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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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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
UUP	Ulster Unionist Party

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House of Lords

Wednesday 18 October 2023

3 pm

Prayers—read by the Lord Bishop of Sheffield.

UN General Assembly September 2023

Question

3.07 pm

Asked by ***Lord McConnell of Glenscorrodale***

To ask His Majesty's Government what assessment they have made of the outcomes of the High-Level Meeting of the United Nations General Assembly held in September 2023.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, high-level week was a critical collective moment to tackle the growing interconnected challenges that we face by listening to the concerns of our partners, particularly in the developing world. We saw important progress made to accelerate delivery of the sustainable development goals. Importantly, the world also heard President Zelensky make the case for a just and sustainable peace in Ukraine, and the UK Government, alongside partners, led in broadening the vital international conversation on artificial intelligence.

Lord McConnell of Glenscorrodale (Lab): I thank the noble Lord the Minister for his Answer and I look forward to the publication of the White Paper, which I understand is planned for November, on the sustainable development goals. Can I ask more widely? This is perhaps directly related to the non-attendance of our own Prime Minister but also a number of other national leaders around the world—indicating, I think, a feeling of impotence at the moment on the ability of the United Nations to influence the conflicts that we see, and the persecution and violence against individuals in so many countries. Given the failure of the international community to protect civilians in Syria, Sudan, Ethiopia, Ukraine and most recently, of course, Israel and Gaza over recent years, does the UK now recognise that there is a need for fundamental reform of an institution that is still built around the outcome of the Second World War and is not fit for the challenges and conflicts of the 21st century? Will the Government set out at some point their intentions to take a lead in that debate?

Lord Ahmad of Wimbledon (Con): My Lords, on the question of attendance, there was high-level attendance from the United Kingdom, led by the Deputy Prime Minister. As the noble Lord may well be aware, it is not the first time that has happened and it is not uncommon. The Deputy Prime Minister led the delegations in 2010 and 2013, and the Foreign Secretary did so between 2001 and 2004 and in 2006 and 2007.

The important element was the discussions and some of the outcomes. The noble Lord is right that conflicts persist around the world. I argue that we are seeing a record number of conflicts around the world, certainly in my time as a Minister. There is a need for early intervention and prevention but also engagement and conflict mediation. The structures are there but they need reform, and the United Kingdom has been at the forefront of that, including supporting Secretary-General Guterres's common agenda for the future. It is important that we get the sustainable development goals back on track, because they are important to deliver. When you see progress being made there, it needs not just the focus of one country or two countries but a collective unity to ensure that we meet the challenges we currently face.

Lord Collins of Highbury (Lab): My Lords, the SDGs are a vital agenda that, it was agreed, would be completed in 2030. World Food Day was on Monday, and it is a reminder that conflict and climate change threaten the progress that we have made and that this country has led on. The global food summit being held on 20 November is a chance to put this back in the leadership race and make sure that other countries take seriously the nutrition challenge, which is a multiplier in delivering on the SDGs. Can the Minister tell us that he will work with other Governments to ensure that next year's Nutrition for Growth summit, which is scheduled to be in Paris, will be an opportunity to put things back on track so that we are able to deliver that 2030 agenda?

Lord Ahmad of Wimbledon (Con): My Lords, I recognise the important role the noble Lord plays on this important issue. I agree with him on the SDGs; only 15% of the current SDG targets for 2030 are on track. Many have gone into reverse or stalled. Therefore, they require those important commitments.

I agree with the noble Lord on the food security summit, and the UK delegation highlighted hunger during high-level week. The UK has previously hosted the global food security summit and we are focused on delivering those important outcomes. I know the noble Lord agrees with me on this. Summits alone do not deliver outcomes. We have COP 28 coming up and we know the climate challenges. It requires promises and commitments that have been made to be fulfilled, particularly for countries that cannot help themselves. It is important that we stand up and help them.

Lord Lexden (Con): My Lords, will my noble friend remind the House of the Government's key priorities for the reform of the United Nations organisations? As the noble Lord, Lord McConnell, reminded us, they have been in their present form since the Second World War.

Lord Ahmad of Wimbledon (Con): My noble friend is right to bring focus to that. One practical example is the current status of the UN Security Council, which was built on the pillars of the post-Second World War settlement. We have seen the Security Council not working effectively, particularly as one P5 member—namely, Russia—has interjected quite directly on its illegal war against Ukraine, a founding member of the United Nations. We need reform to reflect the global dynamic of the world today. There are many reforms.

[Lord Ahmad of Wimbledon]
The rules-based system needs reform on how we interject when natural disasters hit different parts of the world, for example. These rules were made more than 40 years ago. They need reform to reflect the modern world we live in.

Lord Purvis of Tweed (LD): The main reason we are off track with the goal on poverty, as well as the others the Minister referred to, is that the richest nations on earth are not making the contributions they said they would, including the United Kingdom with its unlawful ODA cut. As the Independent Commission for Aid Impact highlighted in its recent report, the UK provided £3.3 billion for multilateral ODA in 2022, but £3.7 billion was spent within the United Kingdom on refugee costs. Will the Minister agree with me that official development assistance for the world's poorest should be spent overseas and not here in the UK?

Lord Ahmad of Wimbledon (Con): My Lords, I agree with the principle the noble Lord articulates, but he will be aware that it is within the ODA rules. The reduction we had to make was reflective of the challenges that the United Kingdom is facing, as all countries are. We remain one of the largest donors when it comes to ODA. It is also right that, as the United Kingdom has done with Ukraine and other conflicts around the world, we look to support those seeking protection here in the United Kingdom. It is within the rules to spend on that within that first 12-month period. He will know that my right honourable friend Andrew Mitchell, the Minister for Development, is very seized of the importance of ODA spend globally. That is why the White Paper referred to earlier will also define our future way on ODA spending and our priorities in the years to come.

