate of Brexit—although his serious problems with the new Brexit bureaucracy are causing him to think again—but he and I share a strong distaste for corruption and dishonesty. Many years ago, he donated £50,000 to the Conservative Party, and we both wonder whether he would have suffered the same fate from the Cabinet Office if he had kept up his payments to the Tories.

Will the Minister initiate an independent and forensic inquiry into whether a Minister or official in the Cabinet Office behaved unethically and passed to Inivos Mr Buckley's gold-dust information on where and how to acquire the goods? Where is the extra £12 million? Did it remain with Inivos as super-profit, or was it shared with whoever disclosed the details of Mr Buckley's supply arrangement with the Chinese factory—if that in fact happened? We also need to audit the other PPE contracts to find any other instances of similar behaviour.

Returning to the Bill, it lacks the necessary provisions to guarantee the integrity of the Government's procurement process, as identified by the good people at the UK Anti-Corruption Coalition. Clauses 40 and 42 appear to give the Government the opportunity to discard the checks and rules, as they did for PPE procurement with such disastrous consequences. Transparency seems to have mysteriously slipped backwards since the Green Paper. These shortfalls, and others, must be rectified as the Bill passes through this House so that we never see a repeat of the cronyism and possible corruption that happened with the PPE contracts.

7.18 pm

Lord Wigley (PC): My Lords, it is a pleasure to follow the noble Lord, Lord Strasburger, and to identify totally with the important points he raised. I hope very much that his questions—on supplies at the time of the Covid outbreak and on whether this Bill will in fact be able to tighten up on the sort of happenings during that period that we just heard most alarmingly about—have been heard by the Government. I hope his speech does not get lost in the sands of time and that there will be answers to those questions.

Touching on the comments the noble Lord, Lord Strasburger, made a moment ago, there is the question of the capacity we have within these islands to manufacture these things ourselves. That feeds through to the important speech made by my noble friend Lord Alton with regard to the policies of the Chinese regime towards its own citizens and the fact that we depend so much

on Chinese manufacturing capacity to meet our needs. We have an overdependence on it, which surely leaves us immensely vulnerable to China in the general context as well as in the context we heard about from the noble Lord, Lord Strasburger, a moment ago.

I also identify with the points made by the noble Baroness, Lady Brinton, on the disability issues, and the important points made by my friend, the noble Lord, Lord Aberdare, on the needs of small businesses, particularly those in the construction sector.

During the last Session, I was very much involved in debating the subsidy Bill, which the noble and learned Lord, Lord Thomas, implied is a first cousin of the Bill that we have today. At that time, I described the way in which successive Welsh Governments had succeeded in using public sector procurement as a tool to stimulate the Welsh economy, within the framework of the European single market. So successful was that policy that, over two decades, the proportion of goods and services secured by the Welsh Government in Wales increased from 35% to 55%. This meant that we were securing work for employees, more trade for businesses in Wales and, often, far lower product miles, which helps our carbon footprint.

This is surely all to the good, provided that it is done in a manner that does not deliver inferior goods or services, does not significantly increase the price of procurement, does not lead to appreciable market distortion and does not prevent companies from outside Wales setting up in Wales to tender for such work. It is worth noting that, after this policy had reached a stable level, it contributed to a significant fall in unemployment levels in Wales, which, before the impact of Covid, had dropped to a level below the UK average for the first time in three generations. What this Welsh policy did not achieve was to raise significantly the average GDP per head in Wales; that is another issue that might be worthy of debate on another day. These factors are relevant background to our consideration of the Bill.

I welcome the fact that the Government have acknowledged, in Clause 13, that Welsh Ministers may publish their own strategic priorities in relation to procurement. In relation to the fact that Scotland is not in this agreement, I say to the noble and learned Lord, Lord Thomas of Cwmgiedd, that uniformity of regulation across the nations is valid only if circumstances and aspiration are similar in each. We will need a mechanism that allows for flexibility between the nations of these islands as well as the advantages that come from having markets that are as open as they can be.

I understand that the wording of Clause 13 has been agreed with the Welsh Government, as the Minister suggested. Assuming that to be the case, it is a much-needed positive step forward in the relationship between Westminster and Cardiff Bay—I welcome this. However, it is far from clear how the application of a different approach to procurement in Wales will be rolled out in practice within this new regime. The Bill is silent on that key question, perhaps understandably, because I believe that discussions are ongoing on that matter.

If procurement policy in Wales, as underpinned in law, is identical to the provisions of the Bill—in which case the provisions of Clause 13 are purely declaratory—in practice, the provisions of the Bill will apply in their entirety to Wales, whether or not they chime in with the procurement policy of the Welsh Government. If that is the case, Clause 13 will be little more than window dressing. Alternatively—and I believe that this is more likely—Clause 13 is a vehicle whereby different procurement laws may be implemented in Wales, and the Welsh Government have been planning to bring forward their own Bill within their devolved legislative competence. I certainly hope that that is the case. I assume that the Senedd has devolved competence in all the relevant areas within the Bill. But, if it is not so, some legislative mechanism should be built into the Bill to give the Senedd the power to fine-tune legislation in these matters. Equally, there must be a lever whereby the provisions of parts of the Bill are disapplied in Wales, if circumstances dictate that. This can be agreed by the UK and Welsh Governments.

The Minister touched on these matters when opening the debate, and I hope that he can further clarify in the wind-up. It is, after all, totally inappropriate that statements are written into the UK statute book which could transpire to be meaningless. The Welsh Government have essentially used their procurement policy, working within the European framework which applied to these matters, to support disadvantaged communities by helping to maximise job opportunities in Wales. The EU allowed us to do this. It appears, however, depending on the interpretation of Clause 13, that in some circumstances the UK Government could in practice debar the Welsh Government from doing so. This goes to the heart of the approach that we take to disadvantaged people and the duty of government to safeguard them.

Against that background, it is revealing to consider the wording used in Clause 32 of this Bill, which, rightly, makes provision for contracts to support disadvantaged individuals. However, it does nothing to provide for disadvantaged communities, which is essentially the policy followed by the Welsh Government and which was endorsed by the EU. It is here that we see the reality of Brexit staring us in the face. If that is acknowledged by the UK Government, and if they wish to address the adverse implications for Wales, they should either give real teeth to Clause 13 and allow Wales to develop its own policy, underpinned in law, or, if they maintain that this distorts the UK single market, they should amend the Bill to ensure that public procurement policy throughout the UK can help address disadvantaged communities wherever they may be.

I know that the Welsh Government have greater ambitions in this field which they wish to progress. We shall look forward, in due course, to a Welsh legislative measure being introduced in the Senedd to facilitate this. One such ambition may be to help start-ups in Wales and help micro-companies to grow. Enabling them to bid for public sector contracts is one way of facilitating that growth. For a small business, the bureaucracy of bidding for such contracts can be daunting, and I know that a report on this will be published next week by the Coalition for a Digital Economy, or Coadec. I hope that the UK and Welsh Governments will pay attention to its analysis and representations. In the meantime, if the Welsh Government wanted to change their procurement rules in order to

[LORD WIGLEY]
assist such small companies, can the Government give an assurance that they will be free to do so, either through Clause 13, suitably stiffened up to be fit for purpose, or by other legislative means?

Clause 11 of the Bill spells out what the Government see as their four procurement objectives: value for money, public benefit, transparent procurement policies, and acting with integrity. No one would argue with these four, though one might quibble about the order in which they are placed. To my mind, public benefit and value for money should be regarded as equally significant and worthy of equal weight when assessed for any contract. In other words, if government pays a penny more for a widget but by doing so helps secure a dozen jobs in an area of high unemployment, then it is a compromise which earns its place.

Perhaps I may raise a question in relation to the definition of "a devolved Welsh authority", which arises in several places in the Bill. It is a term which constrains the powers exercised by the Welsh Ministers, as specified in Clause 99. That defines devolved Welsh authorities as ones falling into the definition of Section 157A of the Government of Wales Act 2006. That section relates to powers exercisable only in relation to Wales. Where does that leave Welsh Water, a not-for-profit utility some of whose responsibilities straddle the Wales-England border?

There are other aspects of this Bill which we undoubtedly will need to examine in Committee. Those include the need for transparency and for the public sector to appreciate the challenges facing small businesses when they try to secure public sector tenders. There is, in particular, a need for the public, and especially businesses which find the challenges of tendering successfully to be daunting, to be assured that the allocation of public sector contracts is totally fair and above board and that there is no room for the "old pals act" to secure business for companies that happen to be well connected.

I think that I have flagged up enough issues to which we should apply ourselves in Committee. I look forward to following these up at that time, and to hearing tonight the Minister's response to the points which I have raised.

7.29 pm

Lord Moylan (Con): My Lords, it is a privilege to follow the noble Lord. With 28 years of experience in local government, and eight years on the board of Transport for London, I have long had a very strong interest in procurement. I am delighted that so many noble Lords have an equally strong interest in procurement. However, it is somewhat dispiriting that so many Members have strayed off into using this Bill as yet another opportunity to roll out a number of anti-capitalist themes and proposals which will no doubt reappear in Committee and then be duly taken out by a sensible Government when it returns to another place.

My question is rather more radical than those raised by most noble Lords so far: whether we actually need this Bill at all. Of course, we need to scrap the EU regulations, but do we need to replace them at all? In large parts of Europe—I say this without specifying any particular parts—there was a history of municipal corruption in the award of contracts in a non-transparent and corrupt way, and it was right that we should tackle that as a single European Community while we were a member of it. It was also the case that the European Union saw these regulations as a means of forcing the development of a single market. As we are no longer a member of the single market, that consideration is not relevant to us.

When it comes to municipal corruption, I will be so bold as to say that, in this country, we have been remarkably free of it. In my lifetime, there have been a few very significant cases—but only very, very few. We are very fortunate; we have an enviable record of a lack of corruption in public bodies. I was expecting at this point to be jeered at in the wake of the remarks by the noble Lord, Lord Strasburger. Yet, even if the allegations made and hinted at by the noble Lord were all vindicated, the remedy for them would lie in the criminal law and not in this Bill. This is because we have a full panoply of criminal law dealing with municipal and public body corruption, against the taking of bribes and against misconduct in public office. This is where we should look for remedies to the sort of corruption with which these regulations were originally intended to deal, rather than this Bill, which in my view is almost irrelevant. Indeed, the weakness of the Bill in relation to remedies has already been pointed out by other noble Lords, particularly the noble and learned Lord, Lord Thomas of Cwmgiedd.

I ask myself—and my noble friend the Minister can explain this later—why we do not simply scrap the existing regulations, rely on the criminal law as we used to before we joined the European Union, and then perhaps an esteemed body, such as the Chartered Institute of Public Finance and Accountancy, could issue a good practice note on how local authorities should comply with our international obligations. Is anything more than that actually needed?

The bureaucratisation of honesty—which is what we are actually discussing here—has led, over recent years, to the creation of what I call a high priesthood of procurement. By that, I mean people who are dedicated to the process—because this is a process Bill—of honesty rather than to its substance. Having got the grip of the process of procurement, they often refuse to let it go, even though everyone can see—even themselves quite often—that the procurement process is leading to a disaster. I hope that this Bill would at least be drafted in such a way as to avoid the pitfalls of the current system. I know that there have been some war stories, but I will take the opportunity to illustrate what I am saying with some of my own.

Very fortunately for me, back in the 1990s a very wise council officer said to me, "Do you know, I can get any result I want out of a procurement process? The secret, Councillor Moylan, is in how you set up the conditions by which the final decision will be made." The whole system rests on what conditions you set up. I will give just a few examples. I know of one public procurement project, for services, which allocated 40% of the points to what was called "project compatibility". When I said, "What does that mean?", they said, "It means that we can choose whoever it is we want to work with, because they will be compatible with us."

On another occasion, I was brought in to sit on an architectural panel; I was not involved early on, so I did not have a chance to shape the conditions. It was an architectural procurement—not a construction procurement—for a major public building. Having interviewed the various architects and seen their proposals, when we decided which one we wanted we were told by local government officers, who had brought their own lawyers to control us, that we could not have it because it did not meet the criteria. We asked what criteria it was not meeting, and the answer was financial stability—35% of the points had been given, without anyone being consulted, to the financial stability. Financial stability is important in some contracts, but if you choose a one-man architecture practice to build something for you and he goes bankrupt, you just rehire him; there is no consideration of financial stability when it comes to procuring services such as that. But we ended up with the architect we did not want because we had left it all too late.

I will now come to the question of the new, iconic bus shelter for London. Noble Lords will notice that there is no such thing as a new, iconic bus shelter for London. I engaged with TfL on this before I joined the board, and I said, "We should have a new, iconic bus shelter for London, because they are dreadful—absolutely appalling." Peter Hendy, who was then commissioner of Transport for London, was good enough to agree that something should be done. I was representing London Councils at the time, so we set up jointly a process in which we invited architects to submit proposals for this wonderful thing. TfL officers ran it as a procurement process.

A large number of wonderful designs were put to us—20 appeared—some of which were so extravagant that they could never have been used. A design panel was put in place to make the architectural judgments, only for us to discover at the end of the presentations that we were not allowed to take design into account because the TfL officers had used the branch of the procurement process that you would use if you were buying a piece of air-conditioning plant. So it was to be judged entirely on the specification of whether it kept the rain out and things such as that. The entire purpose of the exercise was defeated through a misapplication of the procurement process, and we all agreed, exhausted by that point, that basically we would abandon it and come back to it. But we never did, so London still has a wide variability and a high level of ugliness in its bus shelters.

These revelations may shock noble Lords—I do not know—but they would not have shocked anybody engaged in public procurement in most other European Union countries, because they are perfectly aware that most European Union legislation is written with a high degree of rigidity as far as the words are concerned, and a high degree of flexibility as far as the application is concerned. Reference was made earlier to our gold-plating things. It is not that we gold-plate them; it is that we take them seriously in a way that other countries do not.

I say to my noble friend that my worry is simply this. We are quite rightly getting rid of a set of regulations that do not work for us and were designed for circumstances that do not apply to us, but instead of taking the radical approach of asking what the point of them was in the first place and whether we need them, we are in great danger of replicating them but with an English touch—sorry, I should not say English, because I am speaking just after the noble Lord, Lord Wigley, and I should have said earlier how delighted we all are that Wales has joined in this great corporate endeavour. My worry is that we simply put a local—a national—touch on them, but we end up with the same problems. We will still be doing obeisance to the high priesthood of procurement, and we will find that we are no further forward and will certainly not be dealing with allegations of corruption because, as I said, those will effectively still be dealt with under the criminal law.

7.40 pm

Lord Davies of Brixton (Lab): My Lords, it has been an interesting, wide-ranging debate. I will base the bulk of my speech on the Government's Green Paper, *Transforming Public Procurement*, published in December 2020. My interest is in what has been described as contract compliance by public authorities. It must be understood that public authorities, those covered by this legislation, have a range of objectives that come into play when they procure goods and services. Obtaining the goods or services at the lowest possible price is only one of a range of objectives they could follow.

Another objective—an overriding objective, I argue—is to encourage and secure a range of government policies through the contracts into which they enter. The Government's support for this understanding of the role of procurement was clear in the Green Paper, which said:

> "By improving public procurement, the Government can not only save the taxpayer money but drive social, environmental and economic benefits across every region of the country."

I repeat: government policy is about not just price but achieving

> "social, environmental and economic benefits across … the country."

There is no indication of an order of priority of these different objectives.

The Green Paper states that

> "we want to send a clear message that public sector commercial teams do not have to select the lowest price bid, and that in setting the procurement strategy, drafting the contract terms and evaluating tenders they can and should take a broad view of value for money that includes social value … We propose allowing buyers to include criteria that go beyond the subject matter of the contract and encourage suppliers to operate in a way that contributes to economic, social and environmental outcomes on the basis of the 'most advantageous tender'."

I anticipate that my noble friend Lord Hendy will not talk about bus shelters but emphasise how this approach can support improvements in employment standards.

Simply as another example, I emphasise how contract compliance, operated as part of procurement policies, can lead to improvements in environmental standards both in the UK and abroad. It is no exaggeration to say that this is a crucial element in what the Government need to do to achieve their goals for arresting climate change. It would be absurd if public authorities did not assess the impact on the climate of their procurement policies.

My concern is therefore that the Government's position as set out in the Bill is now less clear-cut than

[Lord Davies of Brixton]
it was in the Green Paper. For example, in paragraph 3 of the Explanatory Notes there is the statement of different goals, but paragraph 4 then goes on to talk only about

"value for money for taxpayers."

We already have a national procurement policy statement, which was issued last year and is a sort of progenitor of the statutory statement we can anticipate later this year, I assume. Again, it sets out the range of objectives but then, in a separate paragraph, identifies and gives precedence to value for money. I am concerned that value for money is in some way seen as the key objective and the others as subsidiary. Do the Government still adhere to the approach set out in the Green Paper? This is obviously a key issue to consider in Committee, so will the Minister make the position clear: does the policy in the Green Paper still apply? In the explanatory statement and the statement of principles—the policy statement—it appears that at one stage there was a paragraph setting out the range of objectives, but then, unfortunately, someone read it and said, "This won't do; we need an additional statement to emphasise money." I really want clarity on that.

What role will there be within the national procurement policy statement for local policy objectives, even local objectives not fully in line with national objectives? The useful report, as ever, from the Library tells us that the Cabinet Office set out that the intention of the NPPS was not to impose the Government's political priorities on bodies normally outside of their control, but rather to influence them. As you read through the paragraph however, it is clear that it is expecting its own democratically elected separate bodies to adopt the Government's core principles. Will the Government make it clear that local authorities, which have their own democratic mandate, will not be dragooned by central government?

Finally, people may be surprised to know, a point about pensions. There is nothing in the Bill directly relating to pension schemes, but some schemes will end up being classed as contracting authorities and will be required to undertake procurement in the same way as government departments and local authorities. The Government say that attempts to introduce flexibility to simplify public procurement processes could impact on this sort of organisation. Great stress has been placed on the importance of simplicity in the process. I am not sure that simplicity is a good objective on its own. Clarity is an important objective, but simplicity can lead to confusion and difficulties for those organisations not regularly working through this process.

I am not expecting the Minister to respond on the impact on pension schemes at this stage, but it is an issue to which I think we need to return—smaller organisations caught within the remit. The Bill already includes provision for some exemptions, and we will need to look at whether waivers are required for some specific organisations.

7:48 pm

Lord Best (CB): My Lords, my contribution relates to the Bill's impact on registered providers of social housing—bodies involved in contract procurement worth billions of pounds each year. The sector is a key contributor to easing the housing crisis by building tens of thousands of new homes, helping to fix the building safety disaster and undertaking day-to-day works to ensure residents in social housing have decent homes, while addressing the climate crisis and seeking to implement an ambitious decarbonisation strategy.

I want to raise one factual question, one issue of principle and one point of practical detail. First, am I right in assuming that the definition of public authorities, which clearly covers the non-profit registered providers of housing—housing associations, in common parlance—also covers the new breed of for-profit registered providers? The latter can obtain government grants and are subject to regulation by the Regulator of Social Housing. Indeed, their profit-making ethos may demand increased regulatory attention, compared with the non-profit providers, but are they classified for the purposes of this Bill as public authorities?

Secondly, my overarching point of principle concerns one way in which the procurement process can determine the success or failure of a contract. I have received excellent briefings from the specialist law firm Trowers & Hamlins. The view of experts in this field is that the use of current relative price models drives a race to the bottom. As many noble Lords have pointed out, a key objective of the Bill is to maximise the public benefit of contracts. But the current process actually leads to a narrow interpretation of best value which translates into awarding the highest marks to the tender with the lowest price and downplays the real benefits of other, more expensive but more advantageous bids. Even if the weighting split between quality and price favours quality, the evaluation model gives preference to the lowest price. In effect, the public sector asks bidders to guess the lowest price to win—not the actual price they think is necessary to perform the contract properly. Such an approach can undermine the relationship between client and contractor. From day one, the contractor must look to cut costs and retrieve its profit margin. This leads to conflict and loss of quality, innovation, investment, apprenticeships and safety.

The UK *Construction Playbook* already acknowledges the harm caused by such pricing models. This acknowledgement needs to flow into the Procurement Bill and its associated guidance. The Bill already requires scoring methodologies to be described in the tender documents. I suggest that this obligation incorporates provision to prevent these unhelpful "relative price models" from being used by public authorities when procuring contracts that should prioritise safety, quality and value.

My third and final point is about a grey area in the world of public procurement to which my noble friend Lord Aberdare has drawn attention. This relates to the fees charged by procurement consortia that offer a service to bodies such as housing associations that are not confident of their compliance with all the statutory regulations governing procurement. These organisations make sure that all the necessary requirements are met—for which they charge a fee that can add anything from 3% to 10% to the cost of the contract. While larger housing providers such as Places for People—which has explained the position to me—have in-house expertise

to perform this role, smaller operators are spending millions of pounds hiring these intermediary bodies.

The practical point I want to leave with the Minister is that these procurement consortia should not be operating—as some are—under a cloak of commercial secrecy. Since taxpayers' money is involved, surely the Bill should require these transactions to be fully disclosed, proportionate and used solely in the public interest.

In conclusion, are for-profit registered providers covered by the Bill? Can unintended preference for price over social value—currently built into most evaluation models—be prevented through this legislation for those contracts which have quality, safety and value at their core? Will the Minister look at mandatory transparency for the fees charged by procurement consortia to ensure that they are used solely in the public interest?

7.54 pm

Baroness Bennett of Manor Castle (GP): My Lords, it is a great pleasure to follow the noble Lord, Lord Best. As always, he was extremely incisive and clear about our all too often tragically awful housing and general building sector. I very much wish to associate myself with his remarks about transparency. We need to ensure and extend that, and not allow commercial confidentiality to overcome it. This extends far beyond the housing sector.

I declare my position as a vice-president of the Local Government Association. As second-last of the Back-Bench speakers, it is a great challenge not to repeat anything. I will seek not to do that, so I begin by associating myself entirely with the comments of the noble Baronesses, Lady Young of Old Scone and Lady Parminter, who covered many of the issues that your Lordships' House might expect me, as a Green, to cover. Perhaps it is fortunate that I land at this particular spot on the list, because mine might be described, in chunks at least, as a balancing speech to that of the noble Lord, Lord Moylan.

As we look at the Bill we have to start by looking at the disastrous history of the outsourcing of government services over the past decades. I am not being specifically party-political or looking at only one side of your Lordships' House here. There was some acknowledgement of this in a government press release on 6 December 2021, which said that the Government would seek to exclude

"companies with a track record of poor delivery, fraud or corruption"

from winning public contracts.

To pick a few of the worst offenders more or less at random—if you want a wider selection, pick up any *Private Eye* and you will find many more—let us start with Serco, which was fined £22.9 million in a settlement with the Serious Fraud Office over its electronic tagging contract. That was a deal through which it dodged criminal charges. Capita, with a £1.3 billion contract for Army recruitment, missed every target for recruiting both regulars and reserves, in some years by 45% and never in a decade by less than 21%.

Arguably the worst offender of all is G4S, which advertises itself as

"the leading global, integrated security company",

with more than half a million mostly low-paid employees around the world and a human rights record to rival a failed state. It was profiting from running Birmingham jail until it spectacularly lost control—due, the independent monitoring board suggested, to insufficient staffing levels and quality. One job ad put out by G4S said that

"no specific previous qualifications or experience"

were required to be a prison custody officer. The state's highly trained officers had to come to the rescue when G4S lost control. It also had the contract for Medway Secure Training Centre, which houses some of the most vulnerable children in the country, as well as for Rainsbrook Secure Training Centre. Both contracts had to be taken off it in consequence of its absolute failure.

So it is very clear that this Bill is to be welcomed. Indeed, we have heard welcomes for the Bill from all around the House—except perhaps from the noble Lord, Lord Moylan. However, it is worth going back to something that lots of people said. In his introduction, the Minister claimed that this was part of the famed and much-celebrated Brexit dividend, although of course, as I will come back to, many other members of the European Union seem to have managed without the continual stream of outsourcing disasters involving multinational companies that we have had under exactly the same set of EU rules.

However, let us start from where we are now and make the Bill as good as possible. For that, we really need some clarity. It is really important to stress that Clause 18, which talks about the "most advantageous tender" in a competitive tendering process, is not actually new. It is already possible under current regulations and guidance. Bringing in something that already exists will not change culture and practice. Many noble Lords have expressed the concern that value for money equals lowest unit cost. There has to be focus on social, environmental and economic value, particularly in our disadvantaged communities.

There has to be an opening up to small and medium-sized enterprises—which the Government say they wish to achieve—and away from these disastrous failed multinationals, which are great at being cash cows and terrible at delivering services. On that point, I associate myself in particular with the comments of the noble Lord, Lord Mendelsohn, and the noble and learned Lord, Lord Thomas of Cwmgiedd, that the idea that a small or medium-sized enterprise, in dealing with a big organisation on a contract that has gone wrong, can use civil remedies and take it to court is clearly utterly impractical. We need something else. We also need to look very closely at the way the 30-day payment regime is expressed in the Bill and whether it is strong enough.

I note the useful briefing from the Local Government Association, which notes, as the Green Party often does, that so many apparently cheap things have been costing us dear in this low-wage economy, such as the lack of investment in training and skills and the environmental damage. However, I think I would acknowledge as a Green that there is something of a philosophical problem here in that this is trying to set some rules from Westminster that apply around England and Wales, at least. Green philosophy shows a way forward here. In this Bill we need to have a foundation of basic standards while allowing freedom for councils

[Baroness Bennett of Manor Castle]
and other commissioning bodies to choose higher employment, environmental and service standards. I note the call from the Local Government Association for national funding for the upskilling of council procurement officers. We all know how stretched local government is, so I have a specific question for the Minister. Do the Government intend to provide resources to local councils to ensure that they are able to work with the significant change that the Government outline in the Bill?

I note also in passing a number of useful briefings that have stressed very much the importance of getting away from the multinationals. They are from Social Enterprise UK, Coadec—the Coalition for a Digital Economy—the National Council for Voluntary Organisations and the National Association for Voluntary and Community Action. I note also a very useful briefing from UNISON, which says that what we need are inclusive, high-quality sustainable public services. Those are not just about procurement; they are also, of course, about decent funding.