Lord Hannay of Chiswick (CB): My Lords, does the Minister agree that, when approaching the issue of UN reform—and I agree with both him and the noble Lord, Lord McConnell, that reform is needed—it is probably wise to approach this in an incremental way and not to try to fashion together one single, overall package? In the light of the state of the world at the moment, that would look to me singularly unlikely to make progress.

Lord Ahmad of Wimbledon (Con): My Lords, the noble Lord has wise insights from his time as our permanent representative at the United Nations. I agree with him about the reform that is needed, but I am sure he would agree with me that it has to go beyond words and papers being produced, and that we need practical delivery of the reforms. I want to move away from the division that is sometimes put forward about the global North and the global South. This should be a comprehensive review of understanding the equities, the strengths, the opportunities and also the challenges we have, and how we work in terms of partnership, particularly for developing nations. I talked about climate earlier; let us be quite real there. Climate change matters in certain respects to certain countries. If you are Vanuatu or Tuvalu—countries in the Commonwealth—climate change is an existential threat. It is vital that we look at the global impact of the decisions we make, but that needs fundamental reforms in the international rules-based system.

Lord Woodley (Lab): My Lords, the Secretary-General of the United Nations has today called for a humanitarian ceasefire in Israel. We need the hostages home safely to their people, and we need to stop the unnecessary bombing of innocent men, women and children. Does the Minister agree?

Lord Ahmad of Wimbledon (Con): My Lords, I have been very much engaged and quite heavily involved in the diplomatic efforts since the abhorrent crimes that were committed against the Israeli people and the Israeli nation. Let us be very clear from this House: Hamas itself is a proscribed organisation and its tactics, antics and impact on Israel shook that country to the core. Equally, I assure the noble Lord that we are engaging in all diplomatic efforts. He will have heard the statements of my right honourable friend the Prime Minister, and indeed those of the right honourable leader of the Opposition, that we as a country are at one. We do not want to see innocent lives lost, be they Israeli or Palestinian. I assure the noble Lord that we are working all diplomatic channels—bilaterally and collectively in the region—to ensure that this conflict, which has cost so many lives already, can be brought to a halt. We need the hostages back and we need humanitarian aid to enter to help the desperate people in Gaza.

State Pensions: Canada Free Trade Agreement

Question

3.17 pm

Asked by ***Lord Thomas of Gresford***

To ask His Majesty's Government whether they intend to take steps to index United Kingdom state pensions to inflation for those entitled to them living in Canada, as requested by the government of that country in order to facilitate the proposed new free trade agreement.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Viscount Younger of Leckie) (Con): My Lords, state pensions are not in the scope of the negotiations on a free trade agreement with Canada. The UK state pension is payable worldwide to those who meet the qualifying conditions, without regard to nationality. The amount is based on an individual's national insurance record. UK state pensions are uprated overseas only where there is a legal requirement to do so. The Government have no plans to change this policy.

Lord Thomas of Gresford (LD): My Lords, the Canadian Government say that, over the past 30 years, they have made repeated efforts to persuade the UK Government to do what they do for their own citizens: to index the UK pensions of UK retirees who are resident in Canada. On what principle do the Government

distinguish between our pensioners in Canada, Australia, New Zealand and certain Caribbean Commonwealth countries and those whose UK pensions are not frozen—in the USA, for example, and, as reinforced in the recent Brexit trade agreement, in the 27 countries in the EU?

Viscount Younger of Leckie (Con): The rate of contribution paid has never earned entitlement to indexation of pensions payable abroad. This reflects the fact that the UK scheme is designed primarily for those living in the UK. In drawing up expenditure plans for pensioner benefits, the Government believe that their responsibility is primarily towards pensioners living in this country. The UK's current social security arrangements with Canada provide for individuals coming to the UK to use periods of residence in Canada for the purposes of entitlement to the UK state pension as well as certain other benefits.

Baroness Seccombe (Con): My Lords, will my noble friend the Minister tell the House that we do fulfil our legal obligations to our overseas pensioners?

Viscount Younger of Leckie (Con): Yes, I can certainly give some reassurance on that to my noble friend. She may know that the policy has been challenged in the courts, and the Government's long-standing position has been upheld by the High Court, the Court of Appeal and the Appellate Committee of the House of Lords in 2005, as well as the European Court of Human Rights in 2008, following a further challenge.

Lord Vaux of Harrowden (CB): My Lords, this goes way beyond Canada. Does the Minister agree that people who have worked and paid national insurance all their lives have earned their state pension? Can he therefore answer the earlier question, which he did not really answer: why, if you choose in retirement to go and live somewhere else, should you not receive what you have earned in full and on the same basis as anybody else?

Viscount Younger of Leckie (Con): This issue goes back to what has happened in the past. The distribution of reciprocal agreements with countries is based on historic ties with those countries and the levels of labour and people mobility flows at the time that the agreements were concluded. We therefore very much have to look back at that, but I reiterate that we have no plans to include this in current or future free trade agreements. I also say to the noble Lord that, as he will know, if we look at the overseas territories, for instance, due to past, historic arrangements, Bermuda, Gibraltar and the sovereign base areas of Cyprus are included, but the rest are not.

Lord Sahota (Lab): My Lords, I know quite a few members of the Asian community who have worked all their lives in the UK, paid their national insurance and taxes here but, after retirement, have moved to Canada because the Canadian immigration system is far more flexible when it comes to joining blood relations and families together. As a former leader of a council, I know how high the cost can be for a taxpayer for adult social care—sometimes as much as 50% of the revenue budget of a council. Therefore, when some of these UK pensioners move to Canada, UK taxpayers save millions of pounds in not having to look after them in their old age; that burden falls on Canadian taxpayers. After all, they have paid their taxes and their national insurance, why can their pensions not be inflation-proof?

Viscount Younger of Leckie (Con): I am certainly very aware—this perhaps adds to the Answer I gave to the noble Lord, Lord Thomas—that the Department for Work and Pensions has received requests for a reciprocal social security agreement from Canada in recent years, including 2020, 2021 and, indeed, this very year. The choice of moving to another country—let us say, Canada—is very much a personal choice and it is not for the Government to encourage or discourage pensioners in moving overseas. I am sure they do so for reasons other than necessarily to do with pensions; it could be to do with family or returning to a country of birth. But, I say again, the Government have no plans to change the policy.

Lord Palmer of Childs Hill (LD): My Lords, I hear what the Minister says, but the APPG on frozen pensions said in its report in 2020 that 80% of people retiring to Commonwealth countries—Canada, New Zealand and Australia, together with various Caribbean countries—were unaware that their UK pensions would be frozen. Can the Minister tell us what steps the Government have taken since then to publicise their likely predicament? I inform this House that the Government's website contains no more than a passing reference to this and, like all passing references, it is in brackets. Can we at least remove the brackets and put it in bold type?

Viscount Younger of Leckie (Con): My Lords, whether there are brackets or not, obviously I will need to go back and check myself what the website says. As I say, people move abroad for many reasons and, before they do so, I am certain that they look at all the pros and cons. It is also their responsibility to take advice and make an informed decision before they move. However, I hope it gives some reassurance that there is information—I hope it is not limited—on GOV.UK as to what the effect of going abroad will be on entitlement to UK state pensions. That is, as I say, just one factor that people will be bearing in mind when making that decision, difficult or otherwise, to move from the UK.

Baroness Sherlock (Lab): My Lords, to come back to Canada for a moment, this was quite an issue in the Canadian media—I am sure the Minister has read the cuttings—but is he aware that last year the Canadian media reported on a woman who got a letter from the DWP telling her that her pension was being stopped and there was no right of appeal? The reason was that she had failed to reply to a letter demanding she return a certificate proving she was still alive. It then turned out that this had happened to thousands of people, none of whom had got the letter. The Canadian media reported that the DWP blamed the Canadian postal system, but this must be a challenge: if you never get a letter, you do not know you are meant to reply to it.

[Baroness Sherlock]
You cannot send the certificate back, then you get a letter telling you your pension is over and you cannot appeal, and the DWP will communicate with you only by post. Has this been resolved and how can future pensioners be sure they do not get caught the same way?

Viscount Younger of Leckie (Con): I cannot deny that the noble Baroness makes a very good point. I will certainly go back and look at the specific case she has raised. I think she is saying that it extends to others, and I will certainly look at that. As far as I am concerned, the Government should be—and I will check on this—making every communication available for individuals who are seeking to move abroad, particularly to Canada, to have as much of the correct information as possible that they need in order to make all the decisions to make that move.

Lord Cormack (Con): My Lords, is my noble friend aware that a number of Members of your Lordships' House have received letters signed by some 25 Canadian Senators? Did he receive such a letter? If he did, will he be kind enough to put a copy of his reply in the Library? If he did not, I will let him have my letter and perhaps he can do it with that.

Viscount Younger of Leckie (Con): I can reassure my noble friend that I have received my own letter: actually, it happened to be today, because we have been away. I am already on it and I will certainly be replying to it. I shall be passing it to my officials and making sure that there is a response, and I will certainly make sure that my noble friend is copied in.

Viscount Waverley (CB): My Lords, can the Minister help me understand why pension arrangements have anything to do with free trade agreements?

Viscount Younger of Leckie (Con): If I have not said it before, I assure the noble Viscount that actually the two are separate: social security arrangements linking to pensions are separate from free trade agreements. I think I alluded to that in one of my answers, but let me make it completely clear.

Lord Russell of Liverpool (CB): Last Thursday, I was in Strasbourg at the Council of Europe as part of the UK delegation. A group of Canadian parliamentarians very kindly invited a group of the UK members to lunch, and noble Lords may guess what the subject of the lunch was. I was sitting opposite a Senator who launched into a diatribe about the pensioner situation in Canada, and on my left was a female MP from an agricultural constituency who was bemoaning the fact that Canada imports a certain amount of British beef but is unable to export any beef to us at all. So, whatever the Minister and his department may think, there is indeed a very strong connection in the minds of the Canadian Government between the two.

Viscount Younger of Leckie (Con): Yes, and I understand how they might wish to make that connection, but I reiterate again that we see no connection. In fact, the agreements that have been put in place in the past have been social security agreements. I also say gently to the noble Lord that the agreement between the EU and Canada is not dissimilar to the current agreement between the UK and Canada.

Employment and Support Allowance

Question

3.28 pm

Asked by ***Lord Young of Cookham***

To ask His Majesty's Government what progress has been made on getting those on Employment and Support Allowance into work.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Viscount Younger of Leckie) (Con): My Lords, in 2017 the Government set a goal to see 1 million more people in work by 2027. Last year, we surpassed that goal five years early. The Government have a range of initiatives to support disabled people and people with health conditions to start, stay and succeed in work. This includes work to further join up employment and health systems, including employment advice in NHS talking therapies and individual placement and support in primary care.

Lord Young of Cookham (Con): My Lords, I welcome the initiatives taken since 2017 to help back into work those who can and to support those who cannot with appropriate measures without penalising them. But is there not a worrying underlying trend in a country that ought to be getting healthier? There are now 2.5 million people out of the workforce due to long-term sickness; that figure is up half a million in the last four years. Last year, there were double the number of new claimants for disability as against the year before. In the last six months, over half those under 24 in work have taken time off because of mental illness. In the last Budget, I welcomed the £2 billion allocated to support back into work those in poor health, but can my noble friend explain how that initiative will reverse the trend I have mentioned in the interests of those who are out of work but also in the interests of the wider economy?

Viscount Younger of Leckie (Con): The House will not be surprised when I say that that is one of the Government's biggest challenges—that is very clear. People with long-term sickness are some of the hardest to help and often face multiple barriers in returning to the labour market. There is a range of complex and interacting factors that contribute to the rise in economic inactivity due to long-term sickness, such as changes in population demographics and the increasing prevalence of work-limiting health conditions. On my noble friend's question, regarding the support in the spring Budget, announcements included Work Well and universal support, and we have increased our support in particular for helping people to get back into work, where they can, with additional work coach time. There are other multiple national strategies and initiatives, including *Excellence in Continence Care* and the major conditions strategy, and we are moving at pace on a number of these initiatives.