I should like to make a couple of specific points about the detail. I suggest that Schedules 6 and 7 need to be combined. Schedule 6 has the mandatory exclusion grounds, which include conviction for corporate manslaughter or corporate homicide, fraud, bribery, slavery and human trafficking, organised crime and tax offences. I am glad they are regarded as exclusions. That is a good place to start, but I think we have to look at some of the contracts set over recent years to see that that does not seem to have been applied.

Schedule 7 lists the discretionary exclusion grounds. These include labour market misconduct, environmental misconduct, competition infringements and professional misconduct. Surely these grounds should also exclude bidders. If that means that all the bidders are excluded—perhaps not unlikely, given the tale of woe with which I started—maybe we need to get to a contract specification that caters for a different sort of bidder, such as a social enterprise or indeed a public body constituted for the purpose of delivering that service or goods.

Here, I cycle back to where I started and warn noble Lords that this is where I get to my most controversial bit. I note that all my case studies—perhaps they were not entirely randomly selected—are about the exercise of the coercive power of the state. I would say that whether in prisons, courts, policing or the military, the exercise of those grave responsibilities—the literal power, in the worst cases, over life and death, and certainly the power over individual liberty—should not come from contracts for which the Government hand over responsibility. It should remain in government hands. I will be talking to the Public Bill Office to see whether there is a way to bring that into the Bill.

I have been mostly negative but I always like to be hopeful so I shall circle back to the points raised by the noble Baronesses, Lady Young and Lady Parminter, and indeed the noble Lord, Lord Maude, who said: can we get the heart racing about public procurement? Absolutely I can and I can point to the fact that, back in October 2019, the first Written Questions I put down in your Lordships' House as a new baby Peer—of a few days, I think—were about public procurement. I asked the Government how much organic and local food was being bought for schools, hospitals and prisons. I think noble Lords who have been round a lot longer than I will probably know the answer I got to each of those Questions. Exactly right—the Government do not know.

I come to a point on which, for the second day in a row, the noble Baroness, Lady Noakes, and I can perhaps agree: impact assessment. Reading all the pages of this long and complex Bill, I cannot see—I am not a legal expert—where we have an impact assessment of what the Bill does in, say, two years' time. How will it have changed public procurement to improve public health, the economic situation of disadvantaged areas and the state of our environment and natural world by cutting carbon emissions? I leave your Lordships' House with this question: how will we see the Bill's impacts?

8.05 pm

Lord Hendy (Lab): My Lords, it is a great pleasure to follow the noble Baroness, Lady Bennett. I will not speak about the bus shelters of the noble Lord, Lord Moylan, or my brother, but I support what was said by my noble friends Lady Hayman and Lady Young, the noble Baronesses, Lady Parminter and Lady Bennett, and others about the use of public procurement as an instrument to advance environmental objectives.

Public procurement is also a very efficient way by which government and public authorities can require high standards from, and provide a good example to, employers. This is an important aspect of fulfilling the second objective in Clause 11(1)—"maximising public benefit"—because, of course, every public contract to which the Bill will apply requires workers to execute it. The United Kingdom has long recognised public procurement as a particularly apt tool to protect and enhance wages and working conditions. The fair wages resolutions of the House of Commons date back to 1891. Their final form was the fair wages resolution of 1946, introduced by Labour and supported by the Conservatives. In his speech in support, Harold Macmillan said of the Government:

"in placing their buying power—and this is the story behind this Resolution—they should see that they do so only with the best employers and that they do not use their contracting power to do down the better employer and to get better prices from the bad employer."—[*Official Report*, Commons, 14/10/1946; col. 632.]

At that stage, the fair wages resolution had been elaborated from 1891 so that, in 1946, it had two main components. First, government contractors and subcontractors were required, as a condition of their contracts, to observe those terms and conditions of employment that had been established for the trade or industry in the relevant district by joint negotiating machinery or by arbitration. Secondly, in the absence of such established terms, contractors had to observe terms no less favourable than the general level observed by other employers whose general circumstances in the relevant trade or industry were similar. Questions arising under the resolution were first referred to the Advisory, Conciliation and Arbitration Service for conciliation and, if unsuccessful, to the Central Arbitration Committee for decision. These provisions were generally duplicated by public authorities, public bodies and the nationalised industries. In this way, wages, terms and

conditions were driven up and good employers were not undercut by bad employers.

The resolution was rescinded by the Thatcher Government in 1983. To do so, it was first necessary for the United Kingdom to denounce, in 1982, International Labour Organization Convention 94, the Labour Clauses (Public Contracts) Convention 1949, which had adopted much of its text from the fair wages resolution.

Industrial relations have of course changed a great deal since 1983. Then, over 80% of British workers still had terms and conditions of employment set by collective agreements negotiated between employers and trade unions. Most of that coverage was by national agreements in various sectors. So the abolition of the fair wages resolution did not immediately have a great impact, but the policy and legislation of successive Governments have now reduced collective bargaining coverage to something below 25% of the workforce. Indeed, less than 13% of workers in the private sector, where public contracts will be placed, have the benefit of collectively agreed terms and conditions.

Consequently, today, the vast majority of the workforce are at the mercy of the labour market and employer diktat to set the terms and conditions on which they have to work. The national minimum wage is intended to protect the lowest hourly rate, but it cannot, of course, create the "high-wage, high-productivity economy" to which this Government aspire. So, reversion to negotiated terms and conditions, as elsewhere in western Europe, and as advocated by both the ILO and the OECD—see successive employment outlooks from 2017 onwards—and, as proposed by the fair wages Bill now before the New Zealand Parliament, might well redress the falling value of real wages in this country, wages which are already lower in value now than they were 12 years ago, particularly in the lowest three quarters of the wage distribution, with the exception of the very lowest paid.

This Bill presents the opportunity to revert to the 1891 and 1946 precedents as a simple and powerful mechanism to drive up wages, terms and conditions and to prevent bad employers from undercutting good ones. I will propose an amendment to that effect, if the Government are unwilling to move their own, and would be happy to consider with colleagues how these principles might apply to overseas suppliers, which we have heard about this evening. The Bill also provides the opportunity to deal with any number of other workplace abuses. Here is the chance to make public contracts dependent on not behaving as P&O Ferries did, as my noble friend Lord Whitty pointed out. Here is a chance to put an end to the noxious practice of "fire and rehire", at least by public bodies. If it be thought that public bodies do not resort to such tactics, Richmond upon Thames College is an example of such a body, which has threatened 127 lecturers with that very ploy. Again, if the Government do not move such amendments, and in the absence of an employment Bill, I would wish to do so.

There are a number of other good practices to encourage and bad practices to discourage which this Bill could achieve by way of conditionality for the grant of public contracts, but I will not take time now to go through them. I have just one further point. The public procurement regulations which are to be displaced by the current Bill do not do any of the things that I have mentioned. But one thing that those regulations did do—in Regulation 56(2) of the Public Contracts Regulations 2015, for example—was allow public authority contractors to refuse tenderers which failed to comply with the various environmental, social and labour law provisions listed in Annex X to the EU public contracts directive of 2014. Amongst other things, that annexe lists ILO Convention 87 on the right to organise and ILO Convention 98 on the right to bargain collectively. These provisions have been excised from the current Bill. Schedule 7 does not include such international standards as grounds for discretionary exclusion of tenderers, and the list of international agreements in Schedule 9 does not include any ILO conventions or, indeed, any human rights instruments at all.

The UK was the first country to ratify Conventions 87 and 98, in 1948 and 1949 respectively. They became the most fundamental and are now the most ratified of all the conventions of the ILO. The present Government might harbour the desire to denounce those conventions, as they did 40 years ago with Convention 94, given that the UK has been found to be continuously in breach of them since at least 1989. However, they cannot denounce them because they have recently committed to

"respecting, promoting and effectively implementing the internationally recognised core labour standards, as defined in the fundamental ILO Conventions, which are: … (a) freedom of association and the effective recognition of the right to collective bargaining"—

I will not read the rest, but I am quoting from Article 399 of the EU-UK trade and co-operation agreement of last year. That article also reiterates that the Government

"commits to implementing all the ILO Conventions that the United Kingdom and the Member States have respectively ratified".

In light of that, I ask the Minister: how can the exclusion in this Bill of references to ILO Conventions 87 and 98 as a potential basis of refusing tenderers be justified?

In conclusion, I wonder if the Minister would be prepared to meet to discuss whether and to what extent labour standards might be made conditions for public contracts.

8.16 pm

Lord Wallace of Saltaire (LD): My Lords, the noble Lord, Lord Maude, remarked that this is a dull subject and implied that we are all rather nerdish to be here. It has been, I think, a constructively nerdish debate. I admit that I have learned quite a lot about the problems of public procurement from working with the noble Lord, Lord Maude. I disagreed strongly with some of his ideas, but I agreed very strongly with some of them as well. I also shared his frustration that some of his best ideas were blocked by the departmentalism of Whitehall and the argument that each department made, as others do, of "We're different from the others —besides, I'm the Accountable Officer to Parliament", and that a number of opportunities for reasonable reform were therefore missed. Procurement is a very dull subject most of the time, but one punctuated by scandals when they hit the *Daily Mail*.

[Lord Wallace of Saltaire]

As a revising Chamber, if we are able to work together, our aim in this Bill should be to provide a framework which can outlast the present Government and to provide a stable, long-term environment for contracting between different parts of government and outside suppliers. The Minister will recognise that I say that with particular passion, having survived the Elections Act, as it now is, which was a deeply partisan and deeply unsatisfactory Bill which will have to be rewritten by whichever party comes into office after the next election. Let us do this one differently, please.

There is an awful lot of windy Brexiteer rhetoric about "taking back control" and replacing

"the current bureaucratic and process-driven EU regime for public procurement"—

but here we have an unavoidably bureaucratic and process-driven Bill to replace the EU regime. The Bill does not entirely "take back control" because, as we will have to discuss, the UK will still be governed by various international standards and limited by the commitments given in the various trade agreements we are signing with other countries.

What we must focus on is getting the framework and the requisite elements of parliamentary oversight right. I think we all recognise that we cannot do much more than that. The problems of implementation cannot be dealt with very easily in law. The training of national and local civil servants to manage procurement is clearly very important; outside the Bill, I would like to ask the Minister whether we can have some more information about what sort of training is being laid on to improve the quality of procurement at all levels.

There is clearly an excessively complicated contracts process which enables outsourcing companies like Serco and Capita, and the sad Carillion, to write contracts which they therefore win but which they do not actually execute quite as well as others might have done. We are dependent on the success of the digital platform, which we will have to discuss, but its actual execution is clearly out of the hands of anyone in this Chamber, although the noble Lord, Lord Clement-Jones, on our Benches, will want to discuss that a little more.

On parliamentary oversight, there is some very imprecise language, as always, in this Bill: "an appropriate authority" may do this, that and the other. Every time I read that, I thought of the noble Lord, Lord Hodgson, and his committee, and how much he will pounce on the idea that tertiary legislation will be provided by some sort of authority somewhere around or near Whitehall. Clause 12, on the national procurement policy statement, which we have discussed in some detail, states that

"a Minister … must … carry out such consultation as the Minister considers appropriate"

and the statement can be amended or replaced whenever a Minister considers it necessary. Since 2015, Ministers have changed, on average, every 15 months. We have had five or six Cabinet Ministers in various offices since 2015. That is an appalling rate of turnover. It also means that continuity is very hard to get and that parliamentary oversight questioning a Minister, asking why he or she wants to change the policy statement or whatever it may be, is an important part of trying to maintain continuity. We all know that in many areas of procurement, continuity and a long-term perspective are extremely important.

Many of the most attractive reforming ideas in the Green Paper, *Transforming Public Procurement*, appear only weakly in the Bill. The Green Paper proposes, for example,

"a new flexible procedure that gives buyers freedom to negotiate and innovate to get the best from the private, charity and social enterprise sectors",

but the charity and social enterprise sectors have almost entirely disappeared from the Bill. The Minister's letter at the time of First Reading stated that the reforms to the procurement regime would be based on value for money, competition and objective criteria in decision-making, whatever those objective criteria may be. The briefing on Bills in the Queen's Speech goes further, claiming that the Bill enshrines the principles of public procurement, with value for money first and foremost. We have heard from others in this debate that even the concept of value for money depends on whether you are saying value of money over one year, over five years or, as the manager of Crossrail said on television yesterday, over 60 years. It changes your calculations considerably. However, Clause 11 balances all this by adding as an objective "maximising public benefit", and Clause 18 refers to the "most advantageous tender", deliberately changed from previously, when it was the "most economically advantageous tender"—again without spelling out what criteria should come into play.

We will wish to put back in the Bill the language of the Green Paper, which states, for example, in paragraph 89:

"A more sophisticated understanding of different types of value—including social value … wider public policy delivery and whole-life value"

and refers in paragraph 100 to delivering

"greater value through a contract in broader qualitative (including social and environmental) terms".

In paragraph 39, the Green Paper calls for

"a proportionate delivery model assessment before deciding whether to outsource, insource or re-procure a service thorough evidenced based analysis".

That is wonderful but, again, why is not the option of insourcing confirmed in the Bill? We are all aware of the failure of water privatisation, for example, to deliver the promise that it would bring a surge of additional investment into the sector to clean up England's rivers and coastlines. It did not lead to that; it generated high profits for its investors instead.

The Bill is very soft on private utilities, in view of their very mixed record in several sectors. It aims, as Minister told us, to reduce the regulatory burden on private utilities and to reduce transparency requirements to "the minimum required" by international trade agreements. The Bill contains a mechanism to exempt utilities in some sectors, such as ports, from procurement regulation. Even Dominic Raab has now discovered that ports are an important part of our national resilience and security structure. I am therefore not sure that exempting them from that level of supervision is desirable.

The Minister is a good populist. I draw his attention to the Survation poll of voters in the red wall seats captured by the Conservatives in 2019, which showed

an overwhelming preference for some form of public ownership and management of water, energy supply, public transport, health and social care services. The Government are not giving their voters what they want.

The case for not automatically assuming that private service companies will provide the best outcome is strongest in the provision of personal services and social care, as the MacAlister report has just shown. The report states bluntly:

"Providing care for children should not be based on profit."

The horrifying stories in today's *Times* about the excessive profits made by convicted criminals through managing social care for children reinforce all of that case. Local authorities may often be the most appropriate provider. One of the most absurd and damaging central government decisions on outsourcing was, at the beginning of the pandemic, to put out the test and trace scheme to two large service companies, one of them based in Florida, which had no idea of local geography or conditions, when local public health officers already had the knowledge and contacts to provide a faster and more effective response. The Minister has a distinguished record in local government. I am sure that he does not share the view of some of his ministerial colleagues that central government should always have the main control of everything that goes on.

Briefings on the Bill all refer to ensuring "greater transparency of data". We have all learned to be sceptical of government promises of transparency, freedom of information, and so on. Here, too, we shall want to ensure that there is active parliamentary oversight.

The briefings we have received from the Local Government Association and the National Council for Voluntary Organisations contain a number of reasoned criticisms and proposals for amendments which I hope the Government will accept to improve the Bill. I particularly noted the NCVO's reference to the role that some strategic suppliers play in adding SMEs and charities to their promised supply chains but then not following through by giving them contracts—using charities and SMEs as "bid candy", as I gather is the phrase. A more critical approach to companies that are skilled in drafting sophisticated contracts but not good at delivery is clearly needed but, again, that is more a matter of changing the negotiation of contracts and improving monitoring than of drafting in the Bill.

There are issues of corruption and of preventing undue political influence, which are touched on in Part 5—Clauses 74 to 76—which we will also need to discuss, despite the remarks of the noble Lord, Lord Moylan. I am not entirely sure that I yet understand the concept of dynamic markets, and I should welcome a further briefing on that.

I end where I began: I hope that, as a group of nerds, we can agree to a considerable degree on what needs to be done, that we can manage to put into the Bill a coherent framework for the future of public procurement, and that the Minister will co-operate with us—I thank him very much for the briefings we have already had and look forward to more—in achieving that objective.

8.30 pm

Lord Coaker (Lab): My Lords, I start by thanking the noble Lord, Lord Wallace. It is a privilege to follow him and say that I agree with much of what he had to say and the way he said it. I also thank the Minister for the customary way in which he introduced the Bill and tried to explain the various parts of it—I think the whole House was grateful to him for doing that. The thrust of the debate has shown that most noble Lords are basically in favour of much of the Bill and the direction in which it is going. However, we seek to improve and develop it, and to test what the Government really mean in certain aspects of it. I hope that the Minister will take my remarks in that context.

To the noble Lord, Lord Moylan, I say that I support the Government's endeavour. I guess that makes the Minister a semi-capitalist, whereas I am a full-blown anti-capitalist in what I am going to say, so I apologise to the noble Lord in advance for that. I hope he will manage to stay in his seat and not get too upset by some of the things I am going to say. It appears to me that, so far as he is concerned, his own Government are treading down a dangerous path—whereas, for me, they are very much treading down a welcome path.

My noble friend Lord Whitty hit the nail on the head when he said that the importance of all this is that law sets the context, the priorities for a Government and the way in which you would wish a Government to act. This is the importance of the Bill before us. As my noble friend Lady Hayman pointed out in her excellent opening speech, this is the opportunity for us as a country—but also for this Government, pushed and supported in many ways by many of us in this House—to actually change direction. I think that is what the country wants. Coming out of the pandemic, the country does not want a return to things as they were and to business as usual. I believe that that is why the Government have done this. Of course, they have been consulting on it, but they mentioned it in the last Queen's Speech in 2021 and did not do anything. Now they have mentioned it in 2022 and come forward with it—so I think they themselves recognise that there is a need to act. The public want something better, we want something better, and now is the time for us all to move forward.

On the £300 billion-worth of public spending, I would be interested to learn what the actual figure is with the exemptions. If the Minister cannot give it to us now, can he write to us with the actual figure: is it £300 billion or will it be less than that with the exemptions and so on that are included in the Bill? If we accept that figure, £300 billion-worth of public spending can be used to drive forward the sort of country and businesses we want. As many noble Lords in this debate have said, this is the way we can move forward and the direction we can take. Whether it be on labour, climate, levelling up, anti-poverty or anything else, this is a real opportunity for us to change direction. That is what is at the heart of this Second Reading debate: have the Government gone far enough, could they go further and what other steps could they take in order to move forward?

[Lord Coaker]

The Government set out six principles in their Green Paper—

"the public good, value for money, transparency, integrity, fair treatment of suppliers and non-discrimination"—

so it is somewhat disappointing to find that, when we come to the actual Bill, we have four factors and no principles. I think it was the noble and learned Lord, Lord Thomas, who mentioned the importance of Clauses 11 and 12 taken together, where there are objectives but no principles. What we mean by that will be a subject for debate by all of us in Committee. Clause 11 is fundamental to the whole operation of the Bill. What are we going to require businesses to do? What are we going to expect of them? What will the public procurement push them to do?

At some point the Minister will also need to clarify Clause 12 and what the national procurement policy statement will be. My understanding is that the existing one will go and a new one will be produced following the passage of the Bill. I think we need to know what is said on that.

Many noble Lords mentioned the need for us to consider things such as social, environmental and labour clauses. That is why Clause 18 is really important. As the noble Baronesses, Lady Bennett and Lady Parminter, and very powerfully my noble friend Lady Young pointed out, the move from having the most economically advantageous tender to taking out the reference to "economic" and having in its place the "most advantageous tender" gives us the opportunity to include social and environmental issues. As my noble friends Lord Davies and Lord Hendy pointed out, we can look at labour proposals with respect to that and demand certain things of businesses, because that is the sort of model and the sort of change we want.

My noble friend Lord Mendelsohn, from his experience as a businessman, and others pointed out the importance of this for small businesses. What will it mean for them? How will it help them? As the noble Lord, Lord Fox, asked, how will the new digital portal work in a way that gives business access to the sorts of things the Government want? What about the late-payment provisions in the Bill? How will they help? How will it work? There are all sorts of questions to be answered, and obviously we can discuss the details in Committee.

Transparency is everything. You cannot do anything without transparency—without knowing what is happening and what is going on. As my noble friend Lady Young pointed out, we need the data to be able to do that. Otherwise, it will be like the analogy with football—not liking football and not even knowing the result because nobody has given it to you, so you cannot tell who has won or lost.

One of the really important things is how all this will be enforced. In the Green Paper there was a procurement review unit, which has now been downgraded to an "appropriate authority", with no clarity on what that means. As far as I can understand from reading Part 10, the appropriate authority will be able to make recommendations and conduct an investigation, but there is no way that those recommendations, as a result of any investigation, will be binding. The Minister will correct me if I have this wrong, but if they are not binding, what difference does it make? How will the new appropriate authority that will enforce all these regulations work in practice and ensure that what we intend and want from the Bill actually happens?

How will we ensure that the benefits outlined in the Procurement Bill spill over into defence? Clause 105 deals with single-source contracts, which are worth approaching £10 billion. How will that work? As I understand it, there will be new secondary legislation to deal with that. All the Bill does is to introduce primary legislation to allow changes to be made to secondary legislation, which will deal with the single-source contracts that the Ministry of Defence operates in certain circumstances. I do not understand what difference that will make, and at some point we will need to understand that.

There is a huge problem with defence spending, which has bedevilled the department for a number of years. The noble Baroness, Lady Smith, and my noble friend Lord Hunt spoke about that. To take one example, 29 Ajax vehicles have been delivered to the Government at a cost of £3.5 billion so far. There are more on the way. We are supposed to have 569, which were supposed to have been delivered four or five years ago, so there is a huge problem around this. We need to know how the Procurement Bill will improve defence procurement and all that.

Secondary legislation is a huge problem. Large numbers of regulations are set out in Clause 110, so while we have the principle that we will debate and discuss, much of this will be done by secondary legislation. That will be a real problem because the devil will be in the detail. Indeed, the noble Lord, Lord Stevens, mentioned some of the problems with secondary legislation in respect of this Bill, including how it will interrelate and cross over with the Health and Care Act. He was right to point that out for the benefit of noble Lords.

I want to talk a little about Part 7. The noble Lords, Lord Alton and Lord Wigley, and the noble Baroness, Lady Brinton, all mentioned the importance of procurement in the context of our international obligations. I do not believe that the British public, or the vast majority of decent people, would want anybody to be procuring from companies or countries where there are huge human rights violations. We are all realistic about this. We all know that it is very difficult, but it cannot be right that, where we are absolutely certain that there are human rights violations, it is business as usual. I hope that when we discuss Part 7 with the Minister in Committee, it will become clearer that the requirement for our international obligations to have a greater human rights dimension—in who we procure from and what we procure—is a really important part of the Bill.

In conclusion, we have approximately £300 billion of public expenditure. The days of the lowest-cost rules must be over. That is the demand from the citizens of this country. Other factors can be, and should be, taken into account. The Bill is a huge opportunity and the Government have grasped it, but many of us are going to push them further for a change to how procurement works—to rework it and remake it in a

way that reflects modern business practice, the modern economy and the modern society that people want. It is an opportunity that we have to take.

8.42 pm

Lord True (Con): My Lords, I thank very much all those who have taken part in the debate. Myriad points have been raised from all sides of the House. I never know what the usual channels are deciding, but it is probably a good thing that, as I understand it, we are not going into Committee for some time because I can feel a compendious letter to your Lordships coming on, which might be as long as the Explanatory Notes.

Your Lordships will forgive me if I do not deal with every detailed point; I will try to address some of the main themes of the debate, which were expressed very well by the noble Baroness, Lady Hayman, when she opened and the noble Lords, Lord Coaker and Lord Wallace, in summing up. We will not agree on all these things. Certainly, in some of the speeches from the other side, there was a yearning to impose policies on the private sector—on people outside government. The high-water mark was the speech of the noble Lord, Lord Hendy, which I guess was the counterpoint to the low-water mark—I am not sure there was any water in it at all—of the speech of my noble friend Lord Moylan. To impose your political objectives on a nation, you have to win an election and form a Government. What we need to do—there was great support and great consensus across the House on this—is put together a framework that we could all work with to provide clarity, simplicity and, yes, transparency, which I will come on to, for those seeking to provide to public procurers.

An important speech on defence was made by the noble Baroness, Lady Smith, and the subject was also alluded to by the noble Lord, Lord Coaker. My noble friend Lady Goldie will respond in writing on the points made but, obviously, when we get into Committee, we will be able to address the points.

Points were raised about control, management and remedies. The noble and learned Lord, Lord Thomas, put forward some ideas. We will reflect on those but, basically, the law of the land is the framework; my noble friend was right.

Many noble Lords alluded to Covid-19 procurement. I understand that but we need to look forward. While the debate was going on, I looked this up on my machine and saw that in April 2020 the leader of the Liberal Democrats was calling for all red tape to be swept aside to get PPE. People in other parties were saying the same. Yes, mistakes were made, but when you make mistakes you must learn from them. We are putting together a regime that will deliver more comprehensive transparency requirements, clear requirements on identification, management of conflicts of interest and so on. It is right that we should address those things, but the priority of the Government—indeed, of all of us in all parties—as the pandemic we knew so little about arose, was to save lives. I acknowledge that there are lessons, but I hope that when we look at how the Bill is structured, we will see that we have an improved framework for addressing all aspects of procurement.

The noble Lord, Lord Alton of Liverpool, and others rightly addressed the issue of human rights. We will discuss this in Committee. I had the pleasure of discussing it with the noble Lord before, as he was kind enough to say. Certainly, modern slavery has no place in government supply chains; I affirm that strongly. I accept that the current rules on excluding suppliers linked to modern slavery are too weak. For example, they require the supplier to have been convicted, or for there to have been a breach of international treaties. These rules are not capable of dealing with some of the issues that we see.

We are making explicit provision in the Bill to disregard bids from suppliers known to use forced labour or to perpetuate modern slavery in their supply chain. Authorities will be able to exclude them where there is sufficient evidence; they do not need to have a conviction. We are seeking to respond in this area and no doubt we will be probed further.

One issue raised right from the start by the noble Baroness, Lady Hayman, was that of principles. A lot of people have said that this was in the Green Paper but is not in this Bill. A Green Paper is a basis for consultation and reflection. A Bill is the proposition that the Government put before Parliament and this is the proposition that we are putting before Parliament. The Bill splits the procurement principles into a group of objectives and rules to help contracting parties understand what they are obliged to do. The rules on equal treatment, now termed "same treatment", in Clause 11(2) and (3) are obligations that set minimum standards in plain English that contracting authorities must follow on treating suppliers in the same way to create a level playing field. Non-discrimination, in the context of the Bill, means discrimination against treaty state suppliers on the grounds of nationality, which is a concept different from non-discrimination in the UK market. The national rules on non-discrimination in the Bill can be found in Clauses 81 to 83.