Baroness Lister of Burtersett (Lab): My Lords, employment and support allowance is one of the working-age benefits potentially under threat because it is rumoured that it may not be inflation-proofed next year, given the inflation rate announce d today. Given that many benefits have already been subject to a series of cuts since 2010 and the growing evidence of acute hardship among recipients both in an out of work, will the noble Viscount make the case within government for full inflation-proofing as strongly as possible?

Viscount Younger of Leckie (Con): I should remind the noble Baroness that we uprated by 10.1% in 2023, and I take her point. I can reassure her that the process leading up to April 2024 is beginning; I have no doubt that the Secretary of State will be looking very carefully at all the evidence, and announcements will be made at the appropriate time.

Baroness Browning (Con): My Lords, I declare a long-standing family interest in ESA, particularly in the support group. I venture to offer my noble friend some advice, as I could write not just a book, but a series of books on applications to ESA. The Government need to make sure that they employ people who fully understand the medical conditions they are dealing with. To give a quick example, it is no good having so-called doctors asking people who suffer from epilepsy and epileptic seizures whether they can get in and out of a bath. When the reply comes, "As someone with epilepsy, I am advised not to get into a bath of water"—for obvious reasons—the reply comes back, "Just pretend you don't have epilepsy. Could you get in and out of a bath or not?" It is not just a joke—it is tragic, because it causes the most appalling problems for many disabled people.

Noble Lords: Hear, hear.

Viscount Younger of Leckie (Con): I have listened very carefully to my noble friend and have every sympathy. It might help to know that we are looking very carefully at the descriptors for those who are disabled and who may or may not be able to return to the workplace or even take up work. Those descriptors, as part of the WCA, are being particularly considered in terms of the focus on mobility, continence and social engagement. A lot of work is going on in this area; it is being done at pace but also with a great deal of empathy and care.

Baroness Sherlock (Lab): My Lords, let me follow on from what the noble Baroness, Lady Browning, has very movingly said. As the noble Lord, Lord Young of Cookham, described, we are now in a position where those who are out of the labour market long-term because of ill health are the single biggest challenge facing our economy. Whenever we have this conversation, the Minister mentions different initiatives. However, as we now have 2.6 million people who are out of the labour market long-term, and we know that, for example, 23% of them want a job, that is 600,000 people who are desperate to get back to work but need appropriate help. Instead of having a series of schemes, is it not time to make sure that the core DWP, jobcentres and all the staff understand what they are dealing with when it comes to applications and to helping people to get back to work? The country needs it, and so do they.

Viscount Younger of Leckie (Con): That is exactly what we are doing. We have been recruiting at pace more experts for the jobcentres and, as the noble Baroness will know, are consulting on the conditionalities and descriptors. It is quite right that we engage with the public and other stakeholders to make sure that we get this right. She will know that the WCA focus is a more rapid matter compared to the *National Disability Strategy*, which is a much more long-term thing. We are taking this very seriously; she is quite right to point this out, but a lot is going on and it will lead to results.

Lord Palmer of Childs Hill (LD): My Lords, to follow on from various other questioners, the jobcentre work coaches will make referrals to the new programme, which the Minister has referred to. There is then initial assessment and then they receive wraparound support. All this sounds very good on paper, but how even-handed will the training and monitoring of these people, who will be assessing people's future, be across the UK?

Viscount Younger of Leckie (Con): I am not sure about the definition of "even-handed", but I reassure the noble Lord that it includes training the experts in the jobcentres in dealing with the individuals they are looking at with a great deal of empathy and sympathy. We know that one in four people who are disabled wish to come into work; it is a question of making sure that the assessment is correctly done, that the individuals concerned buy into it and that employers are engaged in taking them on.

The Lord Bishop of Sheffield: My Lords, one such initiative that supports people with a health condition to find and remain in paid employment is called Working Win. It has been piloted in South Yorkshire, and I am assured that both the DWP and the South Yorkshire Mayoral Combined Authority consider the pilot to have been a success. What plans do the Government have to roll out this health-led employment programme more widely?

Viscount Younger of Leckie (Con): Although I do not have information on that specific programme here, I will certainly write to the right reverend Prelate. It no doubt fits in well with and complements many of the other initiatives we are taking, including, as I mentioned earlier, the work coach support, the disability employment advisers, the Access to Work grants and the Disability Confident scheme—I could go on.

Lord Sikka (Lab): My Lords, in May 2010, 527,000 people were claiming the employment and support allowance. At that time, the NHS England waiting list was 2.5 million; now, it is 7.8 million and 1.63 million people are claiming the allowance. Clearly, there is a correlation between the two statistics. Can the Minister explain why the Government have failed to address the main cause—the degradation of the NHS?

Viscount Younger of Leckie (Con): This is much more of a health matter, but we in the DWP are focusing on getting the 2.5 million back into work, should they wish to.

Baroness Redfern (Con): My Lords, getting more people into work requires resources and training for those on the front line, particularly those in jobcentres. However, surely as important are the contacts made with employers, so what is my noble friend's assessment of progress in empowering national and local employers to take on more disabled people?

Viscount Younger of Leckie (Con): There are a few initiatives, such as the Disability Confident scheme, which I have alluded to. Increasing access to occupational health is a very important initiative which particularly requires focus on small and medium-sized enterprises that do not normally have occupational health. I also mentioned Access to Work; it is very important that we empower and encourage businesses to take on those who are disabled.

Afghan Interpreters

Question

3.39 pm

Asked by ***Baroness Coussins***

To ask His Majesty's Government how many former interpreters who worked with the armed forces in Afghanistan, and former British Council employees, are in Pakistan awaiting relocation to the United Kingdom under the Afghan Relocation and Assistance Policy or other schemes; and how much longer they expect this process to take.