There were a number of changes to the principles. For example, the procedural transparency obligations in the Bill are complemented by a new information-sharing objective in Clause 11(1)(c), which will provide clarity to contracting authorities on exactly what they need to publish. There is also no need for an objective to maximise competition in procurement processes under the Bill, as procedural obligations start with the use of open and fair competition, unless there are legitimate grounds to dispense with or narrow competition. The most obvious of those would be special cases for direct award.

I acknowledge that transparency has been a key ask for the House. The House expects that transparency will be improved. We believe that the Bill does this. We are extending the scope of publication requirements to include planning and contract performance, in addition to current requirements to publish contract opportunities and contract awards. By implementing the open contracting data standard we will publish data across the public sector so that it can be analysed at contract and category level, and compared internationally. The new regime will also establish obligations on contracting authorities to capture potential conflicts of interest for individuals working on procurement additionally,

[LORD TRUE]
or mandate the publication of a transparency notice whenever a decision is made to award a contract using a procedure as a direct award. This will all be supplemented by a comprehensive training programme that will be available to contracting authorities, which I will come back to later.

We remain committed to our aim to embed transparency by default through the commercial life cycle. We recognise and make no apology that this new regime seeks to do that. The new central digital platform will be designed to make complying with the new transparency requirements automated and low cost. We intend to make data analysis tools available to contracting authorities, which will ensure that they can use the data available to drive value for money.

Taxpayers have a right to see how public money is spent. There is abundant evidence of public engagement with contracting information, and it increases as the data improves. Because the data will be more comprehensive it will be more valuable and, we believe, better used. I have no doubt that we will be tested on that, but I assure the noble Baroness opposite that it is something we are extremely determined to achieve.

On social objectives, I was asked by a number of noble Lords how the Bill will help with achieving net zero. I accept that the Bill does not include any specific provisions on the Government's target to achieve net-zero carbon emissions by 2050, but it will require contracting authorities to have regard to national and local priorities as set out in a national procurement policy statement to be published by the Government, and the Wales procurement policy statement to be published by Welsh Ministers. Many noble Lords have given notice that they will want to return to examination of the national procurement policy statement, how it will operate and how it will go forward, but there are statements in there.

Public sector buyers are able to structure their procurements so as to give more weight to bids that create jobs and opportunities for our communities, where this is relevant to the contract being procured. This is absolutely in line with the concept of value for money. Social value in procurement is not about a large corporate's environmental, social and governance policies but about how the contract can be delivered in such a way that it delivers additional outcomes, such as upskilling prison leavers, which I think someone referred to.

Delivering value for taxpayers should certainly be the key driver behind any decision to award contracts to companies using public money, but again, public sector buyers will have to have regard to the national policy statement. The Bill will take forward a change from "most economically advantageous" to "most advantageous" to reinforce the message that they should take a comprehensive assessment of value for money, including the wider value of benefits, in the evaluation of tenders.

I know that many of your Lordships want to see and have asked for buying British. Public sector procurers are required to determine the most advantageous offer through fair and open competition. We confirmed in December 2020 that below-threshold contracts can now be reserved for UK suppliers and for small suppliers where it is good value for money. This applies to contracts—in those strange figures in the Bill that arise from international treaty—with a value below £138,760 for goods and services, and £5.336 million for construction in central government.

Above those thresholds, we need to act in line with our international obligations. A blanket "Buy British" policy would conflict with the UK's international obligations to treat suppliers from other countries on an equal footing. The requirement for fair and open competition is a two-way street because it gives UK firms access to other markets. Within the UK, on average, just over 2% of UK contracts by value were awarded directly to foreign suppliers between—

Lord Fox (LD): I thank the Minister for giving way. I am confused and I am sure he can help me. Clause 82(1) specifically says:

> "A contracting authority may not, in carrying out a procurement, below-threshold procurement or international organisation procurement, discriminate against a treaty state supplier."

The Minister just said the opposite of that in the case of below-threshold procurement. The Bill is very clear that a below-threshold procurement does not let off the contracting authority from having to give the contract to a treaty state supplier.

Lord True (Con): My Lords, I was hoping to make progress and I know that your Lordships would like to conclude these matters. As the noble Lord says, those clauses refer to international treaty obligations. What I was saying was in reference to a contract to let; I was asked very pertinently by the noble Lord, Lord Whitty, for example, about local authorities buying locally, and I repeat what I said: below-threshold contracts can be reserved for suppliers located in a particular geographical area. If international issues arise, that is a different matter. This policy was set out in the Government's *Procurement Policy Note 11/20*.

My noble friend Lord Lansley and many others, including the noble Baroness at the start, asked me about innovation. The legislation will put more emphasis on publishing pipelines of upcoming demand, procurement planning and pre-market engagement so that businesses can properly gear up to deliver and offer the best innovative solutions. It will have a new competitive tendering procedure which will enable contracting authorities to design and run procedures that suit these markets. For example, it will allow them to contract with partners to research, develop and eventually buy a new product and service in a single process. The new rules will make it clear that buying innovation does not apply only to buying something brand new but can be about developing an existing product to meet different requirements.

The noble Lord, Lord Stevens, the noble Baroness, Lady Brinton, and others asked about the health service and the relationship with the DHSC. These reforms sit alongside proposals to reform healthcare commissioning which have been enacted through the Health and Care Act. We recognise the need for integration between local authorities and the NHS, both for joint commissioning and integrated provision, and we will work closely with the Department of Health and Social Care.

I repeat: the public procurement provisions will not result in the NHS being privatised. The procurement of clinical healthcare services by NHS bodies will be governed by DHSC legislation and is separate to the proposals in the Bill. However, the non-clinical services, such as professional services or clinical consumables, will remain part of the Bill. Clause 108, which I agree is widely framed as it sits in the Bill, is needed to ensure that it neatly dovetails with any regime created under the Health and Care Act, providing clarity. Obviously, we will have that probed.

Accessibility was another theme that was raised by the noble Lords, Lord Whitty and Lord Fox. The Government remain committed to ensuring that public procurement drives value for money, and that includes better outcomes for disabled people, as it must. The Bill does not dictate how technical specifications may be drawn up, only what is actually prohibited, as set out in Clause 24. However, there is a clear expectation that when contracting authorities set technical specifications for procurement, they do so in a way that takes into account accessibility criteria for disabled persons. Clearly, this is an important matter that requires further consideration, and we commit to doing that.

Training is important, and the training package will be made available in good time for users to prepare for the new regime being implemented. That is why we have committed to six months' notice before going live, and the training will be rolled out. The Cabinet Office will provide both funded training and written guidance and learning aids, covering the range and depth of knowledge requirements for those operating within the new system. The online learning will be free at the point of access for contracting authorities. The knowledge drops will be freely accessible for all via YouTube, and the written guidance and learnings will also be free and accessible for all via GOV.UK.

The noble Lords, Lord Mendelsohn and Lord Aberdare, asked some pertinent and specific questions about small businesses, and I will certainly make sure that they are answered. This legislation will help SMEs to win contracts for many reasons: bidders will only have to submit their core credentials to the single platform once, for example, making it easier and more efficient to bid. The single transparency platform, or single sign-on, means that suppliers will be able to see all opportunities.

The new concept of dynamic markets, which we will explore, is intended to provide greater opportunity for SMEs to join and win work in the course of a contracting period. The Bill will ensure that subcontractors in chains will also benefit from prompt payment obligations.

There are many other ways in which we intend to help SMEs. The noble Lord, Lord Wigley, asked about the great Principality of Wales. Wales will, as he knows, have the power to publish its own procurement policy statement, in which it can set out its own local priorities for communities. We have worked closely with the Welsh Government to ensure that there is continuity for Welsh contracting authorities. For the first time, Welsh Ministers will be able to regulate the procurement of some goods and services in Wales by some cross-border contracting authorities. But in our judgment, it is right that, where the scope of a procurement extends outside Wales into the rest of the UK, the UK rules should apply.

Publicly funded housing associations would be in scope of the contracting authority definition. However, I am advised that privately funded providers of social housing would not be in scope because they do not meet either the funding or the control requirements. I will write to the noble Lord further about this.

I was going to address points about data collection, but—

Lord Cormack (Con): Write a letter.

Lord True (Con): I will indeed write a letter. It is very helpful to have my noble friend write my speeches for me.

I will answer other points but, to conclude, I thank noble Lords for their extremely intelligent, thoughtful and well-considered remarks, which the Government will consider in Committee. Our proposals have been consulted on extensively and we believe that they are common sense, but we can always gain from listening to your Lordships. In that spirit, I hope that your Lordships will support these proposals as they progress through the House.

Lord Wallace of Saltaire (LD): I do not want to detain the House, but, since my noble friend Lord Strasburger made some serious points about a major contract, could the Minister possibly say that he will undertake to meet him and others to respond to some of the points he made?

Lord True (Con): The noble Lord made a speech that went wide of the Bill. I will look at what he said in *Hansard* and respond thereafter. I make no commitment at this point.

Bill read a second time and committed to a Grand Committee.

Procurement Bill [HL]

Order of Consideration Motion

9.05 pm

Moved by ***Lord True***

That it be an instruction to the Grand Committee to which the Procurement Bill [HL] has been committed that they consider the Bill in the following order:

Clauses 1 and 2, Schedules 1 and 2, Clause 3, Schedule 3, Clauses 4 and 5, Schedule 4, Clauses 6 to 40, Schedule 5, Clauses 41 to 54, Schedules 6 and 7, Clauses 55 to 69, Schedule 8, Clauses 70 to 81, Schedule 9, Clauses 82 to 105, Schedule 10, Clauses 106 and 107, Schedule 11, Clauses 108 to 116, Title.

Motion agreed.

Sue Gray Report

Statement

9.06 pm

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, with the leave of the House, I will now repeat a Statement made by my right honourable friend the Prime Minister in another place. The Statement is as follows:

"With permission, I will make a Statement, Mr Speaker. I am grateful to Sue Gray for her report today, and I want to thank her for the work that she has done. I also thank the Metropolitan Police for completing its investigation.

I want to begin today by renewing my apology to the House and to the whole country for the short lunchtime gathering on 19 June 2020 in the Cabinet Room, during which I stood at my place at the Cabinet table and for which I received a fixed penalty notice. I also want to say, above all, that I take full responsibility for everything that took place on my watch. Sue Gray's report has emphasised that it is up to the political leadership in No. 10 to take ultimate responsibility, and, of course, I do. But since these investigations have now come to an end, this is my first opportunity to set out some of the context, and to explain both my understanding of what happened and what I have previously said to the House.

It is important to set out that over a period of about 600 days, gatherings on a total of eight dates have been found to be in breach of the regulations in a building that is 5,300 metres square across five floors, excluding the flats. Hundreds of staff are entitled to work there, and the Cabinet Office, which has thousands of officials, is now the biggest that it has been at any point in its 100-year history. That is, in itself, one of the reasons why the Government are now looking for change and reform.

Those staff working in Downing Street were permitted to continue attending their office for the purpose of work, and the exemption under the regulations applied to their work because of the nature of their jobs, reporting directly to the Prime Minister. These people were working extremely long hours, doing their best to give this country the ability to fight the pandemic. The exemption under which those staff were present in Downing Street includes circumstances where officials and advisers were leaving the Government, and it was appropriate to recognise them and to thank them for the work that they have done. I briefly attended such gatherings to thank them for their service—which I believe is one of the essential duties of leadership, and is particularly important when people need to feel that their contributions have been appreciated—and to keep morale as high as possible.

It is clear from what Sue Gray has had to say that some of these gatherings then went on far longer than was necessary. They were clearly in breach of the rules, and they fell foul of the rules. I have to tell the House, because the House will need to know this—again, this is not to mitigate or to extenuate—that I had no knowledge of subsequent proceedings, because I simply was not there, and I have been as surprised and disappointed as anyone else in this House as the revelations have unfolded. Frankly, I have been appalled by some of the behaviour, particularly in the treatment of the security and the cleaning staff, and I would like to apologise to those members of staff, and I expect anyone who behaved in that way to apologise to them as well.

I am happy to set on the record now that when I came to this House and said in all sincerity that the rules and guidance had been followed at all times, it was what I believed to be true. It was certainly the case when I was present at gatherings to wish staff farewell—the House will note that my attendance at these moments, brief as it was, has not been found to be outside the rules—but clearly this was not the case for some of those gatherings after I had left, and at other gatherings when I was not even in the building. So I would like to correct the record—to take this opportunity, not in any sense to absolve myself of responsibility, which I take and have always taken, but simply to explain why I spoke as I did in this House.

In response to her interim report, Sue Gray acknowledges that very significant changes have already been enacted. She writes—and I quote:

'I am pleased progress is being made in addressing the issues I raised.'

She adds:

'Since my update there have been changes to the organisation and management of Downing Street and the Cabinet Office with the aim of creating clearer lines of leadership and accountability and now these need the chance and time to bed in.'

No. 10 now has its own Permanent Secretary, charged with applying the highest standards of governance. There are now easier ways for staff to voice any worries, and Sue Gray welcomes the fact that

'steps have since been taken to introduce more easily accessible means by which to raise concerns electronically, in person or online, including directly with the Permanent Secretary'.

The entire senior management has changed. There is a new chief of staff—an elected Member of this House who commands the status of a Cabinet Minister. There is a new director of communications, a new Principal Private Secretary and a number of other key appointments in my office. I am confident that, with the changes and new structures that are now in place, we are humbled by the experience and we have learned our lesson.

I want to conclude by saying that I am humbled and I have learned lessons. Whatever the failings of No. 10 and the Cabinet Office throughout this very difficult period, for which I take full responsibility, I continue to believe that the civil servants and advisers in question—hundreds of them, thousands of them, some of whom are the very people who have received fines—are good, hard-working people, motivated by the highest calling to do the very best for our country. I will always be proud of what they achieved, including procuring essential life-saving personal protective equipment, creating the biggest testing programme in Europe and helping to enable the development and distribution of the vaccine that got this country through the worst pandemic of a century.

Now we must get our country through the aftershocks of Covid with every ounce of ingenuity, compassion and hard work. I hope that today, as well as learning the lessons from Sue Gray's report, which I am glad I

commissioned—I am grateful to her—we will be able to move on and focus on the priorities of the British people: standing firm against Russian aggression; easing the hardship caused by the rising costs that people are facing; and fulfilling our pledges to generate a high-wage, high-skill, high-employment economy that will unite and level up across the whole of our United Kingdom. That is my mission, that is our mission, that is the mission of the whole Government, and we will work night and day to deliver it. I commend this Statement to the House."

9.12 pm

Lord Collins of Highbury (Lab): I thank the Leader for repeating the Statement. I am rather disappointed that we are taking it so late in the day with so few Members present.

As the noble Lord, Lord Kerslake—a former head of the Civil Service—wrote in the *Guardian* this afternoon:

"Sue Gray's report is written in the measured and balanced way that you would expect from a longstanding civil servant … Event after event is juxtaposed against the prevailing rules at the time to devastating effect."

What also jumps out from this report is: why did it take Boris Johnson six months to acknowledge what was going on? Instead of owning up and taking responsibility, we had to see a costly police investigation, which concluded that he was the first Prime Minister in our country's history to have broken the law in office. Then we had to wait for the Sue Gray report.

During this time, we have seen Civil Service morale severely damaged and reputations trashed, including outrageous attacks on Sue Gray herself. I cannot improve on the *Daily Mirror*'s Kevin Maguire's description of the report in brief:

"Vomiting. Excessive boozing. Fisticuffs. Partying until 4.35 am (before Prince Philip's funeral). Broken swing. Secret Santa. Cleaners & security staff bullied. Red wine on walls. Karaoke. Sitting on laps."

There is also, of course:

"'We seem to have got away with it'—Martin Reynolds".

Lots of questions remain about the Prime Minister and others who believed that lockdown rules did not apply to them. That was driven in part by the idea that those working long hours, dealing with Covid-related issues had a pass-out to behave as they did and, in essence, to carry on regardless. That they would have condemned and clamped down on such behaviour if it had happened in the NHS, schools, local authorities and other public-serving workplaces is not in doubt.

When the dust settles and the anger—strongly felt by many of our communities—subsides, this report will stand as a monument to the arrogance of a Government who believed it was one rule for them and another for everyone else. It is pretty clear that the Prime Minister knew exactly what was happening in No. 10 throughout the lockdown period and that it was wrong, both legally and morally. Five months ago, he told the House of Commons that all guidance was followed completely in No. 10. I am sure many noble Lords opposite, if they were here, feel uncomfortable. I know that many of those who are not here feel uncomfortable, at the very least. I know that many feel far worse, especially those who served under previous, more honourable Prime Ministers.

In her response, I hope the Minister will comment further on how cleaners and security guards at No. 10 were able quickly to ascertain that those events were clear breaches of the lockdown rules and call them out. They were faced with what can be described only as entitled abuse, while the Prime Minister told Parliament that he was unsure what the rules were. In the light of Sue Gray's conclusion, does the Minister agree that the promised apology to those hard-working custodians and cleaners in Downing Street should be formal and in writing? They have been subject to rudeness and disrespect from officials and advisers while they were simply trying to do their job.

Sue Gray's report shows systematic law-breaking, with photographic evidence that the Prime Minister himself broke the rules on multiple occasions. Allegra Stratton is the only one to have resigned, despite this industrial-scale breaking of the rules. Does the Minister think this is right? When the Prime Minister said that he was taking personal responsibility, what did that mean, beyond those words? What action will he take? Allegra Stratton did take personal responsibility. As Keir Starmer said:

"No. 10 symbolises the principles of public life in this country—selflessness, integrity, objectivity, accountability, openness, honesty and leadership."

Nobody, but nobody, reading this report can honestly believe that the Prime Minister has upheld them.

Our constitution relies on Members of Parliament and the custodians of No. 10 behaving responsibly, honestly and in the interests of the British people. When our leaders fall short of these standards, Parliament has a duty to act. Without these standards, not only is our democracy weakened but our global reputation is impacted. The trust and confidence that this nation has built is severely weakened if the man who represents us is not believed by other global leaders.

I address these remarks to the noble Lords opposite. They must now use their influence on colleagues in the other place to stop this out-of-touch, out-of-control Prime Minister from driving Britain towards disaster. The values symbolised by the door of No. 10 must be restored. Only then can we restore the dignity of that great office and the democracy it represents.

Lord Newby (LD): My Lords, finally we have the Gray report. The country owes Sue Gray a tremendous debt of gratitude for undertaking her task fearlessly and thoroughly. It was typically dishonourable of the Prime Minister to try and persuade her at the 11th hour not to publish it at all, and typically courageous of her to do so. Will the Government at least release the minutes of her meeting with the Prime Minister, so that we can be clear exactly what took place?

On one level, today's report does not tell us anything new. We already knew that there have been multiple parties in Downing Street, and that the culture was the opposite of that which the Government were enjoining on the rest of the population. We already knew that the Prime Minister and the Cabinet Secretary, far from instilling a culture in tune with both their messaging and the legislation, were encouraging what was going on. And we already knew that, by denying what had happened, the Prime Minister was misleading both Parliament and the country. What the report does is provide the gory details—and gory they are.

[Lord Newby]

The Prime Minister's defence today is that Downing Street is a large, busy building; that it was appropriate to have farewell parties, that he did not stay long at the parties, and that he had no idea what happened after he had left. If this were any other large organisation, in either the public or private sector, these risibly feeble excuses would have meant that heads at the top would roll. That they have not is a major indictment of the Prime Minister, his Government and the Conservative Party.

By refusing to resign, the Prime Minister has weakened his own standing, that of his party, that of the country, and that of politics and politicians more generally. It is clearly of huge importance that this loss of reputation and standing be reversed. In the first instance, this can only happen if the Prime Minister is replaced, and this can only happen if he is ejected by his Commons colleagues or the electorate. As far as his Commons colleagues are concerned, it seems that there is in reality virtually nothing which the Prime Minister could do which would impel them to act. This is most strange, as the only reason the Prime Minister became leader of his party was that many people who knew him to be a charlatan and a liar held their noses, because they thought he was an election winner.

If they have been out on the doorstep recently, they will have found that this situation no longer obtains. Yet, with one or two notable exceptions, they sit on their hands. They are therefore all complicit in the duplicities of this Government. If his MPs do not act, the Prime Minister will be removed only by the electorate. Recent elections have shown what voters already think of him, and with every electoral contest, whether by-election, local elections or the next election itself, there will now be a reckoning for the Conservative Party. The sadness is that, until the general election comes, we will be stuck with this morally bankrupt and rudderless Government.

But if the Prime Minister comes badly out of this saga, so too, I fear, do the Metropolitan Police. They turned a blind eye to the parties when they first happened. Under intense public pressure, they initiated an investigation, but the fines which they imposed, concentrated as they were on junior and female staff who co-operated fully with them, compared to other more senior people who clearly did not, look arbitrary and incomplete.

They failed to explain themselves, so they cannot rebut the inevitable suspicion, widely felt across the country, that the policy on fines was driven not by a strict interpretation of the law but by a political impulse to let the Prime Minister off lightly. They are now facing legal challenges into the way they behaved. They should pre-empt these now by coming clean on the rationale for their partygate policies.

The Prime Minister, understandably, wishes to draw a line under this sorry saga and in his mind he has probably already done so. But the public have not, and there will be a reckoning.

Baroness Evans of Bowes Park (Con): I will attempt to address some of the points raised by the noble Lords. It is absolutely right, of course, that the Prime Minister has made a full and unreserved apology for what happened in No. 10. As noble Lords will have heard in his Statement, he repeatedly said that he takes full responsibility for everything that took place. He has acknowledged people's hurt and anger, which I think we have heard from the comments, totally fairly, from the two noble Lords, and which I think a lot of us feel having also seen the report. He has offered a full and unreserved apology, and he has accepted that more time should have been taken to establish the full facts at the very beginning.

The noble Lord, Lord Newby, asked about the meeting with Sue Gray that has been reported. The Prime Minister had a procedural update on timings and publication arrangements, prompted by No. 10 following a discussion at an official-level meeting, but the findings and content of the report were not discussed and the report has been published in full in exactly the form it was received.

The noble Lord, Lord Collins, rightly mentioned the references to the security staff and the cleaning staff, and the Prime Minister has strongly condemned that behaviour. He said during Questions in the other place that he was going to apologise personally to those affected—I think at that point he had not had the names; I am sure he will. I believe that some of those conversations have already happened. Everyone is unhappy at and horrified by what they read. He said quite strongly that he was going to take action himself, but that he also expected those who were involved in these situations to do so as well.

The noble Lord, Lord Collins, asked what has happened since. The Prime Minister has taken steps since the publication of the report to address some of the specific shortcomings identified, and a number of them were mentioned in the report. For instance, there is a new Permanent Secretary charged with applying the high standards of government, and there are now easier ways for staff to raise concerns. Things are being done, and that was one of the things that Sue Gray has acknowledged and welcomed. She has said that change needs to be embedded now, so that these things can really take hold.

9.28 pm

Lord Cormack (Con): My Lords, I admire and sympathise with my noble friend the Leader of the House. I am very sorry this has been taken so late and that I am the sole voice from the Government Benches to be able to comment. To me, and I hope my noble friend would agree, this report teaches us all to admire and respect the quiet dignity and the impeccable integrity of Theresa May. We should look to her for a real example of how a Prime Minister should behave.

Baroness Evans of Bowes Park (Con): My noble friend is absolutely right, and I had the privilege to serve under Theresa May when she was Prime Minister.

Viscount Stansgate (Lab): My Lords, I thank the noble Baroness the Leader of the House for repeating the Statement, which cannot have been a very pleasant thing to do. The House knows that the Committee on Standards in another place will in due course reach a view on whether the Prime Minister misled the House.

I would only ask the noble Baroness whether she thinks that noble Lords on the Government Benches can be proud of the Government in this matter and the behaviour of the Prime Minister.

Baroness Evans of Bowes Park (Con): I think I have made it clear that none of us is proud of what happened and what has been outlined in the report, and that is why the Prime Minister has made a full and unreserved apology.

Baroness Andrews (Lab): My Lords, one of the reasons I regret that the House is empty this evening is that noble Lords were not able to hear the speeches of my noble friend on the Front Bench and the Leader of the Liberal Democrats, because they were both forensic and demonstrated the values we would expect in public service. One of the questions my noble friend asked was about what the Prime Minister understands by "full responsibility". Does he accept that it means taking responsibility for the culture and behaviour of the entire management of what he is responsible for in the Cabinet Office?

What I heard this afternoon was not a full apology or the taking of full responsibility but a series of excuses. One of the most egregious was that, at the time, it was legitimate for Downing Street as a whole to have those parties to say goodbye to civil servants—when nurses, doctors and people throughout the health and care service simply would never have contemplated doing that, no matter how many of their colleagues left, as people became ill or were threatened by Covid. Can the noble Baroness explain to this House what she understands the nature of "full responsibility" for a Prime Minister, as leader of the Government, to mean?

Baroness Evans of Bowes Park (Con): As I have said, the Prime Minister has taken responsibility. He has apologised and committed to making changes to address many of the issues raised and, as I mentioned in response to the noble Lord, Lord Collins, a number of those have been set out in the Statement. I reiterate again that Sue Gray recognises that and has said she is pleased that progress is being made in addressing the issues. That is not to say that there is not further work to do, but action has been taken, and it has been taken speedily.

Baroness Bennett of Manor Castle (GP): My Lords, the seven Nolan principles of public office have been raised already this evening, but it is worth going through them: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Would the Leader of the House claim that the Prime Minister, today and in the behaviour outlined in Sue Gray's report, has lived up to those seven principles?

Baroness Evans of Bowes Park (Con): All Ministers of the Crown are expected to maintain high standards of behaviour and to behave in a way that upholds the highest standards of propriety. The Prime Minister has accepted that his behaviour, on occasion, did not meet those standards, and for that he has wholeheartedly apologised.