The Parliamentary Under-Secretary of State, Home Office (Lord Sharpe of Epsom) (Con): My Lords, the ARAP scheme offers relocation to Afghans who worked with us in Afghanistan. The ACRS is designed to support those who have assisted with UK efforts in Afghanistan, including with the British Council, as well as vulnerable people. As of August 2023, we have relocated approximately 12,300 ARAP and 9,700 ACRS-eligible individuals. We will ensure that all eligible British Council contractors who remain in the region are brought to the UK, as the Minister for Immigration set out in the other place yesterday.

Baroness Coussins (CB): My Lords, I am of course glad that more than 20,000 have been relocated already, but my Question was about the thousands more who are still waiting and trapped. Does it not add insult to injury that thousands of Afghans who worked with and for the UK, and who were encouraged by the UK to flee to Pakistan to expedite the visa process, should now themselves be experiencing at the hands of increasingly hostile Pakistani authorities the kind of daily fear, harassment and deprivation they thought they were leaving behind when they fled the Taliban? They were told they would have their visas in a few weeks, but some have been waiting for almost two years and now face the threat of repatriation to Afghanistan. Why is this visa process taking so long? Why have these people been so badly misled, and what are the Government doing to organise housing for them to come to if, as reported, this really is the main reason for delay?

Lord Sharpe of Epsom (Con): It really is the main reason for the delay. We obviously sympathise with the situation many Afghans find themselves in, including those who are suffering due to their work standing up for human rights and the rule of law, and those facing wider persecution by the Taliban. As the Minister for Immigration said yesterday, we remain dedicated to honouring our commitments to those people. We continue to develop plans across government to support new arrivals into suitable accommodation in the UK. Finding suitable accommodation is the biggest problem we have, but work is being done at speed.

Baroness Warsi (Con): My Lords, is my noble friend aware of the decision taken by the Pakistani Government on refugees? My noble friend will be aware that between 3.5 million and 4 million refugees have been in Pakistan for more than two decades, but most of them are undocumented, and the Pakistani Government took the decision—rightly criticised by human rights organisations across the world—that undocumented refugees should return to Afghanistan. This is a dire situation. The deadline is 1 November. What is His Majesty's Government doing to protect those who protected us?

Lord Sharpe of Epsom (Con): My noble friend raises a very good question. We estimate that currently, there are around 3,000 ARAP and ACR-eligible individuals in Pakistan. I am of course aware of the actions of the Pakistan Government regarding undocumented illegal immigrants in their country, but the Government are accelerating the arrival of ARAP-eligible individuals currently in Pakistan and we are doing our very best to move them into suitable accommodation as fast as possible.

Lord Browne of Ladyton (Lab): My Lords, the Afghan Special Police Commando Force 333 was created, trained, mentored and funded by His Majesty's Government, initially in support of British counter-narcotics objectives, but later for counter-insurgency and counter-terrorist duties. It is now clear that several deserving members of the force and their families were wrongly refused under the ARAP process and, as a direct consequence, several have been murdered in Afghanistan. Can the Minister provide assurances that the new director of the defence Afghan relocations and resettlement team will be given full support, including from the Home Office, to ensure that all previous 333 refusals are reviewed?

Lord Sharpe of Epsom (Con): I have no knowledge of the circumstances the noble Lord describes, but I obviously very much regret them if they are as he says. It is worth pointing out that, as it says on the GOV.UK website,

"The Afghan Relocations and Assistance Policy (ARAP) is for Afghan citizens who worked for or with the UK Government in Afghanistan"—

these are the key words—

"in exposed or meaningful roles".

Given what the noble Lord has said, I will pass his concerns on to the Ministry of Defence and make sure it is aware of his desire for a review of these circumstances. In total, more than 24,600 people have been brought to safety. Work is continuing at pace, but I will make sure the MoD is aware of those special circumstances.

Baroness Smith of Newnham (LD): My Lords, it is welcome that the ACRS pathway 3 has been expanded to all those deemed at risk who applied with the original FCDO scheme last year. However, more than two years after Op Pitting, it feels like Afghanistan is a forgotten war and those who worked alongside the British military are forgotten victims. The noble Baroness, Lady Coussins, asked about those in Pakistan. Do the Government have any understanding of how many people had visas to be in Pakistan, whose visas have now expired? I have the names of at least 63 linked with the British Council whose visas have expired; I can pass those to the Home Office, but there must be many more. What are His Majesty's Government doing to deal with individuals whom we know we have documentation for? What are we doing about bringing them out of Pakistan and to the United Kingdom?

Lord Sharpe of Epsom (Con): I say first to the noble Baroness that this is not a forgotten war and these are not forgotten people. As I say, these are people to whom the Government will honour all their commitments, whenever and however they were made. I am not party to the precise details of individuals whose visas may have lapsed. She is welcome to send me those details and I will make sure they go to the appropriate places.

Lord Stirrup (CB): My Lords, further to the question of the noble Lord, Lord Browne of Ladyton, it appears that prior to June of last year, most applications for resettlement from members of CF 333 were approved. Subsequently, most were rejected, and indeed some prior approvals were rescinded. In following up on the noble Lord's question, could the Minister obtain for the House some information on the source of and rationale for this dramatic change of policy, which, as we have heard, has resulted in some deaths?

Lord Sharpe of Epsom (Con): I am happy to provide the noble and gallant Lord with that information; I will do my very best to find it.

Lord Udny-Lister (Con): My Lords, does the Minister accept that much of the world is not as stable as we would like, and that we have a duty of care to locally employed staff in our embassies, particularly in countries which are in difficulty at this time and could be in a similar situation to Afghanistan? Have we learnt these lessons?

Lord Sharpe of Epsom (Con): Of course I accept that, and I absolutely take my noble friend's point.

Lord Coaker (Lab): My Lords, let us remind ourselves once again, as other noble Lords have done, that this scheme is for those Afghans and their families who risked their lives working with and for the British military in exposed or meaningful roles, as the Minister outlined. Can the Minister therefore explain why, according to evidence given to the Foreign Affairs Committee inquiry yesterday, many occupations such as mechanics and others who helped our troops in Afghanistan are often not deemed eligible, despite their being threatened or indeed killed by the Taliban? As the policy stands, the consequence for many of those desperate people and their families will be being isolated, facing the terror of the Taliban on their own. Does the Minister not agree with me that those who stood with our troops deserve better than that?