Baroness Hoey (Non-Afl): My Lords, the public were clearly very angry when they first heard about what had been going on in Whitehall. But now we have had the Sue Gray report—I commend her diligence—a full apology from the Prime Minister and the Metropolitan Police report, and we have seen changes in Downing Street. Outside this place and perhaps some elements of the media, I think many elements of the public—probably the majority now—really do want to draw a line under all this so that we can get on with the issues that are really affecting the country. But does the noble Baroness agree with me that there will be some people who will never give up criticising the Prime Minister because they do not like the fact that he took us out of the European Union, and that this still underpins a huge amount, particularly in some elements of the media? We all think what happened in Downing Street was shocking, but the apology has happened—let us move on.

Baroness Evans of Bowes Park (Con): As I say, the Prime Minister himself has acknowledged that there is a lot of anger and upset among the population about what happened in No. 10. He has accepted that, which is why he has apologised wholeheartedly. The noble Baroness may be right that there are still divisions over Brexit, but I think we are all trying to move on now and come together. She is absolutely right: we now need to address the real issues facing people every day, particularly the cost of living—of which noble Lords will hear more very shortly.

Baroness McIntosh of Hudnall (Lab): My Lords, I am sorry to come back to this point about what taking responsibility means, but I do not think we have quite heard an adequate description of what the noble Baroness thinks the Prime Minister has actually done to take responsibility. It is one thing to say, "I take full responsibility", but another thing to have taken full responsibility through what you do.

This may sound rather trivial, but when you are dealing with small children, as some of us in this House have at various times in our lives, they have to learn that saying sorry is not enough. If you know that what you did was wrong, saying sorry is not enough. Little children really struggle to understand that, but by the time we grow into adulthood we have to understand that saying sorry is not enough and that if we cannot put right the wrong that we have done, or that we have caused to other people, we have to take ourselves out of the picture. I am not saying that the answer is therefore that the Prime Minister has to resign—I might think that; I might not—but it is important that we understand what the Prime Minister has actually done and what he intends to do to put right the damage not only to the reputation of many people who have served him but to his Government and to the country.

Baroness Evans of Bowes Park (Con): I repeat again that he has taken responsibility. The Statement says that he himself has learned lessons. I have pointed out some of the practical things that have already happened on the back of the interim Sue Gray report on some of the issues she identified around leadership and other elements and structures in No. 10. That is in place.

[Baroness Evans of Bowes Park]

As I mentioned, there are now more ways for staff to raise concerns. There are practical things that have been done in No. 10 and the Cabinet Office to help address what has been said. He has taken and is taking steps. There may well be more to come, but tangible action has already been taken as a result of the interim Sue Gray report.

Baroness Bennett of Manor Castle (GP): The Prime Minister today told the other place that it was "appropriate" to hold gatherings to thank Downing Street staff for their service. I go to a tweet from Adil Ray OBE, the actor and writer, who, with understandable and rightful anger, noted that at exactly the same time you were told to

"go straight home on your own or watch on zoom when your loved ones were leaving this Earth."

Does the Leader of the House really believe that at that point in time it was appropriate to hold those Downing Street gatherings?

Baroness Evans of Bowes Park (Con): Like everyone, I feel incredibly sorry for everyone who was touched in such a horrific way by Covid. We all have immense sympathy but, as I have said and can only repeat, the Prime Minister has made a full and unreserved apology for what happened in No. 10 and taken steps to start to tackle some of the issues involved.

Baroness McIntosh of Hudnall (Lab): My Lords, can the noble Baroness say whether the changes the Prime Minister has made in No. 10, and in other aspects of the way the Government work, include changes to himself?

Baroness Evans of Bowes Park (Con): I am not the Prime Minister. He has said what he has said. I am sorry if the noble Baroness does not accept that, but he has offered an apology. He has said that he has learned lessons, and I believe that.

Baroness Young of Old Scone (Lab): Can the noble Baroness advise me? Around the time of some of the earlier parties, I developed some condition and had to go and see a doctor. That doctor wept in front of me. I did not know him. He was wearing PPE and a mask, and he was exhausted and at the end of his tether. When he asks me whether the sort of exhaustion and isolation he was facing and the things he was experiencing, seeing people dying of Covid, are equivalent to the sort of hard work that the Prime Minister this afternoon seemed to imply slightly justified people having parties, can the Leader of the House advise me on how I should rationalise those two sorts of hard work for the benefit of the doctor, whom I will no doubt see again at some stage?

Baroness Evans of Bowes Park (Con): I would certainly thank the doctor that you saw for the incredible work and service he provided and all the hard work that people across the NHS provided. The Prime Minister and civil servants within No. 10 and the Cabinet Office, and indeed across government, were also working very hard, obviously doing completely different things but helping to ensure that we had help for the homeless, to help provide shielding packages and to ensure that the doctor you saw had the PPE that he needed. But that is absolutely not to say that the doctor you met —and I am sure many other people around the country— faced similar circumstances, and the Prime Minister has acknowledged the anger that someone like that doctor might well feel.

Baroness Bennett of Manor Castle (GP): To return to the previous question I put to the noble Baroness the Leader of the House, I will simplify this down. The Prime Minister said today that it was appropriate to hold these gatherings to thank Downing Street staff for their service. Does the noble Baroness the Leader agree that it was appropriate to hold those gatherings?

Baroness Evans of Bowes Park (Con): I have already answered that question.

Baroness Andrews (Lab): I am going to ask the noble Baroness something else my noble friend asked her, about the fact that the cleaners and security staff at No. 10 seemed to know the rules governing behaviour over Covid. As she said, one of the most impressive things about Sue Gray's excellent, measured and professional report is that, before she describes each of the events, she sets out, quoting verbatim, what the rules actually were at the time of each of the different stages of Covid. The Prime Minister was on television practically every week reading out those regulations, telling people what they involved and what they could and could not do. Yet he has systematically said that he did not quite understand them himself in terms of what his own staff were doing and what he and they were allowed to do. But the cleaners and the security staff seemed to understand. What was it that the Prime Minister did not understand?

Baroness Evans of Bowes Park (Con): I can only repeat what was said in the Statement. The Prime Minister said that he understood that the rules and guidance had been followed at all times. That is what he believed was true, but he accepts now, in the light of the report, that his understanding of the situations that were happening, some of which carried on and happened without his knowledge, was wrong. He has corrected the record in that regard and once again apologised.

House adjourned at 9.42 pm.

Grand Committee

Wednesday 25 May 2022

Financial Exclusion (Liaison Committee Report)

Motion to Take Note

4.15 pm

Moved by ***Baroness Tyler of Enfield***

That the Grand Committee takes note of the Report from the Liaison Committee *Tackling Financial Exclusion: A country that works for everyone?: Follow-up report* (10th Report, Session 2019–21, HL Paper 267).

Baroness Tyler of Enfield (LD): My Lords, I am delighted to open this very timely debate on the Liaison Committee's follow-up report on financial exclusion. Perhaps I should explain the use of the word "timely". I am referring not to the fact that it is now over a year since the publication of that report and 11 months since the Government's response, but rather to the extreme salience of financial inclusion and exclusion, given the unprecedented cost of living crisis which is affecting so many people so acutely. First, I declare my interests in the register, particular as a member of the Financial Inclusion Commission and as president of the Money Advice Trust.

Turning briefly to the history of the report, I reflect that it has had a long gestation period. The original Select Committee, which I had the honour to chair, reported in March 2017, with 22 wide-ranging recommendations calling on the Government, the Financial Conduct Authority and the banks to give much greater priority to tackling financial exclusion and ensuring that vulnerable customers were getting a fairer deal. When we debated the report alongside the Government's response, in December 2017, I well recall expressing my disappointment with what I felt was a somewhat lacklustre and dispiriting response, particularly the rather dismal tally of recommendations that had been accepted. As we debate today the Liaison Committee's follow-up report, published in June last year, and the Government's response, I have to confess to a rather similar feeling.

I thank all the members of the original Select Committee and am absolutely delighted that the noble Lords, Lord Shinkwin and Lord Holmes, with all their commitment and expertise in this area, are both speaking today. I thank the Liaison Committee for conducting a follow-up inquiry. I think these follow-up inquiries are an excellent innovation, helping to ensure transparency and hold the Government to account on their response to Select Committee reports. Finally, I thank the excellent committee staff who assisted both the original Select Committee and with the follow-up report. I must particularly thank Lucy Molloy for her outstanding support.

The follow-up report contained 19 recommendations, covering such critical issues as access to cash, digital inclusion, basic bank accounts, bank branch and ATM closures, the role of the Post Office, control options, affordable credit, the Help to Save scheme, financial education, government leadership and the need for proactive regulation, and more besides. This demonstrates how multifaceted any serious attempt to tackle financial inclusion needs to be and why a strategic and co-ordinated approach among all the key players is vital. I will be able to focus on only a small number of these issues today, but before doing so I wish to reflect on the current state of financial inclusion in the UK.

I begin by acknowledging that there have been some positive steps, most particularly the inclusion in the Queen's Speech of legislation to safeguard access to cash—albeit two years after it was first announced in the 2020 Budget. I strongly welcome this as a means of ensuring that the 5.4 million adults in the UK who rely on cash are financially included. Three years ago, the Access to Cash Review warned that Britain was

"sleepwalking into a cashless society."

This has been exacerbated by Covid. As recent research from the RSA has shown, some 10 million people would struggle to cope in a cashless society and 48% of the population would find it problematic if there was no cash available.

I also recognise and welcome the steps the Government are taking, including the recent consultation, to bring "buy now, pay later" products within the scope of FCA regulation—a good example of the need for more proactive regulation. However, there was no specific mention of it in the Queen's Speech and I would be grateful if the Minister could say exactly when the "buy now, pay later" regulation is expected to come into force.

With so many bank branches and ATMs closing, it is vital that other facilities—such as enhanced Post Office services or new shared banking services or hubs, based on the existing pilots—come on stream. The recent levelling up White Paper mentions bank closures in both rural and urban areas but contains no specific policy measures to address them, hence my disappointment that our recommendation that the Government formally review the powers available to the FCA to mitigate the negative effect of the closure of bank branches and free ATMs was rejected.

More government action is urgently needed to ensure that the rapid expansion of alternatives for people wishing to use face-to-face services, including community banking hubs and Post Office services, are available within a reasonable distance, taking account of public transport and accessibility needs. Indeed, I still have the words to the committee of the money advice expert Martin Lewis ringing in my ears:

"To answer your question whether it is socially responsible for banks to be closing branches in the middle of this, I never attribute social responsibility to banks; that it is something that banks need to do. They are there to make money for their shareholders. Surely, it is for regulators and politicians to make sure that, if we need them to keep the bank branches open, they do so."

While we must protect access to cash, we also need effective action to support cash users who can do so to make the move to digital payments; this needs focused and co-ordinated work on digital inclusion, and I ask the Minister to set out what the Government are doing in that area.

[Baroness Tyler of Enfield]

Since our follow-up report in 2021, which reflected the massive impact that the pandemic had had on people's financial resilience, the soaring costs of living, with prices now rising by 9% a year, have placed yet more pressure on the most financially vulnerable. Indeed, when we made our recommendations last year, the evidence suggested that 27 million adults in the UK—more than half the adult population—were financially vulnerable. It is clear that this has become more dire for millions of people across the country, with many now unable to afford basic food and heating.

Research from the Money Advice Trust shows that some people are already having to go without in order to try to get by financially. Specifically, the research shows that, in the past three months, 12% of UK adults —equivalent to 6.2 million people—had gone without heating, electricity or water due to the rising cost of living, 8% had gone without food, and 25% had used credit to pay for food or bills because they had no other way to pay for them. Given that some price rises have only just come in, and with the strong likelihood of worse to come, particularly with energy prices rising again in October, there is great concern that more people will fall into debt, particularly on household bills, or end up going without essentials.

Equally worrying is the poverty premium, which means that poor people still pay more for essential goods and services compared to those on higher incomes. The poverty premium costs the average low-income household £490 a year, meaning that low-income and vulnerable consumers still struggle to afford, have to pay extra for or are unable to access appropriate products and services such as utilities, insurance and credit.

The energy poverty premium is particularly acute. Research commissioned by Fair By Design found that being on the best energy prepayment meter tariff could still be £131 more expensive than the best online-only fixed tariff. This must end. For households living below or around the poverty line, it has been estimated that the elimination of the poverty premium could potentially release an extra £4 billion per year into the local communities and economies that need it the most. So I ask the Minister to explain what immediate action the Government are taking to help to alleviate the poverty premium.

I want to focus on the case set out clearly in chapter 3 of the report for more proactive leadership and regulation by the Government and the FCA. I am particularly disappointed that our recommendation for a statutory duty for financial inclusion for the FCA was not given more consideration. The financial services Bill that was announced in the Queen's Speech is a once-in-a-generation opportunity to redesign financial services regulation to ensure that the regulator and the industry better serve the needs of customers. I strongly believe that this can be achieved only by giving the FCA a "must have regard" duty to financial inclusion, to ensure that it is both prioritised and enforced within the financial services sector.

I recognise that there are different views and different ideological approaches here, but I still have the words of so many of the eminent witnesses to the follow-up inquiry ringing in my ears. With the exception of Ministers, they were adamant that clear FCA objectives and a duty of care to customers were required to bridge the gap between the commercial interests of the financial services providers and the societal needs to achieve financial inclusion. As Natalie Ceeney, who chaired the Access to Cash Review, told the committee:

"the fundamental issue [is that] there are market segments that commercial models will never address. They are never going to be commercially viable to support the most vulnerable and the poorest."

The sometimes glaring gap between social policy and regulatory policy—with the Government and the FCA pointing the finger at the other as being responsible for action—lies at the heart of many of our recommendations.

The new consumer duty, currently being consulted on by the FCA, as well as its consumer vulnerability guidance, will not address this as it deals with the experience of consumers who currently do have access to financial products and services, rather than the accessibility of those products for those currently totally excluded. The only way to ensure that low-income or vulnerable consumers can access essential products and services is to give the FCA a clear remit on financial inclusion.

Many of our witnesses lamented the lack of an overall financial inclusion strategy. While the deliberations of the Financial Inclusion Policy Forum clearly continue to be helpful, and the national financial well-being strategy produced by the Money and Pensions Service is welcome, our expert witnesses felt that they were no substitute for a strategy that could galvanise financial inclusion efforts at a national level, bring together the various strands of work across all sectors and monitor implementation. I agree.

I still strongly maintain that if such a strategy were presented to Parliament annually as a Command document, as we originally recommended, it would allow for proper scrutiny and parliamentary debate. Of course, the Government now produce an annual financial inclusion report, including, for the first time, forward plans and activities. I looked at the most recent report, published on 21 December 2021, and saw that the forward plans section comprised four whole paragraphs covering just over one side of paper. That is not a strategy.

To conclude, despite my disappointment at the lack of progress in key areas since we reported, I firmly believe that this is an issue whose time has come. I look forward to hearing the expert contributions of other noble Lords and the Government's response. I beg to move.

4.27 pm

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to take part in this debate and to follow the noble Baroness, Lady Tyler. I was also privileged to serve on the original committee. The noble Baroness said that it has been a while since the updated committee report. I am not saying that the first report on financial exclusion was done a long time ago, but I was a young man then. Things take time.

This afternoon, I shall focus on cash, debt, regulation and financial technology, hereafter referred to as fintech. As the noble Baroness, Lady Tyler, pointed out, it is

positive that, in the upcoming financial services and markets Bill, we have the opportunity to see the Government's commitment to the future of cash in the UK. Can the Minister tell me what is the Government's intention for the acceptance of, as well as access to, cash? The difficulties around being able to access cash are one thing, but if there is no place to spend it, what is the purpose of cash? It loses its currency. So many places are going cashless. I do not single it out, but I saw earlier today that Center Parcs is cashless. As many families approach the Whitsun break, they will find that their cash has no currency there, as well as in many other venues around the country.

In last year's Financial Services Bill, I was delighted that the Government accepted my amendment on cashback without a purchase. The purpose was largely to try to fill the gap where so many banks have stepped away, with closed branches and ATMs, to enable cash to get into the hands of consumers in the community. More than that, research published in December last year demonstrated that the vast majority of uses of cashback without a purchase had been for £20 and below. It serves a market that even ATMs had not really served prior to that point, so it was a very positive intervention.

As the noble Baroness, Lady Tyler, pointed out, it is critical for the Minister and for everybody to understand and appreciate that cash still matters. It matters materially to millions. They cannot just be shut out of economic and thus social activity or society itself. As the noble Baroness also pointed out, it would be helpful for the FCA, as the regulator, to adopt a key role when it comes to promoting and having regard to financial inclusion. Will the Government reconsider the role that the FCA can play in this space?

Similarly, so much of the regulatory approach looks to areas around enabling financial services, but it is also important to look at the whole question of debt. Does the Minister agree that it is high time that we regulated debt advice services, which are often not performing the purpose that we might imagine? Online particularly, they are taking money for debt advice off people who are already in financial dire straits. Whatever we may think about debt, its devastating impact cannot be overstated. Of those in debt, 400,000 contemplate suicide, and 100,000 attempt it.

I have always believed that financial technology—fintech—has a potentially transformational role to play when it comes to financial inclusion. In saying that, I declare my fintech and technology interests as set out in the register. For example, as we saw at the outset of the pandemic, Starling Bank, a new neobank, produced its Connected card to instantly, effectively and positively help those who were socially isolating at that stage and throughout the pandemic. Fintech offers the opportunity to reimagine risk and take a whole new view of credit, not to increase risk in lending activities but to reimagine and reassess it, crucially in real time, and to use that data positively to enable and financially include.

I believe that open banking and open finance can have an incredibly positive role for all consumers. They can bring people into financial inclusion if we get it right. To illustrate the problem briefly, let us imagine a payment app. It could be the best piece of financial technology ever created, yet if it is in the hands of somebody who does not have the digital skills to use that app, that payment is not being made. Similarly, if that app is in the hands of someone who does have the skills to use it but is in an area of low or no connectivity, that financial payment is not being made.

This underscores the multiple nature of what is required for financial inclusion and how it is inextricably linked with digital inclusion and financial education. A good example of where this comes together in a positive way is what GoHenry, an excellent fintech business, is doing in its tremendous work with financial education for young people through their teenage years.

The initial Select Committee report and the Liaison Committee's follow-up report make the case clearly. There is much to be done if we are going to enable and deliver financial inclusion for everybody across the United Kingdom. It makes economic sense and it makes social and psychological sense because if we financially include, everybody benefits.

4.34 pm

Lord Balfe (Con): My Lords, I note that the noble Lord, Lord Davies, is not able to be with us, so the Committee get me. I thank the noble Baroness, Lady Tyler, for introducing the debate. I hope that I will not upset too many people by the time I finish speaking, but the most obvious point of the lot seems to me to be that one way of tackling financial exclusion is to give people more money. We can try all the sticking plasters in the world, but the fact is that a lot of people in society are struggling to get by, and their number seems to be going up. Their financial problems will not go away because the FCA passes a regulation. Having said that, there are, of course, many very useful things in here.

I gave up money when Covid arrived and our local shop put up a notice saying, "We no longer accept cash". I said to the very nice Turkish gentleman who runs it, "Why is that?". He said, "Because the coins could give me Covid". I said, "I don't think they could, but I am quite happy to use my debit card in here." I then thought about it and decided that I do not need money. I can honestly say that I have not carried any money for well over two years—so I am useless to tramps, for instance.

When we look at access to cash, let us realise that the world is changing. I am old enough to remember the *Daily Express* launching the "Save our Sixpence" campaign. It did not get very far, and most people today do not know what a sixpence is. Time moves on, and we are using less and less cash. When I go into my local stores today, very few people appear to be paying with money—and I am talking about the local Co-op, not expensive stores in expensive locations. We have to realise that we are heading towards if not a cashless society then one where cash is less of a factor. I do not think that we should resist this. It is rather like cheques. I got my cheque book out the other day to write a cheque—incidentally to a Member of this House for one of the APPGs—and it was the first time I had used it for a year, and that was because the APPG did

[Lord Balfe]
not know how to accept electronic payments. You can see that there is still some education needed, even in this House. The world is changing; that is the point I am making.

Part of digital inclusion has to be to put some effort into getting people, particularly of my generation, behind the computer. It is, of course, gradually catching on, and most of my friends transfer money electronically. It is also an education and class issue. We need more digital inclusion. I notice that all the schemes which were running around the time of the Labour Government —which my wife made quite a bit of money out of, incidentally—to teach the silver generation how to use a computer seem to have disappeared. They did some good—not a lot, but a certain amount. Their weakness was that, when the Government sent money to Cambridge City Council—a very good Labour Council, let me say—it looked very carefully and decided to put its money into local libraries in the poorest areas of Cambridge. This was 20 years ago, when I was much less competent with technology, so I thought I would slip down there; it was a bit much, but I went down to see. I drove down there and, lo and behold, the car park was full of Chelsea tractors, Mercedes-Benz and BMWs, as the middle class of Cambridge had pounced on the idea that there were free lessons to be got from the council in a very poor area. The one thing I did not notice was any people who looked particularly poor. When we are looking at digital inclusion programmes, we need to target them.

Similarly, I just say a word on basic bank accounts. They are an extremely good idea but one of the groups with the greatest difficulty with bank accounts that I have come across is people newly arrived in Britain. I do not just mean refugees on the shores of Dover, but also students. EU nationals used to have tremendous difficulties in opening bank accounts because they could not provide most of the documents; they did not have a council tax bill, utility bill or whatever. In a university town such as Cambridge, it was a major problem faced by many overseas people—and indeed still faced by many.

I have another one or two small points. I welcome the resolution to better regulate buy now, pay later. It is an anomaly. It has crept through, because it is a new idea that managed to get round all the regulation. Clearly, it is another form of credit and it should be subject to some rules, so I certainly welcome that. I hope that the Minister can tell us what the phrase in the government response means when, in answer to our point that

"This legislation should be brought forward without delay",

it states:

"The Government will publicly consult on policy proposals, and will then bring forward secondary legislation … as soon as parliamentary time allows."

Does the Minister have any estimate that he can give us? I notice that we have a little time spare in the Lords. We managed to get the Second Reading of a Bill through in about an hour and a half yesterday and I do not think that this one would take much longer.

I turn to my next point. I am interested to read about the no-interest loan pilot. I counsel the Government to be very careful. A no-interest loan is still a loan and will still go into that order of priorities, and the one who chases the softest gets the least. More years ago than I remember, I was involved in advising the system in Bangladesh, of all places, on setting up loans for the village co-operatives. The one abiding lesson that I came away with was that you needed to have community contribution and coherence. If you just gave a loan to an individual person, they tended to disappear or put it right down the scale; if you gave it to a community group—an identifiable source—you would find that the community would exert some moral pressure on it getting paid back.

I have one other point. Financial learning begins at home, of course. We all know that the first seven years of a child's life is when most of it is shaped, and that includes their attitude to money and to parents and many other psychological things. I was brought up by a grandmother born in Victorian England. She had a very strict attitude to credit—she did admit that mortgages could exist but she did not go much further than that. She used to say, "If you can't afford it, boy, save up for it. Don't you borrow—all the banks will get your money." I think she saw banks roughly as most people see terrorists; she was not very fond of banks. It is important that, through schooling and through parental education, we help to educate children about money. What they learn in those first 10 years they will probably carry through the rest of their lives.

4.44 pm

Lord Sikka (Lab): My Lords, I thank the Liaison Committee and all its members for the excellent report. It is a pleasure to follow the noble Lord, Lord Balfe, in this debate. I should just tell him that I applied for a credit card not so long ago. I put down that I am a retired pensioner and put in only my state pension amount. Very soon, a sign appeared saying that I was not eligible for a credit card, which was just a reminder to say, "You're too old, you're too poor, go away". It is a form of financial exclusion encountered by many people every day.

A major cause of financial exclusion and any social exclusion is poverty, which is increasing but the Government are doing little to tackle it. Trickle-down economics does not work: the rich keep getting richer while normal people struggle to make ends meet. The Government's tax policies are regressive, employment laws are not enforced—as clearly shown by the P&O Ferries case—workers' share of GDP continues to decline, pensions are inadequate, benefits lag behind inflation and redistribution is not a government priority. Is it any surprise that we have financial exclusion, which is really the tip of an exclusionary iceberg?

Financial services have increasingly moved from brick and mortar buildings and humans to cyberspace. According to Ofcom, some 1.5 million people do not have access to the internet. Broadband is expensive and paying £30 to £40 a month is beyond the reach of many, especially now that they are facing a cost of living crisis. Even if people manage to buy a computer, the rate of obsolescence is increasing as operating systems rapidly change. It is hard to see how many of the poor can continue to replace their computers every four or five years.

Might the Government consider adopting the Labour policy of giving free broadband to everybody? I remember during Covid going to a supermarket and seeing some young schoolchildren outside, huddled around a tablet. I asked them what they were doing; they did not have broadband at home and this was the only way they could catch a signal. It was bitingly cold, but there they were. Maybe the Government should provide free iPads to the needy as well as free broadband, which is essential.

I will confine the rest of my comments to banks, which are a vital part of our social infrastructure. The branch network plays a major role in the provision of savings, borrowings, financial services and finance for businesses, SMEs and local entrepreneurs. However, the bank branch network has been shrinking at an accelerating rate. Many villages and districts no longer have a bank branch, and post offices are closing too. People are left without financial services. The closure of local branches is a major reason why some traders—as they told me for a research project I did—demand payment by credit or debit card. They do not want to hang on to cash overnight as it is simply not secure; in the absence of a bank branch, they do not want any cash, which means a lot of poor people cannot afford to buy their goods and services.

Why are we witnessing this disappearance of bank branches? There are many reasons, one of which is mergers and consolidations. Lloyds TSB, HBOS and Halifax combined to form Lloyds Banking Group; inevitably, many branches vanished as they were not going to compete against each other. Santander acquired Abbey National, Alliance & Leicester and Bradford & Bingley; once again, lots of branches had to close.

The merger and takeover policy has been informed primarily by the need to compete at the global level, rather than ending financial exclusion. The social consequences of those mergers do not appear to be considered at all. Banking executives have sought to increase the size of banks to justify their mega pay packets. Maintaining an effective and efficient branch network is not part of any of their performance-related pay algorithm—it does not come into it at all. The bank websites continue to tell us that they are socially responsible, but that does not come into it either. A programme of bank branch closures has been pursued to cut costs and increase profits, rather than do what is good for the community. SMEs are left without good financial and banking advice; bank managers, because there are no bank branches, have absolutely no idea what is happening in the local community—where they could invest better, or what kind of diamonds or winners they can pick.