Lord Sharpe of Epsom (Con): I absolutely agree with the noble Lord that those who stood with our troops deserve the best we have to offer. I go back to the point I made earlier: the definition of people who are eligible for ARAP is those who served in exposed or meaningful roles. I cannot precisely define what those terms mean, but I think we can all imagine it. I will do more to find out whether mechanics and other job descriptions match these criteria, as I cannot answer that.

Lord Cormack (Con): My Lords, surely the best we have to offer is a safe abode. The noble Baroness, Lady Coussins, indicated the absolute moral responsibility we have for these people, and my noble friend Lady Warsi said that we are talking about less than a fortnight for some of them. Can we not have an absolute, definitive statement that my noble friend will go back to the Home Office, talk to the Home Secretary and ensure that these people have the safety their service to this country demands?

Lord Sharpe of Epsom (Con): I agree with my noble friend but as I pointed out earlier, the principal problem is the lack of availability of suitable accommodation, much of which is provided by the MoD. That is not to say that we are not honouring our commitments; we absolutely are, and we are accelerating the speed of arrivals into this country.

Lord Anderson of Swansea (Lab): Does the noble Lord accept that it will be cold comfort for these exposed people to be told, "Yes, we accept our responsibility, but we cannot deal with you until housing becomes available", at a time when they may be sent back to Afghanistan to an uncertain fate? The whole point of housing is surely that there must be some definite time; otherwise, they will be told that they will have to wait indefinitely until housing appears.

Lord Sharpe of Epsom (Con): No one is talking about making anybody wait indefinitely. We are accelerating our work in this area as fast as we can, in accordance with the various prevailing circumstances that have been described.

Economic Crime and Corporate Transparency Bill

Commons Reasons

3.51 pm

Motion A

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

That this House do agree with the Commons in their Amendment 151A and do not insist on its Amendments 151B and 151C in lieu to which the Commons have disagreed for their Reason 151D.

151D: Because it would be disproportionate to apply the new clause inserted by Lords Amendment 151 to bodies other than large organisations.

The Parliamentary Under-Secretary of State, Home Office (Lord Sharpe of Epsom) (Con): My Lords, in moving Motion A I will also speak to Motions B and B1.

It is a great pleasure to bring this Bill before your Lordships' House once more. I hope it is for the last time, as I know that Companies House and law enforcement agencies are keen to use the important changes made by it. Without it, we will not be able to fund the recruitment of hundreds of new staff at Companies House to deliver the transformation that we all agree is needed. We will not be able to tackle SLAPPs, fraudsters will continue to be able to take advantage of vulnerable victims via fake companies, and we will not be able to go after the assets of criminals as effectively as we might. I could go on.

The Government have listened carefully to noble Lords during the Bill's passage and have already moved significantly. This is an extensive and comprehensive Bill, standing now at nearly 400 pages of drafting, and it is imperative that we see it become statute. Noble Lords will of course be aware that the end of the Session is fast approaching.

I start by discussing Motion A, which seeks to reinsert the SME exemption for the failure to prevent fraud offence. I am grateful that my noble and learned friend Lord Garnier has moved closer yet again to the Government's position by exempting microentities and smaller organisations from the offence. However, I am afraid that the burdens that this would place on medium-sized enterprises are simply too great, and so the Government cannot and will not support any lowering of the SME threshold that we have introduced. The threshold proposed by my noble and learned friend Lord Garnier would cost medium-sized enterprises £300 million more in one-off costs and nearly £40 million more in annual recurring costs.

However, it is not just about these costs—although they fully justify the Government's position in their own right. Undoubtedly, a chilling effect also occurs with the imposition of a criminal offence. I have spoken before about my experience of working in the City. I know from that experience that, when this type of new regulation shows up, a whole industry of lawyers, consultants and accountants cranks into action, telling businesses what they can and cannot do. All this distracts businesses from what they should be doing, which is creating jobs and growing their businesses, which benefits the whole economy. As Kit Malthouse, the Member for North West Hampshire, put it in the House of Commons, the SME threshold is

"a level at which companies can absorb the step up in responsibility, and without a disproportionate amount of cost".—[*Official Report*, Commons, 13/9/23; col. 947.]

I therefore urge noble Lords to support the government Motion to reinsert the SME threshold, to ensure that we take a proportionate approach and do not impose unnecessary measures that will curb our economic growth.

I now move on to discuss government Motion B, focusing on the amendment tabled by the noble Lord, Lord Faulks, on cost protection in civil recovery cases. The Government remain of the view that this type of amendment will be a significant departure from the loser pays principle, and therefore not something that should be rushed into without careful consideration. However, that is not to say that this type of amendment is necessarily a bad idea, and I am grateful to the noble Lord for bringing it to our attention. With that being said, it would not be responsible for us to rush into making such a significant change at the tail-end of a Bill without full consideration by the Government and commensurate scrutiny by Parliament. That is why we previously added a statutory commitment in the Bill to review the payment of costs in civil recovery cases in England and Wales by enforcement authorities, and to publish a report on the findings and to lay it before Parliament within 12 months. I hope noble Lords will agree that this is the responsible approach to take and therefore support government Motion B.

In conclusion, I encourage noble Lords to agree with the Government's position in these two areas. It is vital that we achieve Royal Assent without delay so that we can proceed to implement the important reforms in this Bill as quickly as possible. I beg to move.