Under FiSMA, the FCA is required to

"promote effective competition in the interests of consumers".

The FCA website says that one of its duties is to

"make markets work well—for individuals, for business, large and small, and for the economy as a whole."

It is hard to see how any of these duties are met by unrestrained bank branch closures. Branch closures result in exclusion. Many citizens, especially the elderly and low-income groups, do not have access to a good broadband connection or a computer. Some people are told to go to libraries—so I went to look at the libraries, where many of the computers appeared to be steam-powered, incredibly slow and utterly unsafe. Nobody should really be accessing their financial services and banking from the library computers—and about 20% of libraries have vanished since 2010. We had a banking crash, and what did the Government do? Did they punish the bankers? No, they shut libraries everywhere. I do not know what the link is, but that was their solution. So again we have a problem.

Those who have mobile phones may not have access to strong wi-fi signals. Trekking to another town is not an easy option for the elderly, infirm, women with small children and local entrepreneurs. People have said that they could not afford to go to another town, or that they are a one-man operation and it basically means that they have to shut down their business for an afternoon; they are really stuck. Branch closures are actually transferring costs from banks to people, in the form of transport, time, pollution, road congestion, search and cyber risks, and many more. It is not a costless thing for banks to do; all they are doing is to shuffle costs.

ATMs can dispense cash, but they are dependent on the vagaries of the banks' IT systems. How many times have we read that those systems have failed? They also need to be replenished, and they always offer a very limited amount of cash. Again, that hinders many who are less well off. Even worse, I visited for this research project many poorer areas, and what did I find? Every ATM was charging a fee for withdrawal of cash, which is punishing people for poverty.

SME lending growth is restricted on average by 63% in areas where a bank branch closes, and where the last bank in town is closed the reduction in lending to banks was about 104%—a massive reduction. If people go to a bank branch in another town, they will do their shopping there and spend their money there, which means that their local town goes into a spiral of decline, because people are simply not shopping there at all.

I suggest that we need to put responsibilities on banks to do certain things. At the moment, banks rely on voluntary codes for closures. That is simply not acceptable. Stakeholders are consulted after a decision to close a branch has been made, but not before. I asked the bank to show me the financial calculations explaining why the local branch was being shut, and they said, "Oh, we can't show you that." If they had shown me, I could have unpicked the financial numbers quite easily and made an alternative case, but they were not willing to show me. People have hardly any notice, and basically human interest is not really taken into account. Banks should consult local customers first and show their financial numbers, explaining why a branch is being closed, and there should be an ombudsman to adjudicate on disputes. If a bank wants to shut down a branch, it should not be able just to get away with it.

We need a simple test: a bank must show that after the closure of a branch the local financial infrastructure is no worse off. If it is, the bank cannot close the branch; it can move it into a post office or a supermarket but it cannot simply walk away. Banks should have to pick up the costs. That fact is shown in the US Community Reinvestment Act 1977, which ought to be examined, as we can learn something from it.

[Lord Sikka]

Banks will not like that suggestion but I shall tell the Committee what we are doing for the banks, and I am asking for very little in return. We bail them out; we shower them with billions in quantitative easing; the public or the state acts as their lender of last resort; the Government provide the Financial Services Compensation Scheme; the Government send millions of customers to banks by ensuring that pensions and social security are paid through the banking system; and banks get their raw material, which is cash, almost free, while charging 40% interest on overdrafts. All I am saying is that banks need to give something back to the community. They should not be able to destroy local economies by simply closing local branches and walking away.

4.56 pm

Lord Bilimoria (CB): My Lords, the Liaison Committee follow-up report is called *Tackling Financial Exclusion: A Country that Works for Everyone?* The recommendations made in the original 2017 Select Committee report found that, four years on, financial exclusion is still highly prevalent in the UK—that is,

"the inability, difficulty or reluctance to access mainstream financial services, which, without intervention, can stimulate social exclusion, poverty and inequality."

Particularly at risk are those on low incomes, those living in poverty, young people, older people, people with difficulty in accessing banks and those lacking digital access.

The committee found that, despite the UK being at the forefront of the global financial industry and a leader in the fields of financial services, technology, fintech and innovation, financial exclusion is still a significant problem, saying that

"a sizeable number of UK citizens lack access to even the most basic financial services, while still more are forced to rely on high-cost and suboptimal products which can prove damaging to their long-term financial health."

We heard earlier about the role of the "poverty premium", where poor people pay more, which exacerbates the effects of financial exclusion. We have heard from virtually every speaker about the closure of bank branches and the growing emphasis on digital services. In one way that is a good thing, but it also intensifies financial exclusion.

The committee has made lots of recommendations, calling on the Government, regulators and industry to help those experiencing these difficulties. The recommendations also focus on supporting the financial capabilities of future generations. For example, the report says that financial education should be added to the primary school curriculum. Will the Minister confirm whether that is happening?

The Government responded, of course, and made the distinction between financial inclusion and financial capability. The noble Baroness, Lady Tyler of Enfield, said that the response lacked a sense of urgency and ambition. Does the Minister agree that there is a lack of urgency and ambition? On that note, I thank the noble Baroness for leading this debate.

In April 2021, as we have heard, the Liaison Committee published a follow-up report examining the progress by the Government and key stakeholders. The date shows that it came in the midst of the pandemic, and the Covid-19 pandemic made it particularly important to not only understand but take action on tackling financial inclusion. The follow-up report found that, four years on, financial exclusion is still highly prevalent in the UK, exacerbated by the pandemic, with millions experiencing low financial resilience. That is an important point: financial resilience is the ability to cope financially when faced with a sudden fall in income or unavoidable expenditure. Of course, as has been mentioned earlier, we are living through this now with the cost of living crisis, which, again, is exacerbating the situation. We need inclusive financial services, leadership from government and proactive regulation, and of course there is now the Financial Inclusion Policy Forum.

We have heard lots about access to cash already, and the noble Lord, Lord Sikka, spoke about digital exclusion. During the pandemic, I saw that this was so sadly apparent. Take digital access for schoolchildren as an example. On the one hand there is the child in their own room in their own house, with fast wi-fi and their own laptop, with a school providing education, and where they did not miss a single class, not even a singing lesson or an art lesson. At the other extreme there is the child in a 10th-floor council flat, with no wi-fi and no laptop, missing out completely on their education. There were issues of digital access, digital poverty and digital literacy, and it was sad to see.

On the lack of skills, according to the noble Lord, Lord Sikka, 1.5 million people have no access to the internet. We are the sixth largest and one of the most advanced economies in the world; how can we have a situation like that? There should be 100% broadband coverage in the country. Have the Government urgently raised their ambition from 85% percent to 100% broadband coverage?

Basic bank accounts are an essential requirement. We have bank branch and ATM closures. We still need cash. There is the role of post offices, affordable credit, the Help to Save scheme, debt advice, financial education, control options, the FCA's objective, the duty of care to customers, which we heard about, and the Government's financial inclusion strategy.

The FCA responded to the committee's follow-up report, saying

"there are themes that relate to areas we are actively working on",

which included a financial inclusion objective, a duty of care, control options, affordable credit, bank branches and ATM closures, digital inclusion and access to cash. The Financial Inclusion Commission, which is an independent body, commented on the report and also spoke about the adoption of regulation for "buy now, pay later" products. On one hand, these give financial access; on the other hand, they can be very dangerous.

The Financial Inclusion Commission gave some facts: 12.5 million UK adults have little or no confidence in their ability to manage money; 22% of all adults in the UK have less than £100 in savings; one in five adults would not be able to cover more than one month of living expenses if they lost their source of income. Just imagine what is staring us in the face with the cost of living crisis at the moment. One million people in the

UK do not have a bank account and 16% are borrowing to pay for essentials because they have run out of money.

The Money and Pensions Service's excellent report, *The UK Strategy for Financial Wellbeing 2020-2030*, said that

"a financially healthy nation is good for individuals, communities, business and the economy."

Its vision, according to the report, is

"Everyone making the most of their money and pensions."

It suggested five ways to drive change at scale: financial foundations; a nation of savers; credit counts; better debt advice; and a future focus for all adults. It says that while financial well-being is good for individuals, communities, business and the economy, poor financial well-being affects tens of millions of people and is holding our country back. The report says that

"9m people often borrow to buy food or pay for bills."

That figure has probably escalated hugely since then because of the cost of living crisis; does the Minister agree? The report also said that

"22m people say they don't know enough to plan for their retirement. And 5.3m children do not get a meaningful financial education."

OECD figures place the UK well down the rankings of G20 countries, behind France, Norway, China, Indonesia.

The MaPS states:

"Financial wellbeing is about feeling secure and in control. It is knowing that you can pay the bills today, can deal with the unexpected, and are on track for a healthy financial future. In short: confident and empowered."

If this is the case, businesses also benefit, because if people do not fall behind on their bills and their payments businesses have healthier profits and cash flows and do not need to write off debts. People with good financial well-being will spend in a way that is sustainable, and the wider economy, of course, benefits as well.

In a recent survey when it produced this report, the MaPS found that 1.7 million people said that they had received debt advice. It estimated that a further 3.6 million people needed debt advice because they had regularly missed payments throughout the previous six months. On targeting the strategy at those most in need, of the 40 million people of working age, 22 million said that they do not know enough to plan their retirement: 66% of 18 to 24 year-olds; 64% of working-age women; 48% of those approaching retirement. These are stark figures. In addition, there are 12 million people aged 65 and above, among them 5.4 million aged 75 and above.

When we talk about financial exclusion we are talking about vulnerability. We are talking about people with physical and mental health issues, individual personal circumstances, age—as I outlined—financial crime and gender. We are also talking about tackling digital inclusion; some 11.9 million people do not have the basic digital skills for day-to-day life in the UK.

The noble Lord, Lord Holmes, spoke about fintech. The Kalifa Review of UK FinTech in 2021—led by my friend Ron Kalifa, a fellow Zoroastrian Parsi—talked about "Inclusion and Recovery", and

"Supporting citizens and small businesses to access more, better and cheaper financial services—and doing so in a sustainable way to help 'build back better'."

The report recommends industry-wide coalitions on key issues such as financial inclusion. Does the Minister agree that there should be industry-wide coalitions?

I make one final point. Regardless of technology, people need to have the ability to speak to somebody. The branch in which I opened a bank account before I started at university does not exist anymore. The ability to walk in there and speak to someone does not exist. That is the case for so many people. It is so important that you can speak to somebody when you need to; we have to enable that access.

To conclude I will quote the Money and Pensions Service:

"a financially healthy nation is good for individuals, communities, businesses, and the economy. A successful strategy will need to influence a wider system of regulations, products, services and culture."

5.07 pm

Lord Shinkwin (Con): My Lords, it is a pleasure to follow the noble Lord, Lord Bilimoria. I congratulate the noble Baroness, Lady Tyler of Enfield, on securing this important and, as she reminded us, timely debate. I am pleased to have this opportunity, despite the amount of time that has passed since the original committee issued its first report, to thank her for her continuing leadership on this issue, both as chair of the original ad hoc Select Committee—on which I was privileged to serve, with my noble friend Lord Holmes and others, when a new Member of your Lordships' House—and in persuading the Liaison Committee that the issue we are considering today merited a follow-up inquiry and report.

The challenge of tackling financial exclusion is surely worthy not just of the work on which the noble Baroness has so ably led but of ongoing attention by the Government, the Financial Conduct Authority and the wider financial sector. For if there is one clear message that emerges from this report, and from what I am sorry to describe as a rather underwhelming response from the Government, it is that there is still a lot more to be done in this space, as my noble friend Lord Holmes of Richmond has already said.

As other noble Lords have also said, it is important to consider the current context of today's debate. That context is rapidly worsening as the poorest in society, as the noble Lord, Lord Bilimoria said, in particular face massive cost of living pressures, which does not seem to be reflected in the Government's response. I ask myself how best to describe the Government's response. "Detached", "sedate" and "academic" are words that come to mind, as do the terms "divorced from the wider context", "no sense of urgency", as the noble Baroness and the noble Lord, Lord Bilimoria, mentioned, and "a missed opportunity".

As a committee, we were mindful of our chair's helpful advice that our original recommendations should be measured and realistic. The recommendations in the follow-up report, which include reiterations of our original recommendations and some new recommendations, are consistent with that advice. Of course, the original and subsequent recommendations were made before rising inflation, interest rates, food prices and utility bills combined to such toxic effect, compounding the difficulties already faced by those who are financially

[Lord Shinkwin]
excluded. Like others, I would have thought that that would make the recommendations even more pertinent; however, the Government's response has disabused me of such logic.

At a time when Gus Alexiou, a journalist at *Forbes* who draws on his own lived experience of disability, writes of some disabled people worrying about not just how they will put food on the table but how they can afford to power the vital medical equipment necessary to keep them safe at home, the Government's equivocal response to the report seems surprisingly counterintuitive. Mr Alexiou explains that the medical equipment includes ventilators, nebulisers, oxygen concentrators, feeding pumps, SAT machines, seizure alert mats, kidney dialysis machines and rising beds. According to the UK-based pan-disability Scope, there are currently 900,000 people with disabilities living in fuel poverty, which could rise to about 2.1 million in October if typical annual domestic bills reach their predicted figure of £3,000. I speak with some personal experience of the medical equipment he mentioned because I have had to use nebulisers and have relied on oxygen concentrators and I still bear the scars, literally, of having a PEG—a feeding pump—to keep me supplied with essential nutrients when I was unable to swallow for five months following neurosurgery some years ago. I have been there—I have worn the T-shirt, as it were—and that was without having to worry about any financial considerations because I was in hospital at the time and I was not financially excluded. Mr Alexiou concludes:

> "What is far less difficult and actually, all too easy, is to get away with side-lining the suffering of millions of disabled people because you can be confident that everyone else just has too much on their plate and is busy looking the other way."

Hard-hitting stuff maybe, but I suspect that it will resonate with a lot of disabled people, a lot of whom identify as financially excluded. I am not saying that this is deliberate, but I am saying that, ultimately, a key factor in the Government's failure to seize the opportunity that responding to this report presents stems, I believe, from a lack of lived experience of financial exclusion and of disability at senior levels of the Government, the Treasury and the DWP. Otherwise—to pick just three examples of recommendations in the report that have already been touched on and that the Government have rejected—the Government would understand the importance of formally reviewing the powers available to the FCA to mitigate the negative effects of bank branch and free ATM closures; of expanding the remit of the FCA to include a statutory duty to promote financial inclusion as one of its key objectives; and of introducing a requirement for the FCA to make rules setting out a reasonable duty of care for financial services providers to exercise towards their customers. This would, of course, as has already been explained, be very different from the new consumer duty proposed by the FCA.

I think that the Government can do better than this. I hope that my noble friend the Minister will be able to show in his remarks that the Treasury, in particular, is willing to revisit the committee's modest, measured proposals in the light of a rapidly deteriorating economic situation both globally and here in the UK. In my view, the Prime Minister has given fantastic leadership on Ukraine. That now needs to be replicated here at home with the cost of living measures to be announced imminently. I really hope that they will include measures to tackle financial exclusion, as outlined in these recommendations.

This report reflects well on your Lordships' House. It is carefully considered and is testimony to the added value that your Lordships' House brings to political debate. I close by once again thanking the noble Baroness, Lady Tyler of Enfield, for her leadership. I am sure that this is far from the final word that she and others will have on this issue.

5.18 pm

Baroness Kramer (LD): My Lords, I start with a couple of thanks, echoing the noble Lord, Lord Shinkwin, both to the Liaison Committee task force that worked on the original report and drove the follow-up report and to my noble friend Lady Tyler of Enfield for her leadership. I also think that we need to give an award today to the noble Lord, Lord Balfe, for the most radical solution that has been brought before us. It is one of those "the emperor has no clothes" moments: if you want people not to be financially excluded, make sure that they have enough money to be able to manage.

However, we all know that that is not the reality of the world that we live in today. Financial exclusion, as so many people have said, has become even more of a disadvantage with the cost of living soaring. Excluded people have even fewer tools for managing costs. The noble Lord, Lord Bilimoria, talked about the low financial resilience that so many people experience, but I was also very focused on the discussion by the noble Lord, Lord Shinkwin, of people with disability. They carry an absolutely undue burden that becomes far more acute in times like this, particularly people who are dependent on electricity, but even beyond that.

Others, including my noble friend Lady Tyler, have referred to the poverty premium, with examples of people on prepayment meters paying more for energy than those on direct debits, and by far. Finally, there is the process of claiming the Government's £150 council tax reduction, which I think we will hear today is far more difficult for those on prepayment meters. We are in a very difficult and critical time.

I want to focus, though, on the issue of banking. Some 1.5 million people have no bank account and many more lack access to short-term affordable credit, with something like 2 million to 7 million people a year using high-cost credit—and within that group, as many as 66% could be classified as vulnerable. I have thought for many years that these people could be helped by better education and capability, by keeping bank branches open or by replacing them with community banking hubs—a project on which I will say a little more in a few minutes. But looking at a report from Barclays, I was stunned to see that it said that most people who do not have a bank account today have had one in the past. For many of these people the experience of a perilous fall into an overdraft, with its costs and fees, proved such a negative experience that they left banking altogether. Frankly, I do not know whether most people at the bottom end of the scale who find themselves in overdraft realise that, as bank customers, they are really paying for the costs of free

in-credit banking for far better-off people. We have a real inequity in the banking system as it functions today.

It is also true that many people find it much easier to control their money when they rely exclusively on cash. It may not be the most effective or efficient way of managing payments but it allows them control. With cash disappearing, I am very glad that we now have an access-to-cash provision that will be engaged through the financial services and markets Bill. However, I share the concern of the noble Lord, Lord Holmes. It is not just the supply of cash that matters; it is whether or not entities will accept cash. Like him, when I went through my community I found so many places that now want only contactless payment, even for the smallest of purchases, and will no longer take cash. We have a far more complex problem here, unfortunately, than that which I suspect the financial services and markets Bill will tackle.

The answer I often hear is that fintech has a great deal to offer. I fully accept that fintechs have been springing up, providing mechanisms such as "jam-jars" to help people budget or using a broader set of factors in their credit judgments. But as so many have said—the noble Lords, Lord Sikka and Lord Holmes of Richmond, and others—this requires access to the internet, probably a smartphone and a confidence with technology, as described by the noble Lord, Lord Balfe, that does not exist in many of the excluded segments of the population. Even open banking offers a path only for those who have an existing financial product. The use of the internet as the key to financial access also carries the disadvantage that it makes impulse spending very easy and opens people up to pressure from irresponsible marketing. I hope that the Government have taken note of that from many of the civil society groups which have been tracking those kinds of behaviours.

Over and again, we have tried to find an answer by using the Post Office. Of course post offices are important, but I am frankly becoming completely disillusioned with their potential to provide more than very basic banking services. Community hubs are the latest idea: a shared banking services arrangement, with the Post Office actually providing the front counter. But as proposed, they will exist only where the banks have no branches and if those banks themselves actually agree. The banks should not be the decision-makers on whether a community hub should exist or not. As they are conceived now, community hubs continue the notion that financial inclusion is defined by access to a high street bank and the facilities it offers.

I find myself turning to routes that have worked well in other countries but never seem to have gathered sufficient momentum in the UK. The noble Lord, Lord Sikka, touched on this in a sense when he referred to the Community Reinvestment Act in the United States, which started out as a civil rights Act but evolved into a mechanism to create banking organisations dedicated to and set in their local community and which targeted services to it. Sometimes you find them in the form of credit unions and sometimes in the form of community banks, which are quite blended in the United States. Their great advantage is that they do not "put up with" disadvantaged or low-income people or see them as a way to perhaps offset fees from their better-off customers; they welcome these people as the core of their customer base and design services to meet their needs. The issue is achieving this at the scale and with the coverage required. That in turn means very significant investment.

Giving the FCA some powers—at the very least to have regard to financial inclusion—might help us drive towards a network of something like community banks and credit unions, which would meet some of this need. I would hope that it would make the FCA more proactive. However, frankly, after so many years of discussion I am pretty much out of patience and wonder whether the only way to achieve this is basically through legislation. I ask the Government to consider making it a condition for a banking licence for a bank above a certain size—in effect, the high street banks—to either provide effective services to the unbanked and underbanked sectors of the population or invest in an organisation that can, which is usually the preferred option in the United States.

When I was in the US, I saw really successful partnerships between the equivalents of the major high street banks and local community banks and credit unions. Ironically, they were really popular with the executives of the significant major banks. They would almost fight each other for the opportunity of having a day or two working at the community bank because it was a chance to interact with normal people. Big banks were able to provide very low-cost technical services, regulatory advice, human resources and all kinds of back-up for the relatively small local banks. The costs of running a community bank are much lower than those of trying to provide the same services out of the equivalent of a high street bank because they do not have the burden of trying to carry the high costs of the investment banking portion of an organisation or the very high exceptional salaries of so many senior bankers in the major banks.

Would-be entrepreneurs get to start businesses and go on to become significant clients of sponsoring major banks, and it becomes a route to opportunity. Even more importantly, in the United States you find that charities and civil society groups join the partnerships, providing a huge range of support and advice for individuals and helping the community bank target what it does so that it directly meets the needs of the clients that come in through its doors.

I feel that this has always been rejected in the UK because it does not have a "Made in Britain" stamp on it. In some ways, you could say it is picking up some of the roles of the old savings and loans, and perhaps of the branch banks we used to have long before the days of mergers and acquisitions. I ask the Government to get serious and look at this. We have talked and talked—I have been in webinar after webinar—and we are really making very little progress. Today's economic crisis ought to underscore to us that this problem, above all, must be treated with urgency.

5.29 pm

Lord Tunnicliffe (Lab): My Lords, I congratulate the noble Baroness, Lady Tyler of Enfield, on securing this debate. It returns us to the topic of her committee's

[Lord Tunnicliffe]
2017 report. This was, of course, supplemented by the Liaison Committee's follow-up inquiry, which is the formal subject of this debate. I am grateful to both committees for their work in this important area, and to the noble Baroness, Lady Tyler, and the noble Lord, Lord Shinkwin, for their ongoing interest. I pay particular tribute to the noble Lord, Lord Holmes of Richmond, who has pursued many of these issues tirelessly across different Bills. He enjoyed some success on the matter of cashback during last Session's Financial Services Bill. I suspect that we will revisit some of his other amendments when the financial services and markets Bill is brought forward.

Five years have passed since the publication of the original committee report. Tackling financial exclusion is a long-term project; we cannot expect every aspect of that challenge to be addressed in a few years, and there can be no doubt that the pandemic slowed progress. However, it is regrettable that solving many of these problems remains as urgent in 2022 as in 2017. Thankfully, in recent times, we have seen some innovative approaches from financial institutions to improve financial inclusion.

During an Oral Question on 22 March, I cited a joint project between HSBC, Shelter and other homelessness charities to ensure that certain individuals with no fixed address can access basic banking services. These kinds of initiatives are hugely important, helping people to break the cycle which prevents them claiming social security or holding down a job. Welcome as these schemes are, they can only ever benefit a relatively small proportion of those who find themselves excluded from the financial system. What we really need, and what I hope the financial services and markets Bill will finally offer, is a coherent, joined-up approach to financial inclusion. That means the Treasury taking responsibility where that is appropriate to empower the regulators if they are lacking the right tools to act.

The Government recently published a summary of responses to their access to cash consultation. That document also outlined in brief terms how they intend to use the forthcoming Bill to preserve cash for those who want to continue using it. We broadly welcome the intent, but I hope that the Minister will use today's debate to signal how the Treasury intends to act in other areas. For example, even if access to cash is preserved, what about protecting access to physical bank branches? Research from *Which?* published in April warned that almost half of the UK's bank branches have disappeared. Those that remain are increasingly offering reduced services or closing earlier in the day. This is by no means a new phenomenon, so why have the Government not acted to prevent these closures?

Elsewhere, the Financial Conduct Authority's regulation of the "buy now, pay later" sector is gradually coming on stream. However, the regulator has been clear that it expects the worsening cost of living crisis to push more people towards these new credit options, increasing the overall risk level. What assessment have the Government made of people's increased reliance on personal credit? Will the new Bill address that? Can the Minister comment on the FCA's consumer duty and whether the upcoming legislation will seek to strengthen it? It is worth remembering that the Government moved in these two areas only because of sustained pressure during the last Financial Services Bill. Much of that pressure was exerted by my noble friends Lord Stevenson of Balmacara and Lord Eatwell, but they were supported by noble Lords across the House and campaigners outside this place. How can we be confident that external voices are being heard as the Government put their legislative package together?

We may have come a long way on tackling financial exclusion, but the job is by no means done. I hope the Minister will recognise that fact in his response, and that the Treasury will avail itself of the experience of those who have spoken in this debate.

I will end on a slightly tangential point, if noble Lords will allow. These are very tough times for many across the country. Those with good access to financial products are struggling enough, but those excluded from them face what can only be described as an impossible task. Yesterday, people found out that the energy price cap is likely to increase by a further £800 in October. This situation is simply not sustainable so, while we await the financial services and markets Bill with interest, will the Government—I hope today or tomorrow—do the right thing and bring forward an emergency Budget? The Chancellor's stubborn refusal to act can only harm efforts to provide people of all backgrounds with the financial security that they so desperately crave.

5.35 pm

Viscount Younger of Leckie (Con): My Lords, I too thank the noble Baroness, Lady Tyler, for initiating this important debate, as well as other noble Lords for their helpful and thoughtful contributions. There is much to cover; I will do my best. Tackling financial exclusion to ensure that everyone in all corners of the UK, regardless of their background or income, has access to fair and affordable financial products and services remains a key priority for the Government—more so in the context of the cost of living challenge, to which I will turn soon, which is already impacting the most vulnerable.

The Liaison Committee's initial report on financial exclusion, and its follow-up report to which the Government responded a year ago, made some important suggestions. To reassure the noble Lord, Lord Bilimoria, we really are taking those suggestions seriously. Some progress has already been made; I listened carefully to the remarks by the noble Baroness, Lady Tyler, and I think she acknowledged that, but I say at the outset that much more needs to be done. I very much relish the opportunity to discuss these issues again today. I wish to address the themes raised, and I will start by focusing right away on banking and cash.

In the space of just a few years, technology has transformed the way that we access and make use of financial services. Until only a few years ago, I went into my local bank branch for any financial transaction; now I happily conduct pretty well everything online and have found it relatively straightforward. New opportunities and flexibility are of course welcome but, importantly, we also have an obligation to make sure that no one is excluded, which is of course the subject of today's debate.