Motion A1 (as an amendment to Motion A)

Moved by ***Lord Garnier***

Leave out from "House" to end and insert "do insist on its disagreement with the Commons in their Amendment 151A, do not insist on its Amendments 151B and 151C, to which the Commons have disagreed for their Reason 151D, and do propose Amendments 151E and 151F in lieu—

151E: As an amendment to Lords Amendment 151, in subsection (1), after first "body" insert "which is not a small organisation or which is a large organisation (see sections (*Section (Failure to prevent fraud): small organisations*), (*Section (Failure to prevent fraud): large organisations*) and (*Large organisations: parent undertakings*))"

151F: After Clause 180, insert the following new Clause—

"Section (*Failure to prevent fraud*): small organisations

(1) For the purposes of section (Failure to prevent fraud)(1) a relevant body is a "small organisation" only if the body satisfied two or more of the following conditions in the financial year of the body ("year P") that precedes the year of the fraud offence—

Turnover	Not more than £10.2 million
Balance sheet total	Not more than £5.1 million
Number of employees	Not more than 50.

(2) For a period that is a relevant body's financial year but not in fact a year, the figure for turnover must be proportionately adjusted.

(3) In subsection (1) the "number of employees" means the average number of persons employed by the relevant body in year P, determined as follows—

(a) find for each month in year P the number of persons employed under contracts of service by the relevant body in that month (whether throughout the month or not),

(b) add together the monthly totals, and

(c) divide by the number of months in year P.

(4) In this section—

"balance sheet total", in relation to a relevant body and a financial year—

(a) means the aggregate of the amounts shown as assets in its balance sheet at the end of the financial year, or

(b) where the body has no balance sheet for the financial year, has a corresponding meaning;

"turnover"—

(a) in relation to a UK company, has the same meaning as in Part 15 of the Companies Act 2006 (see section 474 of that Act);

(b) in relation to any other relevant body, has a corresponding meaning;

"year of the fraud offence" is to be interpreted in accordance with section (*Failure to prevent fraud*)(1).

(5) The Secretary of State may by regulations modify this section (other than this subsection and subsections (6) and (8)) for the purpose of altering the meaning of "small organisation" in section (*Failure to prevent fraud*)(1).

(6) The Secretary of State may (whether or not the power in subsection (5) has been exercised) by regulations—

(a) omit the words "which is not a small organisation or" in section (*Failure to prevent fraud*)(1), and

(b) make any modifications of this section (other than this subsection) that the Secretary of State thinks appropriate in consequence of provision made under paragraph (a).

(7) Before making regulations under subsection (5) or (6) the Secretary of State must consult—

(a) the Scottish Ministers, and

(b) the Department of Justice in Northern Ireland.

(8) Regulations under subsection (5) or (6) may make consequential amendments of section (*Failure to prevent fraud: minor definitions*).""

Lord Garnier (Con): My Lords, the cracked record is up and at it yet again, but I make no apology because, although I fully understand the timetabling difficulties that the Government face—namely, that they would like to see this Bill receive Royal Assent before the close of the Session—I think we all ought to agree that it is better that, if we are to give this Bill a route through to Royal Assent, it should be a good Bill.

Most of the Bill is good, but this particular provision in relation to failure to prevent fraud offences falls down. I will not make the same speech that I made on 11 September, nor the same speech that I made in July, nor the same speech that I made in the spring, nor the same speech that I have made probably half a dozen times since I came into this House and probably a dozen times when I was a Member of the other place. Suffice to say that nothing I have heard from the Government, and nothing I have heard from those representing the Government in the other place, has come anywhere near meeting the case that has to be met.

First, it seems to me as a matter of straightforward principle that the criminal law should be uniform. It should apply to all in exactly the same way, and any defence that is available to a criminal offence should also be the same and applied to all uniformly. Of course, it will be up to the prosecuting authorities to consider the evidence and whether it is in the public interest to bring a prosecution on the evidence available, but we should not leave this Bill in a position where there is a different failure to prevent fraud offence for most companies than there is for 0.5% of the corporate and partnership economy.

I add this. There should be a form of consistency between each of the Government's Bills dealing with failure to prevent. The Bribery Act 2010 has a failure to prevent bribery offence. The Criminal Finances Act 2017 has a failure to prevent the facilitation of tax evasion offences. Neither of those two failure to prevent offences is limited in its scope, in so far as neither of those Acts of Parliament provide an exemption for anybody, still less for 99.5% of the corporate economy. For some extraordinary reason which is yet to be explained this Bill provides that only 0.5% of the corporate and partnership economy should remain liable for any failure to prevent fraud offences. I have yet to find an answer.

I read in *Hansard* the House of Commons debate of 11 September which overturned my successful amendment. My right honourable friend Mr Kit Malthouse said that, clearly, I do not understand anything since I have never run a business. Well, he is wrong about that, quite apart from being offensive, because I have run my own business as a self-employed barrister for nearly 50 years. Furthermore, I have been a head of a set of chambers, which is, if I may say so, quite a respectable business to run.

Noble Lords: Hear, hear!

4 pm

Lord Garnier (Con): If one wants to learn anything from the speeches made in the House of Commons, I suggest that my noble friends on the Front Bench—and other noble Lords if they have a moment—read those of Sir Robert Buckland and Sir Jeremy Wright, two former law officers. They agree with my remarks of 11 September and find it puzzling that their own Government, a Government who are in favour of producing cogent and cohesive criminal law, have come up with this dog's dinner.

I have done my best to be accommodating. It is not an accusation that is often levelled at me, but on this occasion, I think that it can be, justly. I have done my best to meet some of the Government's less organised thinking. As I said at the outset, as a matter of principle. I cannot understand why there should be an exemption for anyone from the proposed criminal law, just as there is not under the Bribery Act and the Criminal Finances Act. However, to make life easier for the Government, on the last occasion I suggested that microbusinesses should be exempted from the failure to prevent fraud offences provision. I abandoned my provisions relating to the failure to prevent money laundering. The Government did not find that attractive, even though I tried to explain my abandoning of the principle on the basis that just as we have an age limit for criminal responsibility—10—we could perhaps also, by a rather clumsy analogy, exempt microbusinesses from criminal responsibility under the failure to prevent provision. That did not seem to go down very well with the Government—certainly not with Mr Kit Malthouse.