While eight out of 10 consumers use contactless payments and seven out of 10 use online banking, which are significant figures, the Government understand that physical cash—old-fashioned notes and coins that may still be kept under people's mattresses—as well as access to a physical bank branch are still an important part of millions of people's lives. The noble Baroness, Lady Tyler, eloquently gave her own statistics in this respect and it was alluded to strongly by my noble friend Lord Holmes.

I take note of my noble friend Lord Balfe's point about educating people, especially the elderly, to become more digitally aware. He is right but he should recognise, as I think we all do, that there are some who simply will not pick up the bat. That is why, for example, the Government have made legislative changes to support the widespread offering of cashback without a purchase by shops and other businesses, and why we will be legislating to protect access to cash in the upcoming financial services and markets Bill as soon as parliamentary time allows.

My noble friend Lord Holmes and the noble Baroness, Lady Kramer, asked about helping those who wish only to use cash, which is a fair point. The Government's plan for legislation will ensure that people can continue to take out or pay in cash in order to support the use of cash in daily life and its continued acceptance by business. Following the Government's commitment to legislate, firms are working together through the Access to Cash Action Group to develop new initiatives to provide shared services.

As mentioned by the noble Lord, Lord Sikka, the Government understand people's concern when their bank takes the commercial decision to close a local bank branch, and I have seen this locally where I live. Firms themselves are best placed to make the commercial decision required to operate their businesses for their customers but we believe that the impact of branch closures should also be understood, considered and, where possible, mitigated so that all customers, wherever they live, continue to have access to face-to-face banking services.

This matter was a strong theme in this debate. It was raised by the noble Lords, Lord Tunnicliffe and Lord Sikka, and the noble Baroness, Lady Tyler, herself. Let me expand on this and take account of the comments by Martin Lewis which were alluded to. In September 2020, the FCA published guidance for regulated firms setting out its expectations for banks, building societies and credit unions when they are considering closing branches or ATMs. It requires them to notify customers and the FCA of upcoming branch closures and to consider the provision of alternatives for customers. Alternative options for access can be via telephone banking, digital means such as mobile online banking, and the Post Office. The Post Office banking framework allows 99% of personal banking customers and 95% of business banking customers to deposit cheques, check their balance and withdraw and deposit cash at 11,500 Post Office branches in the UK.

The noble Lord, Lord Sikka, expanded on this theme and asked about banks consulting customers when closing. Although I have alluded to that, I shall add to what I said because in September 2020, the FCA published guidance for regulated firms setting out its expectations for banks, building societies and credit unions when they are considering closing branches or ATMs.

Noble Lords should also be aware of the introduction of shared bank hubs, an important industry initiative which was launched last year. This was alluded to by the noble Baroness, Lady Kramer. I took note of her scepticism about this initiative but also very much took note of her ideas, particularly those that have come from the US. I will certainly take them back. We believe that these hubs provide cash and basic banking services, including counter services run by the Post Office, as well as a dedicated space where community bankers from major banks can meet their customers, and that this is a viable alternative solution to offering bank services. That will help to answer questions asked by the noble Lord, Lord Sikka, and the noble Lord, Lord Bilimoria, who made the point that it is important to have an individual—a person—with whom you can have a face-to-face meeting, and I agree with him.

Eight additional bank hubs have been announced following independent assessments by LINK of the access-to-cash needs of local communities after the closure of a core cash service, in areas such as Brixham in Devon, Carnoustie, which I happen to know is near Dundee, Knaresborough and Syston. The industry has committed that from summer 2022 communities can also request a review. The Government very much look forward to seeing the results and their impact on communities.

The noble Baroness, Lady Kramer, asked about whether there is a condition for high street banks to provide services for the unbanked or to invest in an organisation. The Government believe that it is vital that everyone is able to open a bank account if they wish to do so. That is why the nine largest personal current account providers in the UK are legally required to offer fee-free basic bank accounts to customers who are unbanked, so that people can manage their money on a day-to-day basis effectively, securely and confidently.

Linked to this is the important issue of digital inclusion, which was raised by the noble Baroness, Lady Tyler. Banking hubs are potentially vital for those who might be vulnerable, digitally excluded with no access to a computer or the internet or, indeed, simply do not wish to access financial services digitally. We have to recognise that. The Government recognise that digital inclusion needs to be promoted alongside financial inclusion, and we are committed to ensuring that everyone has access to the digital infrastructure and skills necessary to participate fully in society, including in rural areas where staying connected can, as we know, be more challenging.

The noble Lord, Lord Sikka, asked about access to broadband; I think this was also raised by the noble Lord, Lord Bilimoria. To help those in financial difficulty to stay connected, social tariffs are available which offer low-cost landline and broadband services. The Government and Ofcom also agreed a set of commitments with the UK's major broadband and mobile operators to support vulnerable customers.

[Viscount Younger of Leckie]

A question was raised by the noble Lord, Lord Bilimoria, about broadband, and I want to expand on this a bit further. In 2021, the Government launched Project Gigabit, which committed a landmark £5 billion to support the rollout of gigabit connectivity in the hardest to reach areas. I am pleased to say that more than 67% of UK premises can now access—

Lord Sikka (Lab): My Lords, I am grateful to the Minister. On that £5 billion, it seems that it is given to Openreach and others, and they keep the resulting assets as well as the income stream. What do we get, as members of the public, in return? It seems it is a win-win situation for the providers. They should be providing public access through their normal service, but they do not want to do that. They seem to be winning on every count and the public are left with empty pockets.

Viscount Younger of Leckie (Con): That is a very specific question from the noble Lord. I will write to him about those services, particularly how the £5 billion is used, which is a very fair question. What I can say, which the noble Lord, Lord Bilimoria, will not like, is that it is not 100% coverage, but we have, I have to say, made a great leap forward since 2019, when coverage was a mere 8%. From his particular position at the CBI, he will acknowledge that—I hope that he will.

Of course, all these issues are relevant to help people manage their personal finances, particularly when things turn tight. That was another theme that I expected to be raised today, as indeed it was, particularly by the noble Lord, Lord Tunnicliffe, with his question about an emergency Budget, and by the noble Baroness, Lady Tyler, on affordability matters. Let me just say a little bit about that. The Government really appreciate that families up and down the country are facing an unprecedented cost of living challenge, with the rising price of food, fuel and goods hitting people's pockets. I listened very carefully to the speech from my noble friend Lord Shinkwin on how the disabled in our society are particularly negatively affected. Of course he is right, and he will know about that.

The next few months will be difficult, and we know that people are concerned. These are partly, indeed mainly, global trends driven by global challenges, and Russia's invasion of Ukraine has deepened a severe shock in energy prices. While the Government cannot eradicate these global pressures, we are helping where we can and are providing more than £22 billion of support to families this financial year. We are providing direct support for energy bills, with a £9 billion energy package announced in February. This will provide 80% of households with at least £200, with the vast majority receiving £350. We are also making sure that work pays. We have increased the national insurance threshold to £12,570 from July, saving the typical employee £330 a year. We are supporting the most vulnerable in society with the cost of essentials such as food, clothing and utilities by providing an additional £500 million for the household support fund.

The noble Baroness, Lady Tyler, asked what the Government are doing to alleviate the poverty premium, and I hope that I can give her an answer to that. On universal credit, we are increasing work allowances and reducing the taper rate, which means that the lowest-earning 1.7 million people in society receive an extra £1,000 per year. An analysis shows that fiscal decisions made by the Government are progressive and place the highest burden on the highest earners.

Along the same theme, the noble Lord, Lord Sikka, raised a question about the Government's tax policy. I think he stated that he thought it was regressive. I just come back to him on that to say that Treasury analysis published as part of the Spring Statement shows that fiscal decisions made since the 2019 spending round are progressive, placing the largest burden on the highest-income households as a proportion of income. The poorest 60% of households receive more in public spending than they pay in tax, and households in the lowest income decile will, on average, receive more than £4 for every £1 that they pay in tax.

My noble friend Lord Shinkwin raised a point about disability and fuel poverty. In answer to that, 2.2 million low-income households will receive a £140 rebate through the warm homes discount. The Government are increasing the WHD by one-third, with 3 million households now receiving £150. I hope that that provides small examples of what the Government are doing. As I say, we recognise that this is a challenging and uncertain time for people. Just as we stood by people throughout the pandemic, the Government stand ready to do more to support people across the UK with their costs of living. However, I am afraid that is all that I can say on that subject at the moment.

I turn to the important area of access to fair and affordable credit, which can be life-changing for people, helping them to meet a sudden expenditure or to take steps to build a better life. The Government recognise the important role that credit can play in helping people to manage their finances, but also crucially understand the need for it to be handled carefully so that it does not turn into unsustainable debt. We are committed to supporting initiatives that expand the provision of fair and affordable credit.

The noble Lord, Lord Tunnicliffe, asked about the assessment that the Government have made about people's increased reliance on personal credit, which is a fair question. The Treasury regularly monitors changes in the consumer credit market, including the impact of economic developments, as part of its normal process of policy development.

The Government have allocated £100 million of dormant assets to Fair4All Finance, whose work has focused on supporting affordable credit. This includes £3.8 million funding for that initiative to pilot a no-interest loan scheme, which is specifically designed for consumers in vulnerable circumstances and is already, we believe, improving lives. The NILS pilot is novel and unlike anything that the Government have done previously in this space, so it is right that the pilot is allowed to be tested for optimal methods for delivering these loans. The pilot aims to test the benefits to consumers, society and the economy and to show whether a permanent, nationwide NILS can be delivered in a sustainable way. It will test several variables, including loan amounts, repayment periods and terms, eligibility and payment rates. My noble friend Lord Balfe is right that it needs

to operate with care so that debt is managed prudently, a point that I made earlier. We are pleased that industry also recognises the value of expanding provision, with JP Morgan's corporate social responsibility fund planning to contribute £1.2 million to expand this pilot.

I move on to buy now, pay later, expanding further on the theme of credit. I note some noble Lords' concerns about this area, as raised by the noble Baroness, Lady Tyler. We recognise that it can give rise to consumer detriment, which is why the Government announced their intention to regulate these products and published the consultation last October. It closed on 6 January, and we are now reviewing responses and considering next steps, including timings. We will take this work forward as quickly as possible. I am afraid that that is the best that I can do to answer the question from my noble friend Lord Balfe.

Along the same theme, we are taking further measures to help people who are experiencing financial difficulties and will require additional support. That is why, among other things, the Government continue to provide record levels of funding for debt advice via the Money and Pensions Service, which noble Lords will recognise used to be the old MAS. We know that debt can feel overwhelming; often what people most need is the time and space to find a sustainable way out of it.

My noble friend Lord Holmes asked whether the Government agree that debt advice should be regulated. Yes, debt advice is a regulated financial activity, which means that most firms that provide debt advice must be authorised and regulated by the FCA. When a person gets debt advice, they can check that a firm is regulated on the FCA register. That is also why the Government launched the Breathing Space scheme, which gives those in problem debt legal protection against creditor action, enabling them to seek professional advice and rebuild their finances.

Given the clear connections between people's mental and financial health—another theme that has been alluded to today—the scheme also ensures that those who are undergoing mental health crisis treatment can access even stronger protections. I am pleased that over 60,000 people have already taken advantage of Breathing Space in its first year, including almost 1,000 people who have entered a mental health "breathing space".

However, that is just the first part of the scheme and we are now working on the second element: the statutory dept repayment plan. This will enable people struggling with problem debt to enter formal agreements with creditors so they are able to repay what they owe over a more manageable timeframe. On 13 May, the Government launched a public consultation on draft SDRP regulations with the aim of laying those by the end of the year. We intend for the scheme to start in 2024.

I hope I can cover everything. I have a little more to say, particularly on financial education, which was raised by my noble friend Lord Holmes, the noble Lord, Lord Bilimoria, and the noble Baroness, Lady Kramer. This is a very important area that is rather close to my heart; I personally firmly believe in it. It is important that people grow up to make sound decisions about how to run their financial lives, whether that is to secure a mortgage, take out credit, save up for a holiday or plan their retirement, an issue that was also raised. Financial education in England is covered within both the citizenship and the mathematics curricula. Primary schools, for their part, are strongly encouraged to teach citizenship, including financial education. I recognise, as the noble Lord, Lord Bilimoria, said, that it is not just the young who need educating; it is the less young too, particularly those who are looking to plan for retirement, as he mentioned.

I want to say something about saving. I recognise that this is a difficult subject because we know that many people are not able to save and are struggling simply with the business of managing the costs of living. So in fear of being frowned upon by the grandmother, I think it is, of my noble friend Lord Balfe, I draw noble Lords' attention to the Government's Help to Save scheme, which offers a 50% bonus on up to £50 of monthly savings for a maximum possible bonus of £1,200 over four years to help people to build a savings buffer for a rainy day. I just wanted to touch on that.

Finally, and importantly, the theme was raised of the FCA and the matter of "having regard to". The Government take a comprehensive and strategic approach to tackling financial exclusion, including working closely with the regulator, industry and the third sector. This was touched on by the noble Lord, Lord Bilimoria. A key mechanism to foster that collaboration is the Financial Inclusion Policy Forum, co-chaired by Treasury and DWP Ministers, launched in 2018 to provide leadership and develop solutions, including some that I have already highlighted. I know that some noble Lords are slightly sceptical about that; I have read the report and the comments made by the Liaison Committee, and I have read our own response. I know that the noble Baroness, Lady Tyler, and my noble friend Lord Holmes have called upon the Government to formalise collaboration on financial inclusion further by asking the Financial Conduct Authority to have regard to financial inclusion in the context of the future regulatory framework review. I want to give some reassurance that I know senior officials and Ministers in the Treasury are considering these suggestions carefully and will respond as soon as possible.

To conclude, clearly there is more to be done but, as today's debate has demonstrated, a good of deal of work is already in train to tackle financial exclusion and to help those who are vulnerable or who face financial difficulties. I thank everyone who has contributed today. It has been a very informative and useful debate, and I have certainly learned a lot myself.

5.58 pm

Baroness Tyler of Enfield (LD): My Lords, this has been an absolutely excellent debate. I thank all noble Lords who have contributed and the Minister for his response. I know that time is extremely tight so I will really say only two things.

First, I very much agree with the noble Lord, Lord Shinkwin, that the recommendations made in the original 2017 report, and reiterated in the Liaison Committee report, are even more important today than they were then given the context in which we are operating. Many noble Lords have given excellent ideas

[Baroness Tyler of Enfield]
and suggestions, which I really hope will be pursued. I agreed with most things that most of them said—not quite all, but I do not have time to go into that. I totally take the point that the problem for many people at the moment is simply not having enough money, a point acknowledged in the Select Committee report.

Secondly, like other noble Lords, I very much hope that we see very soon from the Government a package of support, particularly on increases to benefit and state pensions to help people who are struggling so much at the moment. Perhaps the Minister could convey my request to the two designated Ministers for Financial Inclusion, John Glen and Guy Opperman, to consider meeting me and other former members of the Select Committee so that we can see what more can be done in this area.

Motion agreed.

6 pm

Sitting suspended.

AI in the UK (Liaison Committee Report)

Motion to Take Note

6.02 pm

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

That the Grand Committee takes note of the Report from the Liaison Committee *AI in the UK: No Room for Complacency* (7th Report, Session 2019–21, HL Paper 196).

Lord Clement-Jones (LD): My Lords, the Liaison Committee report *No Room for Complacency* was published in December 2020, as a follow-up to our AI Select Committee report, *AI in the UK: Ready, Willing and Able?*, published in April 2018. Throughout both inquiries and right up until today, the pace of development here and abroad in AI technology, and the discussion of AI governance and regulation, has been extremely fast moving. Today, just as then, I know that I am attempting to hit a moving target. Just take, for instance, the announcement a couple of weeks ago about the new Gato—the multipurpose AI which can do 604 functions —or perhaps less optimistically, the Clearview fine. Both have relevance to what we have to say today.

First, however, I say a big thank you to the then Liaison Committee for the new procedure which allowed our follow-up report and to the current Lord Speaker, Lord McFall, in particular and those members of our original committee who took part. I give special thanks to the Liaison Committee team of Philippa Tudor, Michael Collon, Lucy Molloy and Heather Fuller, and to Luke Hussey and Hannah Murdoch from our original committee team who more than helped bring the band, and our messages, back together.

So what were the main conclusions of our follow-up report? What was the government response, and where are we now? I shall tackle this under five main headings. The first is trust and understanding. The adoption of AI has made huge strides since we started our first report, but the trust issue still looms large. Nearly all our witnesses in the follow-up inquiry said that engagement continued to be essential across business and society in particular to ensure that there is greater understanding of how data is used in AI and that government must lead the way. We said that the development of data trusts must speed up. They were the brainchild of the Hall-Pesenti report back in 2017 as a mechanism for giving assurance about the use and sharing of personal data, but we now needed to focus on developing the legal and ethical frameworks. The Government acknowledged that the AI Council's roadmap took the same view and pointed to the ODI work and the national data strategy. However, there has been too little recent progress on data trusts. The ODI has done some good work, together with the Ada Lovelace Institute, but this needs taking forward as a matter of urgency, particularly guidance on the legal structures. If anything, the proposals in *Data: A New Direction*, presaging a new data reform Bill in the autumn, which propose watering down data protection, are a backward step.

More needs to be done generally on digital understanding. The digital literacy strategy needs to be much broader than digital media, and a strong digital competition framework has yet to be put in place. Public trust has not been helped by confusion and poor communication about the use of data during the pandemic, and initiatives such as the Government's single identifier project, together with automated decision-making and live facial recognition, are a real cause for concern that we are approaching an all-seeing state.

My second heading is ethics and regulation. One of the main areas of focus of our committee throughout has been the need to develop an appropriate ethical framework for the development and application of AI, and we were early advocates for international agreement on the principles to be adopted. Back in 2018, the committee took the view that blanket regulation would be inappropriate, and we recommended an approach to identify gaps in the regulatory framework where existing regulation might not be adequate. We also placed emphasis on the importance of regulators having the necessary expertise.

In our follow-up report, we took the view that it was now high time to move on to agreement on the mechanisms on how to instil what are now commonly accepted ethical principles—I pay tribute to the right reverend Prelate for coming up with the idea in the first place—and to establish national standards for AI development and AI use and application. We referred to the work that was being undertaken by the EU and the Council of Europe, with their risk-based approaches, and also made recommendations focused on development of expertise and better understanding of risk of AI systems by regulators. We highlighted an important advisory role for the Centre for Data Ethics and Innovation and urged that it be placed on a statutory footing.

We welcomed the formation of the Digital Regulation Cooperation Forum. It is clear that all the regulators involved—I apologise for the initials in advance—the ICO, CMA, Ofcom and the FCA, have made great strides in building a centre of excellence in AI and algorithm audit and making this public. However, despite the publication of the *National AI Strategy* and its commitment to trustworthy AI, we still await the Government's proposals on AI governance in the forthcoming White Paper.

It seems that the debate within government about whether to have a horizontal or vertical sectoral framework for regulation still continues. However, it seems clear to me, particularly for accountability and transparency, that some horizontality across government, business and society is needed to embed the OECD principles. At the very least, we need to be mindful that the extraterritoriality of the EU AI Act means a level of regulatory conformity will be required and that there is a strong need for standards of impact, as well as risk assessment, audit and monitoring, to be enshrined in regulation to ensure, as techUK urges, that we consider the entire AI lifecycle.

We need to consider particularly what regulation is appropriate for those applications which are genuinely high risk and high impact. I hope that, through the recently created AI standards hub, the Alan Turing Institute will take this forward at pace. All this has been emphasised by the debate on the deployment of live facial recognition technology, the use of biometrics in policing and schools, and the use of AI in criminal justice, recently examined by our own Justice and Home Affairs Committee.

My third heading is government co-ordination and strategy. Throughout our reports we have stressed the need for co-ordination between a very wide range of bodies, including the Office for Artificial Intelligence, the AI Council, the CDEI and the Alan Turing Institute. On our follow-up inquiry, we still believed that more should be done to ensure that this was effective, so we recommended a Cabinet committee which would commission and approve a five-year national AI strategy, as did the AI road map.

In response, the Government did not agree to create a committee but they did commit to the publication of a cross-government national AI strategy. I pay tribute to the Office for AI, in particular its outgoing director Sana Khareghani, for its work on this. The objectives of the strategy are absolutely spot on, and I look forward to seeing the national AI strategy action plan, which it seems will show how cross-government engagement is fostered. However, the Committee on Standards in Public Life—I am delighted that the noble Lord, Lord Evans, will speak today—report on AI and public standards made the deficiencies in common standards in the public sector clear.

Subsequently, we now have an ethics, transparency and accountability framework for automated decision-making in the public sector, and more recently the CDDO-CDEI public sector algorithmic transparency standard, but there appears to be no central and local government compliance mechanism and little transparency in the form of a public register, and the Home Office appears to be still a law unto itself. We have AI procurement guidelines based on the World Economic Forum model but nothing relevant to them in the Procurement Bill, which is being debated as we speak. I believe we still need a government mechanism for co-ordination and compliance at the highest level.

The fourth heading is impact on jobs and skills. Opinions differ over the potential impact of AI but, whatever the chosen prognosis, we said there was little evidence that the Government had taken a really strategic view about this issue and the pressing need for digital upskilling and reskilling. Although the Government agreed that this was critical and cited a number of initiatives, I am not convinced that the pace, scale and ambition of government action really matches the challenge facing many people working in the UK.

The Skills and Post-16 Education Act, with its introduction of a lifelong loan entitlement, is a step in the right direction and I welcome the renewed emphasis on further education and the new institutes of technology. The Government refer to AI apprenticeships, but apprentice levy reform is long overdue. The work of local digital skills partnerships and digital boot camps is welcome, but they are greatly underresourced and only a patchwork. The recent Youth Unemployment Select Committee report *Skills for Every Young Person* noted the severe lack of digital skills and the need to embed digital education in the curriculum, as did the AI road map. Alongside this, we shared the priority of the AI Council road map for more diversity and inclusion in the AI workforce and wanted to see more progress.

At the less rarefied end, although there are many useful initiatives on foot, not least from techUK and Global Tech Advocates, it is imperative that the Government move much more swiftly and strategically. The All-Party Parliamentary Group on Diversity and Inclusion in STEM recommended in a recent report a STEM diversity decade of action. As mentioned earlier, broader digital literacy is crucial too. We need to learn how to live and work alongside AI.

The fifth heading is the UK as a world leader. It was clear to us that the UK needs to remain attractive to international research talent, and we welcomed the Global Partnership on AI initiative. The Government in response cited the new fast-track visa, but there are still strong concerns about the availability of research visas for entrance to university research programmes. The failure to agree and lack of access to EU Horizon research funding could have a huge impact on our ability to punch our weight internationally.

How the national AI strategy is delivered in terms of increased R&D and innovation funding will be highly significant. Of course, who knows what ARIA may deliver? In my view, key weaknesses remain in the commercialisation and translation of AI R&D. The recent debate on the Science and Technology Committee's report on catapults reminded us that this aspect is still a work in progress.

Recent Cambridge round tables have confirmed to me that we have a strong R&D base and a growing number of potentially successful spin-outs from universities, with the help of their dedicated investment funds, but when it comes to broader venture capital culture and investment in the later rounds of funding, we are not yet on a par with Silicon Valley in terms of risk appetite. For AI investment, we should now consider something akin to the dedicated film tax credit which has been so successful to date.

Finally, we had, and have, the vexed question of lethal autonomous weapons, which we raised in the original Select Committee report and in the follow-up, particularly in the light of the announcement at the time of the creation of the autonomy development centre in the MoD. Professor Stuart Russell, who has

[Lord Clement-Jones]
long campaigned on this subject, cogently raised the limitation of these weapons in his second Reith Lecture. In both our reports we said that one of the big disappointments was the lack of definition of "autonomous weapons". That position subsequently changed, and we were told in the Government's response to the follow-up report that NATO had agreed a definition of "autonomous" and "automated", but there is still no comprehensive definition of lethal autonomous weapons, despite evidence that they have clearly already been deployed in theatres such as Libya, and the UK has firmly set its face against laws limitation in international fora such as the CCW.

For a short report, our follow-up report covered a great deal of ground, which I have tried to cover at some speed today. AI lies at the intersection of computer science, moral philosophy, industrial education and regulatory policy, which makes how we approach the risks and opportunities inherent in this technology vital and difficult. The Government are engaged in a great deal of activity. The question, as ever, is whether it is focused enough and whether the objectives, such as achieving trustworthy AI and digital upskilling, are going to be achieved through the actions taken so far. The evidence of success is clearly mixed. Certainly there is still no room for complacency. I very much look forward to hearing the debate today and to what the Minister has to say in response. I beg to move.

6.17 pm

Lord Holmes of Richmond (Con): My Lords, what a pleasure it is to follow the noble Lord, Lord Clement-Jones. It was a pleasure to serve under his chairmanship on the original committee. I echo all his thanks to all the committee staff who did such great work getting us to produce our original report. I shall pick up a number of the themes he touched on, but I fear I cannot match his eloquence and nobody around the table can in any sense match his speed. In many ways, he has potentially passed the Turing test in his opening remarks.

I declare my technology interests as set out in the register. In many ways, the narrative can fall into quite a negative and fearful approach, which goes something like this: the bots are coming, our jobs are going, we are all off to hell and we are not even sure if there is a handcart. I do not think that was ever the case, and it is positive that the debate has moved on from the imminent unemployment of huge swathes of society to this—and I think it is just this in terms of jobs. The real clear and present danger for the UK is not that there will not be jobs for us all to do but that we will be unprepared or underprepared for those new jobs as and when they come, and they are already coming at speed this very day. Does the Minister agree that all the focus needs to be on how we drive at speed in real time the skills to enable all the talent coming through to be able to get all those jobs and have fulfilling careers in AI?

In many ways this debate begins and ends with everything around data. AI is nothing without data. Data is the beginning and the end of the discussion. It is probably right, and it shows the foresight of the noble Lord, Lord Clement-Jones, in having a debate today because it is time to wish many happy returns—not to the noble Lord but to the GDPR. Who would have thought that it is already four years since 25 May 2018?

In many ways, it has not been unalloyed joy and success. It is probably over-prescriptive, has not necessarily given more protection to citizens across the European community, and certainly has not been adopted in other jurisdictions around the world. I therefore ask my noble friend the Minister: what plans are there in the upcoming data reform Bill not to have such a prescriptive approach? What is the Government's philosophy in terms of balancing all the competing needs and philosophical underpins to data when that Bill comes before your Lordships' House?

Privacy is incredibly important. We see just this week that an NHS England AI project has been shelved because of privacy concerns. It takes us back to a similar situation at the Royal Free—another AI programme shelved. Could these programmes have been more effectively delivered if there had been more consideration and understanding of the use of data and the crucial point that it is our data, not big tech's? It is our data, and we need to have the ability to understand that and operate with it as a central tenet. Could these projects have been more successful? How do we understand real anonymisation? Is it possible in reality, or should we very much look to the issue around the curse of dimensionalisation? What is the Government's view as to how true anonymisation occurs when you have more than one credential? When you get to multiple dimensions, anonymisation of the data is extraordinarily difficult to achieve.

That leads us into the whole area of bias. Probably one of the crassest examples of AI deployment was the soap dispenser in the United States—why indeed we needed AI to be put into a soap dispenser we can discuss another time—which would dispense soap only to a white hand. How absolutely appalling, how atrocious, but how facile that that can occur with something called artificial intelligence. You can train it, but it can do only pretty much what datasets it has been trained on: white hands, white-hand soap dispensing. It is absolutely appalling. I therefore ask my noble friend the Minister: have the Government got a grip across all the areas and ways in which bias kicks in? There are so many elements of bias in what we could call "non-AI" society; are the Government where they need to be in considering bias in this AI environment?

Moving on to building on how we can all best operate with our data, I believe that we urgently need to move to have a system of digital ID in the UK. The best model to build this upon is the principles around self-sovereign distributed ID. Does my noble friend agree and can he update the Grand Committee on his department's work on digital ID? So much of the opportunity, and indeed the protection to enable opportunity, in this space around AI comes down to whether we can have an effective interoperable system of digital ID.

Building on that, I believe that we need far greater public debate and public engagement around AI. It is not something that is "other" to people's experience; it is already in every community and impacting people's lives, whether they know it or want that to be the case.

We see how public engagement can work effectively and well with Baroness Warnock's stunning commission decades ago into IVF. What could be more terrifying than human life made in a test tube? Why, both at the time and decades later, is it seen as a such a positive force in our society? It is because of the Warnock commission and that public engagement. We can compare that with GM foods. I make no flag-waving for or against GM foods, I just say that the public debate was not engaged on that. What are the Government's plans to do more to engage the public at every level with this?

Allied to that, what are the Government's plans around data and digital literacy, right from the earliest year at school, to ensure that we have citizens coming through who can operate safely, effectively and productively in this space? If we can get to that point, potentially we could enable every citizen to take advantage of AI rather than have AI take advantage of us. It does not need to be an extractive exercise or to feel alienating. It does not need to be put just to SEO and marketing and cardboard boxes turning up on our doorstep—we have forgotten what was even in the box, and the size of the box will not give us a clue because the smallest thing we order is always likely to come in the largest cardboard box. If we can take advantage of all the opportunities of AI, what social, economic or psychological potential lies at our fingertips.

What is AI? To come to that at the end rather than beginning of my speech seems odd. Is it statistics on steroids? Perhaps it is a bit more than that. AI, in essence, is just the latest tools—yes, incredibly powerful tools, but the latest tools in our human hands. It is down to us to connect, collaborate and co-create for the public good and common good, and for the economic, social and psychological good, for our communities, cities and our country. If we all get behind that—and it is in our hands, our heads and our hearts—perhaps, just perhaps, we can build a society fit for the title "civilised".

6.26 pm

Lord Browne of Ladyton (Lab): My Lords, it is a significant pleasure to follow the noble Lord, Lord Holmes. I admire and envy his knowledge of the issue, but mostly I admire and envy his ability to communicate about these complex issues in a way that is accessible and, on occasions, entertaining. A couple of times during the course of what he said, I thought, "I wish I'd said that", knowing full well that at some time in future I will, which is the highest compliment I can pay him.

As was specifically spelled out in the remit of the Select Committee on Artificial Intelligence, the issues that we are debating today have significant economic, security, ethical and social implications. Thanks to the work of that committee and, to a large degree, the expertise and the leadership of the noble Lord, Lord Clement-Jones, the committee's report is evidence that it fully met the challenge of the remit. Since its publication—and I know this from lots of volunteered opinions that I have received since April 2018, when it was published—the report has gained a worldwide reputation for excellence. It is proper, therefore, that this report should be the first to which the new procedure put in place by the Liaison Committee, to follow up on the committee's recommendations, should be applied.

I wish to address the issue of policy on autonomous weapons systems in my remarks. I think that it is known throughout your Lordships' House that I have prejudices about this issue—but I think that they are informed prejudices, so I share them at any opportunity that I get. The original report, as the noble Lord, Lord Clement-Jones, said, referred to lethal autonomous weapons and particularly to the challenge of the definition, which continues. But that was about as far as the committee went. As I recollect, this weaponry was not the issue that gave the committee the most concern—but that was as far as it went, because it did not have the capacity to address it, saying that it deserved an inquiry of its own. Unfortunately, that has not yet taken place, but it may do soon.

The report that we are debating—which, in paragraph 83, comments on the welcome establishment of the Autonomy Development Centre, announced by the Prime Minister on 19 November 2020 and described as a new centre dedicated to AI, to accelerate the research, development, testing, integration and deployment of world-leading artificial intelligence and autonomous systems—highlighted that the work of that centre will be "inhibited" owing to the lack of alignment of the UK's definition of autonomous weapons with the definitions used by international partners. The government response, while agreeing the importance of ensuring that official definitions do not undermine our arguments or diverge from our allies, responded further, and at length, by acknowledging that the various definitions relating to autonomous systems are challenging and, at length, set out a comparison of them.

Further, we are told that the Ministry of Defence is preparing to publish a new defence AI strategy that will allow the UK to participate in international debates and act as a leader in the space, and we are told that the definitions will be continually reviewed as part of that. It is hard not to conclude that this response alone justifies the warning of the danger of "complacency" deployed in the title of the report.

On the AI strategy, on 18 May the ministerial response to my contribution to the Queen's Speech debate was, in its entirety, an assurance that the AI strategy would be published before the Summer Recess. We will wait and see. I look forward to that, but there is today an urgent need for strategic leadership by the Government and for scrutiny by Parliament as AI plays an increasing role in the changing landscape of war. Rapid advancements in technology have put us on the brink of a new generation of warfare where AI plays an instrumental role in the critical functions of weapons systems.

In the Ukraine war, in April, a senior Defense Department official said that the Pentagon is quietly using AI and machine-learning tools to analyse vast amounts of data, generate useful battlefield intelligence and learn about Russian tactics and strategy. Just how much the US is passing to Ukraine is a matter for conjecture, which I will not engage in; I am not qualified to do so anyway. A powerful Russian drone with AI capabilities has been spotted in Ukraine. Meanwhile, Ukraine has itself employed the use of controversial facial recognition technology. Vice Prime Minister Fedorov told Reuters that it had been using Clearview

[Lord Browne of Ladyton]

AI—software that uses facial recognition—to discover the social media profiles of deceased Russian soldiers, which authorities then use to notify their relatives and offer arrangements for their bodies to be recovered. If the technology can be used to identify live as well as dead enemy soldiers, it could also be incorporated into systems that use automated decision-making to direct lethal force. That is not a remote possibility; last year the UN reported that an autonomous drone had killed people in Libya in 2020. There are unconfirmed reports of autonomous weapons already being used in Ukraine, although I do not think it is helpful to repeat some of that because most of it is speculation.

We are seeing a rapid trend towards increasing autonomy in weapons systems. AI and computational methods are allowing machines to make more and more decisions themselves. We urgently need UK leadership to establish, domestically and internationally, when it is ethically and legally appropriate to delegate to a machine autonomous decision-making about when to take an individual's life.

The UK Government, like the US, see AI as playing an important role in the future of warfighting. The UK's 2021 *Integrated Review of Security, Defence, Development and Foreign Policy* sets out the Government's priority of

"identifying, funding, developing and deploying new technologies and capabilities faster than our potential adversaries",

presenting AI and other scientific advances as "battle-winning technologies"—in what in my view is the unhelpful context of a race. My fear of this race is that at some point the humans will think they have gone through the line but the machines will carry on.

In the absence of an international ban, it is inevitable that eventually these weapons will be used against UK citizens or soldiers. Advocating international regulation would not be abandoning the military potential of new technology, as is often argued. International regulation on AWS is needed to give our industry guidance to be a sci-tech superpower without undermining our security and values. Only this week, the leaders of the German engineering industry called for the EU to create specific law and tighter regulation on autonomous and dual-use weapons, as they need to know where the line is and cannot be expected to draw it themselves. They have stated:

"Imprecise regulations would do damage to the export control environment as a whole."

Further, systems that operate outside human control do not offer genuine or sustainable advantage in the achievement of our national security and foreign policy goals. Weapons that are not aligned with our values cannot be effectively used to defend our values. We should not be asking our honourable service personnel to utilise immoral weapons—no bad weapons for good soldiers.

The problematic nature of nonhuman-centred decision-making was demonstrated dramatically when the faulty Horizon software was used to prosecute 900-plus sub-postmasters. Let me explain. In 1999, totally coincidentally at the same time as the Horizon software began to be rolled out in sub-post offices, a presumption was introduced into the law on how courts should consider electronic evidence. The new rule followed a Law Commission recommendation for courts to presume that a computer system has operated correctly unless there is explicit evidence to the contrary. This legal presumption replaced a section of the Police and Criminal Evidence Act 1984, PACE, which stated that computer evidence should be subject to proof that it was in fact operating properly.

The new rule meant that data from the Horizon system was presumed accurate. It made it easier for the Post Office, through its private prosecution powers, to convict sub-postmasters for financial crimes when there were accounting shortfalls based on data from the Horizon system. Rightly, the nation has felt moral outrage: this is in scale the largest miscarriage of justice in this country's history, and we have a judiciary which does not understand this technology, so there was nothing in the system that could counteract this rule. Some sub-postmasters served prison sentences, hundreds lost their livelihoods and there was at least one suicide linked to the scandal. With lethal autonomous weapons systems, we are talking about a machine deciding to take people's lives away. We cannot have a presumption of infallibility for the decisions of lethal machines: in fact, we must have the opposite presumption, or meaningful human control.

The ongoing war in Ukraine is a daily reminder of the tragic human consequences of ongoing conflict. With the use of lethal autonomous weapons systems in future conflicts, a lack of clear accountability for decisions made poses serious complications and challenges for post-conflict resolution and peacebuilding. The way in which these weapons might be used and the human rights challenges they present are novel and unknown. The existing laws of war were not designed to cope with such situations, any more than our laws of evidence were designed to cope with the development of computers and, on their own, are not enough to control the use of future autonomous weapons systems. Even more worrying, once we make the development from AI to AGI, they can potentially develop at a speed that we humans cannot physically keep up with.

Previously in your Lordships' House, I have referred to a "Stories of Our Times" podcast entitled "The Rise of Killer Robots: The Future of Modern Warfare?". Both General Sir Richard Barrons, former Commander of the UK Joint Forces Command, and General Sir Nick Carter, former Chief of the Defence Staff, contributed to what, in my view, should be compulsory listening for Members of Parliament, particularly those who hold or aspire to hold ministerial office. General Sir Richard Barrons says

"Artificial intelligence is potentially more dangerous than nuclear weapons."

If that is a proper assessment of the potential of these weapon systems, there can be no more compelling reason for their strict regulation and for them to be banned in lethal autonomous mode. It is essential that all of us, whether Ministers or not, who share responsibility for the weapons systems procured and deployed for use by our Armed Forces, fully understand the implications and risks that come with the weapons systems and understand exactly what their capabilities are and, more importantly, what they may become.

In my view, and I cannot overstate this, this is the most important issue for the future defence of our country, future strategic stability and potentially peace: that those who take responsibility for these weapons systems are civilians, that they are elected, and that they know and understand them. Anyone who listens to the podcast will dramatically realise why, because already there are conversations going on among military personnel that demand the informed oversight of politicians. The development of LAWS is not inevitable, and an international legal instrument would play a major role in controlling their use. Parliament, especially the House of Commons Defence Committee, needs to show more leadership in this area. That committee could inquire into what military AI capabilities the Government wish to acquire and how these will be used, especially in the long term. An important part of such an investigation would be consideration of whether AI capabilities could be developed and regulated so that they are used by armed forces in an ethically acceptable way.

As I have already referred to, the integrated review pledged to

"publish a defence AI strategy and invest in a new centre to accelerate adoption of this technology".

Unfortunately, the Government's delay in publishing the AI defence strategy has cast doubt on the goal stated in the integrated review's commitment of security, defence, development and foreign policy that the UK will become a "science and technology superpower". The technology is already outpacing us, and presently the UK is unprepared to deal with the ethical, legal and practical challenges presented by autonomous weapons systems. Will that change with the publication of the strategy and the establishment of the autonomy development centre? Perhaps the Minister can tell us.

6.40 pm

Lord Evans of Weardale (CB): My Lords, I draw attention to my entry in the register of interests as an adviser to Luminance Technologies Ltd and to Darktrace plc, both of which use AI to solve business problems.

I welcome the opportunity to follow up the excellent 2018 report from the Select Committee on Artificial Intelligence. In 2020 the Committee on Standards in Public Life, which I chair, published a report, *Artificial Intelligence and Public Standards*. We benefited considerably from the work that had gone into the earlier report and from the advice and encouragement of the noble Lord, Lord Clement-Jones, for which I am very grateful.

It is most important that there should be a wide-ranging and well-informed public debate on the development and deployment of AI. It has the potential to bring enormous public benefits but it comes with potential risks. Media commentary on this subject demonstrates that by swinging wildly between boosterism on the one hand and tales of the apocalypse on the other. Balanced and well-informed debate is essential if we are to navigate the future successfully.

The UK remains well-positioned to contribute to and benefit from the development of AI. I have been impressed by the quality of the work done in government in some areas on these underlying ethical challenges. A good example was the publication last year of GCHQ's AI and data ethics framework—a sign of a forward-looking and reflective approach to ethical challenges, in a part of government that a generation ago would have remained hidden from public view.

The view of my committee was that there was no reason in principle why AI should not both increase the efficiency of the public service and help to maintain high public standards, but in order to do so it had to manage the risks effectively and ensure that proper regulation was in place, otherwise public trust could be undermined and, consequently, the potential benefits of AI to public service would not be realised. The Liaison Committee report gives me some encouragement about the Government's direction of travel on this, but the pace of change will not slow and continuing attention will be required to keep the policy up to date.

Specifically, I welcome *The Roadmap to an Effective AI Assurance Ecosystem* by the CDEI, which seems to me, admittedly as an interested layman rather than a technologist, to provide realistic and nuanced guidance on assurance in this area—and it is one where effective independent assurance will be essential. I therefore ask the Minister how confident he is that this guidance will reach and influence those offering assurance services to the users of AI. I welcome the consultation by DCMS on potential reforms to the data protection framework, which may need to be adjusted as advances in technology create novel challenges. I look forward to seeing the outcome of the consultation before too long.

The Government's AI strategy suggests that further consideration will be given to the shape of regulation of AI and is to be published later this year, specifically considering whether we are better to have a more centralised regulatory model or one that continues to place the responsibility for AI regulation on the sectoral regulators. Our report concluded that a dispersed vertical model was likely in most areas to be preferable, since AI was likely to become embedded in all areas of the economy in due course and needed to be considered as part of the normal operating model of specific industries and sectors. I remain of that view but look forward to seeing the Government's proposals on the issue in due course.

One area where we felt that improvement was needed was in using public procurement as a policy lever in respect of AI. The public sector is an increasingly important buyer of AI-related services and products. There is the potential to use that spending power to encourage the industry to develop capabilities that make AI-assisted decision-making more explicable, which is sometimes a problem at present. The evidence that we received suggested that that was not being used by government, at least as recently as 2020. I am not sure that we are doing this as well as we should and would therefore welcome the Minister's observations on this point.

6.44 pm

The Lord Bishop of Oxford: My Lords, it is a pleasure to follow the noble Lord, Lord Evans, and thank him in this context for his report, which I found extremely helpful when it was published and subsequently.

[The Lord Bishop of Oxford]
It has been a privilege to engage with the questions around AI over the last five years through the original AI Select Committee so ably chaired by the noble Lord, Lord Clement-Jones, in the Liaison Committee and as a founding board member for three years of the Centre for Data Ethics and Innovation. I thank the noble Lord for his masterly introduction today and other noble Lords for their contributions.

There has been a great deal of investment, thought and reflection regarding the ethics of artificial intelligence over the last five years in government, the National Health Service, the CDEI and elsewhere—in universities, with several new centres emerging, including in the universities of Oxford and Oxford Brookes, and by the Church and faith communities. Special mention should be made of the *Rome Call for AI Ethics*, signed by Pope Francis, Microsoft, IBM and others at the Vatican in February 2020, and its six principles of transparency, inclusion, accountability, impartiality, reliability and security. The most reverend Primate the Archbishop of Canterbury has led the formation of a new Anglican Communion Science Commission, drawing together senior scientists and Church leaders across the globe to explore, among other things, the impact of new technologies.

Despite all this endeavour, there is in this part of the AI landscape no room for complacency. The technology is developing rapidly and its use for the most part is ahead of public understanding. AI creates enormous imbalances of power with inherent risks, and the moral and ethical dilemmas are complex. We do not need to invent new ethics, but we need to develop and apply our common ethical frameworks to rapidly developing technologies and new contexts. The original AI report suggested five overarching principles for an AI code. It seems appropriate in the Moses Room to say that there were originally 10 commandments, but they were wisely whittled down by the committee. They are not perfect, in hindsight, but they are worth revisiting five years on as a frame for our debate.

The first is that artificial intelligence should be developed for the common good and benefit of humanity; as the noble Lord, Lord Holmes, eloquently said, the debate often slips straight into the harms and ignores the good. This principle is not self-evident and needs to be restated. AI brings enormous benefits in medicine, research, productivity and many other areas. The role of government must be to ensure that these benefits are to the common good—for the many, not the few. Government, not big tech, must lead. There must be a fair distribution of the wealth that is generated, a fair sharing of power through good governance and fair access to information. This simply will not happen without national and international regulation and investment.

The second principle is that artificial intelligence should operate on principles of intelligibility and fairness. This is much easier to say than to put into practice. AI is now being deployed, or could be, in deeply sensitive areas of our lives: decisions about probation, sentencing, employment, personal loans, social care—including of children—predictive policing, the outcomes of examinations and the distribution of resources. The algorithms deployed in the private and public sphere need to be tested against the criteria of bias and transparency. The governance needs to be robust. I am sure that an individualised, contextualised approach in each field is the right way forward, but government has a key co-ordinating role. As the noble Lord, Lord Clement-Jones, said, we do not yet have that robust co-ordinating body.

Thirdly, artificial intelligence should not be used to diminish the data rights or privacy of individuals, families or communities. As a society, we remain careless of our data. Professor Shoshana Zuboff has exposed the risks of surveillance capitalism and Frances Haugen, formerly of Meta, has exposed the way personal data is open to exploitation by big tech. Evidence was presented to the online safety scrutiny committee of the effects on children and adolescents of 24/7 exposure to social media. The Online Safety Bill is a very welcome and major step forward, but the need for new regulation and continual vigilance will be essential.

Fourthly, all citizens have the right to be educated to enable them to flourish mentally, emotionally and economically alongside artificial intelligence. It seems to me that of these five areas, the Government have been weakest here. A much greater investment is needed by the Department for Education and across government to educate society on the nature and deployment of AI, and on its benefits and risks. Parents need help to support children growing up in a digital world. Workers need to know their rights in terms of the digital economy, while fresh legislation will be needed to promote good work. There needs to be even better access to new skills and training. We need to strive as a society for even greater inclusion. How do the Government propose to offer fresh leadership in this area?

Finally, the autonomous power to hurt, destroy or deceive human beings should never be vested in artificial intelligence, as others have said. This final point highlights a major piece of unfinished business in both reports: engagement with the challenging and difficult questions of lethal autonomous weapons systems. The technology and capability to deploy AI in warfare is developing all the time. The time has come for a United Nations treaty to limit the deployment of killer robots of all kinds. This Government and Parliament, as the noble Lord, Lord Browne, eloquently said, urgently need to engage with this area and, I hope, take a leading role in the governance of research and development.

AI can and has brought many benefits, as well as many risks. There is great openness and willingness on the part of many working in the field to engage with the humanities, philosophers and the faith communities. There is a common understanding that the knowledge brought to us by science needs to be deployed with wisdom and humility for the common good. AI will continue to raise sharp questions of what it means to be human, and to build a society and a world where all can flourish. As many have pointed out, even the very best examples of AI as yet come nowhere near the complexity and wonder of the human mind and person. We have been given immense power to create but we are ourselves, in the words of the psalmist, fearfully and wonderfully created.

6.53 pm

Lord Bilimoria (CB): My Lords, the report *Growing the Artificial Intelligence Industry in the UK* was published in October 2017. It started off by saying:

"We have a choice. The UK could stay among the world leaders in AI in the future, or allow other countries to dominate."

It went on to say that the increased use of AI could

"bring major social and economic benefits to the UK. With AI, computers can analyse and learn from information at higher accuracy and speed than humans can. AI offers massive gains in efficiency and performance to most or all industry sectors, from drug discovery to logistics. AI is software that can be integrated into existing processes, improving them, scaling them, and reducing their costs, by making or suggesting more accurate decisions through better use of information."

It estimated at that time that AI could add £630 billion to the UK economy by 2035.

Even at that stage, the UK had an exceptional record in key AI research. We should be proud of that, but it also highlighted the importance of inward investment. We as a country need to be continually attractive to inward investment and be a magnet for it. We have traditionally between the second or third-largest recipient of inward investment. But will that continue to be the case when we have, for example, the highest tax burden in 71 years?

AI of course has great potential for increasing productivity; it helps our firms and people use resources more efficiently and it can help familiar tasks to be done in a more efficient manner. It enables entirely new business models and new approaches to old problems. It can help companies and individual employees be more productive. We all know its benefits. It can reduce the burden of searching large datasets. I could give the Committee example after example of how artificial intelligence can complement or exceed our abilities, of course taking into account what the right reverend Prelate the Bishop of Oxford so sensibly just said. It can work alongside us and even teach us. It creates new opportunities for creativity and innovation and shows us new ways to think.

In the Liaison Committee report on artificial intelligence policy in the UK, which is terrific, the Government state that artificial intelligence has

"huge potential to rewrite the rules of entire industries, drive substantial economic growth and transform all areas of life"

and that their ambition is for the UK to be an "AI superpower" that leads the world in innovation and development. The committee was first appointed in 2017. At that stage, it mentioned that the number of visas for people with valuable skills in AI-related areas should be increased. Now that we have the points-based system, will the Minister say whether it is delivering what the committee sought five years ago?

That was in February 2020, from the noble Lord, Lord Clement-Jones, whom I congratulate on leading this debate and on his excellent opening speech. What policies have the Government recently announced? There is the *National AI Strategy*. One of the points I noticed is that the Office for Artificial Intelligence is a joint department of the Department for Business, Energy and Industrial Strategy and the Department for Digital, Culture, Media and Sport, responsible for overseeing the implementation of the national AI strategy. This is a question I am asked quite regularly: why in today's world does digital sit within DCMS and not BEIS? They are doing this together, so maybe this is a solution for digital overall moving forward. I do not know what the Minister's or the Government's view on that is.

The CBI, of which I am president, responded to the UK Government's AI strategy. I shall quote Susannah Odell, the CBI's head of digital policy:

"This AI strategy is a crucial step in keeping the UK a leader in emerging technologies and driving business investment across the economy. From trade to climate, AI brings unprecedented opportunities for increased growth and productivity. It's also positive to see the government joining up the innovation landscape to make it more than the sum of its parts … With AI increasingly being incorporated into our workplaces and daily lives, it's essential to build public trust in the technology. Proportionate and joined-up regulation will be a core element to this and firms look forward to engaging with the government's continued work in this area. Businesses hope to see the AI strategy provide the long-term direction and fuel to reach the government's AI ambitions."

An important point to note is that linked to this is our investment in research and development and innovation. This is a point that I make like a stuck record. We spend 1.7% of GDP on R&D and innovation, compared with countries such as Germany and the United States of America, which spend 3.1% and 3.2%. If we spend just one extra percent of GDP on research and development and innovation, an extra £20 billion a year, just imagine how much that would power ahead our productivity and AI ability. Do the Government agree?

We have heard that the White Paper on AI governance has been delayed. Can the Minister give us any indication of when it will be published? Business has recognised the importance of AI governance and standards in driving the safe and trustworthy adoption of AI, which is complicated by the variety of AI technologies that we have heard about in this debate. Use cases and government mechanisms, such as standards, can help simplify and guide widespread adoption. What businesses need from AI standards differs by sector. To be effective, AI standards must be accessible, sector-specific and focused on use cases, and the AI standards hub has a critical role in delivering and developing AI standards across the economy.

The report *AI Activity in UK Businesses* was published on 12 January this year and had some excellent insights. It defined AI based on five technology categories: machine learning, natural language processing and generation, computer vision and image processing/generation, data management and analysis, and hardware. The report says:

"Current usage of AI technologies is limited to a minority of businesses, however it is more prevalent in certain sectors and larger businesses".

For example,

"Around 15% of all businesses have adopted at least one AI technology … Around 2% of businesses are currently piloting AI and 10% plan to adopt at least one AI technology in the future … As businesses grow, they are more likely to adopt AI".

Linked to this is the crucial importance of start-ups and scale-ups, growing companies and our economy:

"68% of large companies, 34% of medium sized companies and 15% of small companies have adopted at least one AI technology".

[Lord Bilimoria]

It is used in the IT and telecommunications sector, the legal sector—it is used across all sectors. Large companies are more likely to adopt multiple AI technologies and there are innovative companies using multiple AI technologies as well.

Tech Nation had an event, "The UK and Artificial Intelligence: What's Next?", in which there were some useful insights. For example, Zara Nanu, the CEO of Applied AI 1.0, talked about gender diversity in AI and how important it is that you have more women. Just 10% of those working in the talent pool are women; for STEM it is 24%. As president of the CBI, I have launched Change the Race Ratio to promote ethnic minority participation across all business, including in AI. Sarah Drinkwater made the point that the UK is well positioned to continue attracting talent on the strength of its investment landscape, world-class universities and culture. We are so lucky to have the best universities in the world, along with the United States of America. I am biased, but the fact is that a British university has won more Nobel prizes than any other, including any American university, and that is the University of Cambridge. It was of course excellent that the Government announced £23 million to boost skills and diversity in AI jobs by creating 2,000 scholarships in AI and data science in England. This is fantastic, music to my ears.

To conclude, I go back to the 2017 report *Growing the Artificial Intelligence Industry in the UK*. It asked, "Why does AI matter?" and said that:

> "In one estimate, the worldwide market for AI solutions could be worth more than £30bn by 2024, boosting productivity by up to 30% in some industries, and generating savings of up to 25%. In another estimate, 'AI could contribute up to $15.7 trillion to the global economy in 2030, more than the current output of China and India combined. Of this, $6.6 trillion is likely to come from increased productivity and $9.1 trillion is likely to come from consumption-side effects.'"

This is phenomenal, huge, powerful and world-changing. However, it will happen only if we have sustained collaboration between government, universities and business; then we will continue to deliver the amazing potential of AI in the future.

7.03 pm

Lord St John of Bletso (CB): My Lords, I join in congratulating the noble Lord, Lord Clement-Jones, on his able chairmanship of the Liaison Committee report as well as the report that he chaired so ably in 2017. I was fortunate to be a member of that committee, and it was a steep learning curve. The noble Lord has comprehensively covered the key areas of the development of data trusts, the legal and ethical framework and the challenges of ensuring public trust. I had planned on speaking to the threat of bias in machine learning and the threats in some rather unfortunate circumstances, but that has been ably covered by the noble Lord, Lord Holmes of Richmond, so I can delete that from my speech and speak for two minutes less.

In welcoming the national AI strategy published in September last year, I shall focus my remarks on what needs to be achieved to retain—and I stress the word "retain"—the UK's position as a world leader in AI and, in the words of Dame Wendy Hall, to remain an AI and science superpower fit for the next decade. I am cognisant of the three pillars of the national AI strategy being investing in the long-term needs of the AI ecosystem, ensuring that AI benefits all regions and sectors, and, of course, the governance issues, which I shall not address in my short speech today.

AI has already played, and continues to play, a major role in transforming many sectors, from healthcare to financial services, autonomous vehicles, defence and security—I could not possibly speak with the able knowledge of the noble Lord, Lord Browne—as well as climate change forecasting, to name but a few. Fintech has played, and continues to play, a major role in embracing AI to tackle some of the challenges in financial exclusion and inclusion, a subject ably covered in the previous debate. The healthcare sector also provides some of the most compelling and demonstrable proof that data science and AI can generate with advances in robotic surgery, automated medical advice and medical imaging diagnostics. Autonomous vehicles are soon going to be deployed on our roads, and we will need to ensure that they are safe and trusted by members of the public. Moreover, the Royal Mail is planning to deploy 500 drones to carry parcels to remote locations.

Are we building AI to the right applications? It is difficult to apply standards for AI when it is constantly evolving. AI can be equipped to learn from data that is generated by humans, systems and the environment. Can we ensure that AI remains safe and trusted as it evolves its functionality? To build AI that we can export as part of our products and services, it will need to be useful to and trusted by those countries where we seek to sell those products and services. Such trustworthiness can be achieved only through collaboration on standards, research and regulation. It is crucial to engage with industry, universities and public sectors not just within the UK but across the globe. Can the Minister elaborate on what the UK Government are doing to boost strategic operation with international partnerships?

I join in applauding the work of UKRI as well as the Alan Turing Institute, which has attracted and retained exceptional researchers, but a lot more investment is needed to retain and expand human resource expertise and further implement the AI strategy. It was conceived during the pandemic, but new threats and opportunities will invariably arise unexpectedly: wars, financial crises, climate disasters and pandemics can rapidly change Governments' priorities. Can the Minister clarify how it will be ensured that the AI strategy remains relevant in times of change and a high priority?

The noble Lord, Lord Bilimoria, spoke about how the UK and various businesses are embracing AI, and I shall talk briefly about the AI SME ecosystem. Our report in 2017 recommended that the Government create an AI growth fund for UK SMEs to help them to scale up. Can the Minister elaborate on what measures are being taken to accelerate and support AI SMEs, particularly on the global stage?

I share the sentiments of the noble Lord, Lord Clement-Jones, that the pace, scale and ambition of the Government do not match the challenge of many people working in the UK. I hope there will be more funding and focus on promoting AI apprenticeships, with digital upskilling as well as digital skills partnerships. For the AI strategy to succeed, we need a combination

of competent people and technology. We are all aware of the concerns about a massive skills shortage, particularly with data scientists. We have been hearing about the forthcoming government White Paper on common standards and governance, although it is difficult to apply standards for AI when it is constantly evolving.

In conclusion, while we have seen huge strides and advances in AI in the UK, we need to ensure that we do not take our foot off the pedal. How do we differentiate UK AI from international AI in terms of efficiency, resilience and relevance? How can we improve public sector efficiencies by embracing AI? China and the United States will invariably lead the way with their huge budgets and established ecosystems. There is no need for complacency.

7.11 pm

Lord McNally (LD): My Lords, I welcome the quality of this debate. In their speeches the noble Lords, Lord St John and Lord Bilimoria, have given us some of the more optimistic sides of what AI can deliver, but every one of the speeches has been extremely thoughtful.

I look forward to the speeches of the noble Baroness, Lady Merron, and the noble Lord, Lord Parkinson of Whitley Bay, two Front-Benchers who, I may say, I always admire as they speak common sense with clarity. Thus having blighted two careers, I will move on.

I also thank noble Lords—because he will be too modest to do so—for their comments about my colleague, my noble friend Lord Clement-Jones. He told us that a new AI development could do 604 functions simultaneously. I think that is a perfect description of my noble friend.

I come to this subject not with any of the recent experience that has been on show. This might send a shiver down the Committee's spine but in 2010 I was appointed Minister for Data Protection in the coalition Government, and it was one of the first times when I had come across some of these challenges. We had an advisory board on which, although she was not then in the Lords, the noble Baroness, Lady Lane-Fox, made a great impression on me with her knowledge of these problems.

I remember the discussion when one of our advisers urged us to release NHS data as a valuable creator of new industries, possible new cures and so on. Even before we had had time to consider it, there was a campaign by the *Daily Mail* striking fear into everyone that we were about to release everyone's private medical records, so that hit the buffers.

At that time, I was taken around one of the HM Government facilities to look at what we were doing with data. I remember seeing various things that had been done and having them explained to me. I said to the gentlemen showing me around, "This is all very interesting, but aren't there some civil liberties aspects to what you are doing?" "Oh no, sir," he said, "Tesco knows a lot more about you than we do." However, that was 10 years ago.

I should probably also confess that another of my responsibilities related to the earlier discussion on GDPR. I also served before that, in 2003, on the Puttnam Committee on the Communications Act. It is very interesting in two respects. We did not try to advise on the internet, because we had no idea at that time what kind of impact the internet would have. I think the Online Safety Bill, nearly 20 years later, shows how there is sometimes a time lag—I am sure the same will apply with AI. One thing we did recommend was to give Ofcom special responsibility for digital education, and I have to say, although I think Ofcom has been a tremendous success as a regulator, it has lagged behind in picking up that particular ball. We still have a lot to do and I am glad that the right reverend Prelate the Bishop of Oxford and others placed such emphasis on this.

I note that the noble Baroness, Lady Merron, has put down a Question for 20 June, asking, further to the decision not to include media literacy provisions in the Online Safety Bill, whether the Government intend to impose updated statutory duties relating to media literacy and, if so, when. That is a very good question. Perhaps we could have an early glimpse at the reply.

A number of colleagues mentioned education. Many of us are familiar—although he never actually said it, as often with quotes—with Robert Lowe at the passing of the 1867 Act, not that he was very much in favour of it: "I suppose we must educate our masters". I think there is a bit of a reverse now and the challenge is to ensure that both parliamentarians and the public have enough knowledge and skills to ensure that AI and other new technologies do not become our masters. In many ways, Parliament is still an 18th-century concept and I worry whether we have the structures to take account of these matters. What I have always refuted, though, is that AI and the related technologies are too complex or too international to come within the rule of law. It is important that we do not allow that.

I also think that we should take a couple of lessons from science fiction. Orwell's *Nineteen Eighty-Four* warned of the capacity, particularly of the totalitarian states, to usurp civil liberties using technologies which in themselves may have positive value but have sinister implications. The noble Lord, Lord Browne, made a very powerful speech about some of the questions about defence—and one could also say about our police and security services—and how those are kept within the rule of law and proper political accountability. I have always been governed by two dictums. One was Eisenhower's warning against the power of the military-industrial complex, a very powerful lobby now reinvigorated by Ukraine to urge on all of us a new arms race. Of course, we must respond to the threats posed by the Russians, but also to watch on what roads we are being taken. A number of points have been made on this.

The other dictum came from my old boss, Jim Callaghan, when it was just me and him together. He had been briefed by one of our security services and he said to me, "Always listen to what they say but never, never suspend your own political judgment." I think it is important, in this fast-moving, complex world, for politicians not to be frightened to take on the responsibilities. One of my favourite films is "Dr. Strangelove", where we saw how preordained plans could not be prevented from disaster. These are very high-risk areas.

[Lord McNally]

I welcome the efforts to promote ethical AI nationally and internationally but note that paragraph 28 of the document we are considering today says:

"This guidance … is not a foundation for a countrywide ethical framework which developers could apply, the public could understand and the country could offer as a template for global use."

This is all work in progress, but this debate is important because, as Parliament develops its skills and expertise, it must take on the responsibility to make informed decisions on these matters.

7.20 pm

Baroness Merron (Lab): My Lords, I am glad to follow the noble Lord, Lord McNally, not least because of the generous observations he made about the similarity between me and the Minister, in a way that I am sure we both welcome.

I start my comments by expressing my congratulations to the noble Lord, Lord Clement-Jones, and all members of the committee. It is quite clear from this debate and the worldwide acclaim the committee has received just how insightful and incisive its work was. We also understand from the debate what a great catalyst the report has been for the Government to take action, and I am sure we will hear more about that from the Minister.

The development of artificial intelligence brings endless possibilities for improving our day-to-day lives. From its behind-the-scenes use in warehouse management and supply chain co-ordination to medical diagnosis and the piloting of driverless cars, artificial intelligence is being increasingly used across the country. The Government's own statistics show that 15% of businesses already utilise it in at least one form.

I thank your Lordships for what they have brought to this extremely enlightening debate. I am struck not just by the amount of potential benefits and advances AI brings but by how those advances and potentials are matched by questions—ethical and practical challenges, with which we are all wrestling. This debate is a fantastic contribution to airing and addressing those points, which will not be going away.

As a nation, the UK is in a fortunate position to harness this potential. We have world-class universities, a culture of technological development and our strategic position, but the industry will need the support of the Government if it is to prosper. As the noble Lord, Lord Evans, rightly said, this includes the deployment of public procurement as an impact and lever. I hope the Minister will reflect on how that might be case.

However, as we have heard throughout this debate, there are associated risks with the development of new technologies and AI is no exception. As my noble friend Lord Browne so expertly set out, we have before us a changing landscape of conflict. Within that, AI can play a key role in weapons systems. On my point about the number of questions it raises, to which the right reverend Prelate also referred, is it right to delegate a machine to decide when and if to take a life? If the answer is so, it raises another set of questions which there will be no dodging.

In the last few weeks alone, we have seen more evidence of privacy breaches in the AI industry, and there have been numerous incidents globally of facial recognition technology, in particular, inheriting the racial bias of engineers. For that reason, ethics have to be central to our support for artificial intelligence and a condition for any projects that receive the support of government. If AI is developed in a vacuum of regulation, it will reflect biases and prejudices, and could reverse human progress rather than facilitate it.

The right reverend Prelate reminded us that, as with the Online Safety Bill and in fact so much of the legislation that we concern ourselves with, this is very much a moveable feast and we have to keep pace with it, not hold it back. That is a huge challenge in legislation but also in strategy.

As with any development of technology that brings prosperity, jobs and economic benefits, steps must also be taken to ensure that the benefits are experienced by towns and cities across the UK. That means driving private investment but also placing the trust of public support in new and emerging markets that are outside London and the south-east.

It is also important that new developments are sustainable and considerate of their implications for the natural environment, with AI being seen as a tool for confronting the climate crisis rather than an obstacle. Around the world it is already being adapted for use in mitigation and adaptation to climate change, and there are clear opportunities for this Government to support similar innovations to help the UK to meet our own climate obligations. I would be grateful if the Minister could comment on how that may be the case in respect of the environment.

We have to be alert to the consequences of AI for the world of work. For example, Frances O'Grady, the general secretary of the Trades Union Congress, pointed out earlier this year that employment rights have to keep pace. Again, we have to keep up with that moveable feast.

The question for us now to consider is what role the Government should take to ensure that the development of AI meets ethical, economic and environmental objectives. The committee was right to point to the need for co-ordination. There is no doubt that cross-departmental bodies, such as the Office for Artificial Intelligence, can help in that regard. Above all, we need the cross-government strategy to be effective and deliver on what it promises. I am sure the Minister will give us some indication in his remarks of what assessment has been made of how effective the strategy has been to date in bringing various aspects of government together. We have heard from noble Lords, including the noble Lord, Lord Clement-Jones, that some areas certainly need far greater attention in order to bring the strategy together.

Given the opportunities that this technology presents, the plan has to come from the heart of government and must seek to combine public and private investment in order to fuel innovation. As the committee said in the title of the report, there is no room for complacency. I feel that today's debate has enhanced that point still further, and I look forward to hearing what the Minister has to say about the strategic plans for supporting the development of artificial intelligence across the UK, not just now but for many years ahead.

7.29 pm

Lord Parkinson of Whitley Bay (Con): My Lords, I am grateful to the noble Lord, Lord Clement-Jones, and all noble Lords who have spoken in today's debate. I agree with the noble Lord, Lord McNally, that all the considerations we have heard have been hugely insightful and of very high quality.

The Government want to make sure that artificial intelligence delivers for people and businesses across the UK. We have taken important early steps to ensure we harness its enormous benefits, but agree that there is still a huge amount more to do to keep up with the pace of development. As the noble Lord, Lord Clement-Jones, said in his opening remarks, this is in many ways a moving target. The Government provided a formal response to the report of your Lordships' committee in February 2021, but today's debate has been a valuable opportunity to take stock of its conclusions and reflect on the progress made since then.

Since the Government responded to the committee's 2020 report, we have published the *National AI Strategy*. The strategy, which I think it is fair to say has been well received, had three key objectives that will drive the Government's activity over the next 10 years. First, we will invest and plan for the long-term needs of the AI ecosystem to continue our leadership as a science and AI superpower; secondly, we will support the transition to an AI-enabled economy, capturing the benefits of innovation in the UK, and ensuring that AI benefits all sectors and parts of the country; and, thirdly, we will ensure the UK gets the national and international governance of AI technologies right to encourage innovation and investment, and to protect the public and the values that we hold dear.

We will provide an update on our work to implement our cross-government strategy through the forthcoming AI action plan but, for now, I turn to some of the other key themes covered in today's debate. As noble Lords have noted, we need to ensure the public have trust and confidence in AI systems. Indeed, improving trust in AI was a key theme in the *National AI Strategy*. Trust in AI requires trust in the data which underpin these technologies. The Centre for Data Ethics and Innovation has engaged widely to understand public attitudes to data and the drivers of trust in data use, publishing an attitudes tracker earlier this year. The centre's early work on public attitudes showed how people tend to focus on negative experiences relating to data use rather than positive ones. I am glad to say that we have had a much more optimistic outlook in this evening's debate.

The *National Data Strategy* sets out what steps we will take to rebalance this perception from the public, from one where we only see risks to one where we also see the opportunities of data use. It sets out our vision to harness the power of responsible data use to drive growth and improve services, including by AI-driven services. It describes how we will make data usable, accessible and available across the economy, while protecting people's data rights and businesses' intellectual property.

My noble friend Lord Holmes of Richmond talked about anonymisation. Privacy-enhancing technologies such as this were noted in the *National Data Strategy* and the Centre for Data Ethics and Innovation, which leads the Government's work to enable trustworthy innovation, is helping to take that forward in a number of ways. This year the centre will continue to ensure trustworthy innovation through a world-first AI assurance road map and will collaborate with the Government of the United States of America on a prize challenge to accelerate the development of a new breed of privacy-enhancing technologies, which enable data use in ways that preserve privacy.

Our approach includes supporting a thriving ecosystem of data intermediaries, including data trusts, which have been mentioned, to enable responsible data-sharing. We are already seeing data trusts being set up; for example, pilots on health data and data for communities are being established by the Data Trusts Initiative, hosted by the University of Cambridge, and further pilots are being led by the Open Data Institute. Just as we must shift the debate on data, we must also improve the public understanding and awareness of AI; this will be critical to driving its adoption throughout the economy. The Office for Artificial Intelligence and the Centre for Data Ethics and Innovation are taking the lead here, undertaking work across government to share best practice on how to communicate issues regarding AI clearly.

Key to promoting public trust in AI is having in place a clear, proportionate governance framework that addresses the unique challenges and opportunities of AI, which brings me to another of the key themes of this evening's debate: ethics and regulation. The UK has a world-leading regulatory regime and a history of innovation-friendly approaches to regulation. We are committed to making sure that new and emerging technologies are regulated in a way that instils public confidence in them while supporting further innovation. We need to make sure that our regulatory approach keeps pace with new developments in this fast-moving field. That is why, later this year, the Government will publish a White Paper on AI governance, exploring how to govern AI technologies in an innovation-friendly way to deliver the opportunities that AI promises while taking a proportionate approach to risk so that we can protect the public.

We want to make sure that our approach is tailored to context and proportionate to the actual impact on individuals and groups in particular contexts. As noble Lords, including the right reverend Prelate the Bishop of Oxford, have rightly set out, those contexts can be many and varied. But we also want to make sure our approach is coherent so that we can reduce unnecessary complexity or confusion for businesses and the public. We are considering whether there is a need for a set of cross-cutting principles which guide how we approach common issues relating to AI, such as safety, and looking at how to make sure that there are effective mechanisms in place to ensure co-ordination across the regulatory landscape.

The UK has already taken important steps forward with the formation of the Digital Regulation Cooperation Forum, as the noble Lord, Lord Clement-Jones, and others have noted, but we need to consider whether further measures are needed. Finally, the cross-border nature of the international market means that we will

[Lord Parkinson of Whitley Bay]
continue to collaborate with key partners on the global stage to shape approaches to AI governance and facilitate co-operation on key issues.

My noble friend Lord Holmes of Richmond and the noble Lord, Lord Evans of Weardale, both referred to the data reform Bill and the issues it covers. DCMS has consulted on and put together an ambitious package of reforms to create a new pro-growth regime for data which is trusted by people and businesses. This is a pragmatic approach which allows data-driven businesses to use data responsibly while keeping personal information safe and secure. We will publish our response to that later this spring.

My noble friend also mentioned the impact of AI on jobs and skills. He is right that the debate has moved on in an encouraging and more optimistic way and that we need to address the growing skills gap in AI and data science and keep developing, attracting and training the best and brightest talent in this area. Since the AI sector deal in 2018, the Government have been making concerted efforts to improve the skills pipeline. There has been an increased focus on reskilling and upskilling, so that we can ensure that, where there is a level of displacement, there is redeployment rather than unemployment.

As the noble Lord, Lord Bilimoria, noted with pleasure, the Government worked through the Office for AI and the Office for Students to fund 2,500 postgraduate conversion courses in AI for students from near and non-STEM backgrounds. That includes 1,000 scholarships for people from underrepresented backgrounds, and these courses are available at universities across the country. Last autumn, the Chancellor of the Exchequer announced that this programme would be bolstered by 2,000 more scholarships, so that many more people across the country can benefit from them. In the Spring Statement, 1,000 more PhD places were announced to complement those already available at 16 centres for doctoral training across the country. We want to build a world-leading digital economy that works for everyone. That means ensuring that as many people as possible can reap the benefits of new technologies. That is why the Government have taken steps to increase the skills pipeline, including introducing more flexible training routes into digital roles.

The noble Lord, Lord St John of Bletso, was right to focus on how the UK contributes to international dialogue on AI. The UK is playing a leading role in international discussions on ethics and regulation, including our work at the Council of Europe, UNESCO and the OECD. We should not forget that the UK was one of the founding members of the Global Partnership on Artificial Intelligence, the first multilateral forum looking specifically at this important area.

We will continue to work with international partners to support the development of the rules on use of AI. We have also taken practical steps to take some of these high-level principles and implement them when delivering public services. In 2020, we worked with the World Economic Forum to develop guidelines for responsible procurement of AI based on these values which have since been put into operation through the Crown Commercial Service's AI marketplace. This service has been renewed and the Crown Commercial Service is exploring expanding the options available to government buyers. On an international level, this work resulted in a policy tool called "AI procurement in a box", a framework for like-minded countries to adapt for their own purposes.

I am mindful that Second Reading of the Procurement Bill is taking place in the Chamber as we speak, competing with this debate. That Bill will replace the current process-driven EU regime for public procurement by creating a simpler and more flexible commercial system, but international collaboration and dialogue will continue to be a key part of our work in this area in the years to come.

The noble Lord, Lord Browne of Ladyton, spoke very powerfully about the use of AI in defence. The Government will publish a defence AI strategy this summer, alongside a policy ensuring the ambitious, safe and responsible use of AI in defence, which will include ethical principles based on extensive policy work together with the Centre for Data Ethics and Innovation. The policy will include an updated statement of our position on lethal autonomous weapons systems.

As the noble Lord, Lord Clement-Jones, said, there is no international agreement on the definition of such weapons systems, but the UK continues to contribute actively at the UN Convention on Certain Conventional Weapons, working closely with our international partners, seeking to build norms around their use and positive obligations to demonstrate how degrees of autonomy in weapons systems can be used in accordance with international humanitarian law. The defence AI centre will have a key role in delivering technical standards, including where these can support our implementation of ethical principles. The centre achieved initial operating capability last month and will continue to expand throughout this year, having already established joint military, government and industry multidisciplinary teams. The Centre for Data Ethics and Innovation has, over the past year, been working with the Ministry of Defence to develop ethical principles for the use of AI in defence—as, I should say, it has with the Centre for Connected and Autonomous Vehicles in the important context of self-driving vehicles.

The noble Baroness, Lady Merron, asked about the application of AI in the important sphere of the environment. Over the past two years, the Global Partnership on Artificial Intelligence's data governance working group has brought together experts from across the world to advance international co-operation and collaboration in areas such as this. The UK's Office for Artificial Intelligence provided more than £1 million to support two research projects on data trusts and data justice in collaboration with partner institutions including the Alan Turing Institute, the Open Data Institute and the Data Trusts Initiative at Cambridge University. These projects explored using data trusts to support action to protect our climate, as well as expanding understanding of data governance to include considerations of equity and justice.

The insights that have been raised in today's debate and in the reports which tonight's debate has concerned will continue to shape the Government's thinking as we take forward our strategy on AI. As noble Lords

have noted, by most measures the UK is a leader in AI, behind only the United States and China. We are home to one-third of Europe's AI companies and twice as many as any other European nation. We are also third in the world for AI investment—again, behind the US and China—attracting twice as much venture capital as France and Germany combined, but we are not complacent. We are determined to keep building on our strengths, maintaining and building on this global position. This evening's debate has provided many rich insights on the further steps we must take to make sure that the UK remains an AI and science superpower. I am very grateful to noble Lords, particularly to the noble Lord, Lord Clement-Jones, for instigating it.

Lord Clement-Jones (LD): My Lords, first I thank noble Lords for having taken part in this debate. We certainly do not lack ambition around the table, so to speak. I think everybody saw the opportunities and the positives, but also saw the risks and challenges. I liked the use by the noble Baroness, Lady Merron, of the word "grappling". I think we have grappled quite well today with some of the issues and I think the Minister, given what is quite a tricky cross-departmental need to pull everything together, made a very elegant fist of responding to the debate. Of course, inevitably, we want stronger meat in response on almost every occasion.

I am not going to do another wind-up speech, so to speak, but I think it was a very useful opportunity, prompted by the right reverend Prelate, to reflect on humanity. We cannot talk about artificial intelligence without talking about human intelligence. That is the extraordinary thing: the more you talk about what artificial intelligence can do, the more you have to talk about human endeavour and what humans can do. In that context, I congratulate the noble Lords, Lord Holmes and Lord Bilimoria, on their versatility. They both took part in the earlier debate, and it is very interesting to see the commonality between some of the issues raised in the previous debate on digital exclusion —human beings being excluded from opportunity— which arise also in the case of AI. I was very interested to see how, back to back, they managed to deal with all that.

The Minister said a number of things, but I think the trust and confidence aspect is vital. The proof of the pudding will be in the data reform Bill. I may differ slightly on that from the noble Lord, Lord Holmes, who thinks it is a pretty good thing, by the sound of it, but we do not know what it is going to contain. All I will say is that, when Professor Goldacre appeared before the Science and Technology Committee, I think it was a lesson for us all. He is the chap who has just written the definitive report on data use in the health area for the Department of Health, and he deliberately opted out, last year, of the GP request for consent to share data, and he is the leading data scientist in health. He was not convinced of the fact that his data would be safe. We can talk about trusted research environments and all that, but public trust in data use, whether it is in health or anything else, needs engagement by government and needs far more work.

The thing that frightens a lot of us is that we can see all the opportunities but if we do not get it right, and if we do not get permission to use the technology, we cannot deploy it in the way we conceived, whether it is for the sustainable development goals or for other forms of public benefit in the public service. Provided we get the compliance mechanisms right we can see the opportunities, but we have to get that public trust on board, not least in the area of lethal autonomous weapons. I think the perception of what the Government are doing in that area is very different from what the Ministry of Defence may think it is doing, particularly if they are developing some splendid principles of which we will all approve, when it is all about what is actually happening on the ground.

I will say no further. I am sure we will have further debates on this and I hope that the Minister has enjoyed having to brief himself for this debate, because it is very much part of the department's responsibilities.

Motion agreed.

Committee adjourned at 7.48 pm.