[Lord Garnier]

I have now moved a little further towards the Government. You may say, "Well, that's a bit wet. If you've got any principles, why not stick to them?" Well, okay, accuse me of being wet, but I am doing my best to help the Government get out of an unnecessarily sticky hole. I have amended my proposal so that rather than microbusinesses being exempted, "small" businesses should be exempted—I define a small business on page 5 of the amendment paper, which states that, for the purposes of this provision,

"a relevant body is a 'small organisation' only if the body satisfied two or more of the following conditions in the financial year of the body … that precedes the year of the fraud offence".

Those conditions are that the turnover of the business should be

"Not more than £10.2 million",

the balance sheet should be

"Not more than £5.1 million"

and the number of employees should be "Not more than 50".

In speaking against my own case, I rather wish that I had not put that down, but I have because I am trying to assist my noble friend on the Front Bench in getting his Bill enacted before the end of this Session.

I repeat that the criminal law should be uniform. Defences to the criminal law should be uniform. We should not have exemptions based on the size of the business. The Theft Act applies to all suspects—I am seeing whether my noble friend still enjoys my old joke about the six feet six burglar—regardless of whether they are six feet six or five feet six. We do not exempt people on the basis that they are small people or do not fit a particular height, so why are we doing it here? I have yet to find out. I am afraid that unless the Government move a little closer to me, I will invite your Lordships to join me in the Division Lobby.

Lord Faulks (Non-Afl): My Lords, I shall speak to my Motion B1, as an amendment to Motion B, which is being debated within this group. It would

"leave out from 'House' to end and insert 'do insist on its disagreement with the Commons in their Amendment 161A, do not insist on its Amendment 161B, to which the Commons have disagreed for their Reason 161C, and do propose Amendment 161D in lieu'".

That is very clear.

We return to what has been described as a cost-capping amendment. Since this is not the first time that we have had the debate, I will try to be brief. This Bill has been a welcome, if late, addition to the government agencies in their fight to combat fraud. The scrutiny of the Bill through your Lordships' House has been thorough and constructive. It has also been non-party political. I do not think that either the noble and learned Lord, Lord Garnier, or I would consider ourselves to be natural rebels.

All noble Lords have participated in this debate—and I very much include the Ministers in this—with a common purpose: to make this legislation as effective as it can be. Two themes emerged during the many debates. The first was the scale of the problem. The Government estimate, for example, that £100 billion was laundered through the United Kingdom last year, and yet under the Proceeds of Crime Act assets of only £345 million were recovered: that is 0.3%. The second theme was the frequent imbalance that exists between the resources available to enforcement agencies and those of the fraudsters, who may well employ expensive lawyers and have significant resources to enable them to do so. This modest amendment tries to do a little to restore that balance. I would have liked the enforcement agencies to have had complete protection against costs orders in the event that they lost a recovery claim, but in the course of ping-pong I have had to compromise somewhat, hence the form of the current amendment before your Lordships' House.

The amendment does not prevent a judge from doing what is fair on costs in any particular case, but it is a nudge towards him or her to take into account the reasonableness of the agency bringing proceedings at all and the potential impact on its ability to carry out its functions if left with a substantial costs order. I struggle to understand the Government's objection to this amendment and its predecessors; they seem, with respect, to be adopting a somewhat tender approach to fraudsters.

There is a clear precedent for this sort of amendment: when your Lordships' House introduced a provision concerning the much-underused unexplained wealth orders. If it loses a case, the enforcement authority will have to pay costs only if it has acted unreasonably. As to the objection that it offends the "loser pays" principle, that is a misconceived argument. Judges regularly, in ordinary cases, make orders that each side bear their own costs, or make issue-based costs orders, or other orders which reflect the justice of the individual case. Parliament has legislated in ways that depart from this so-called principle: for example, QOCS—that is Qualified One-Way Costs Shifting—in personal injury litigation; or by Section 40 of the Crime and Courts Act; or in relation to unexplained wealth orders. This amendment is intended to reduce the possibility of an agency saying to itself, "We cannot afford the risk to the budget if we lose a case, even when we've got good evidence to bring it".

Spotlight on Corruption suggests that a number of cases are in the pipeline which bear costs risks. These are said to include over 60 cases being reviewed by one agency, and close to £1 billion in assets frozen by an enforcement body.

Another advantage to this amendment is that those defendants or respondents to an application who defend these cases will know that, even if their legal strategy prevails, they may not recover their costs. This may mean that they are keener to reach a compromise.

The amendment has the support of all those bodies that are concerned with anti-corruption. Incidentally, it also has the support of Bill Browder, who regards it as one of the most significant potential improvements to the Bill. Let us please not kick this into touch and have yet another report, which is the Government's suggestion. If necessary, I will move Motion B1 and test the opinion of the House.

Lord Agnew of Oulton (Con): My Lords, I support both Motion A1 and Motion B1. I turn first to my noble and learned friend Lord Garnier's Motion and offer three reasons why I believe the Minister is completely wrong.

First, the smallest SMEs include some of the most unscrupulous enablers. Take estate agents, for example: they are a conduit of bad money into this country from all over the world. The gaps that the Minister is proposing to leave in the Bill will ensure that this continues. I have seen one case, for which I had to sign an NDA, of an individual who spent £150 million buying property but is apparently allowed to take only $12,000 a year out of the country. How did he manage that? That is a perfectly good example and no doubt we will hear more like it.

Secondly, on this set of rules, I offer the Minister an example. We do not say to the manufacturers of small cars that they do not need seat belts and that for some reason they are exempted. That would be an absolute nonsense and the same applies here. He mentioned costs—£300 million and £40 million—but they are entirely specious. We have seen no proper analysis of these figures; they are just waved around as a convenient excuse not to do something.

My last reason is that these smaller businesses need to be most alert to fraud. A failure to prevent helps them to make sure that their own systems are able to face these risks. We know that 40% of crime in this country is economic crime, but we deploy less than 1% of our resources on dealing with it. Surely smaller businesses should be equipped to know when they are dealing with crooks. I will have to support my noble and learned friend Lord Garnier if the matter is put to a vote.

In relation to the Motion in the name of the noble Lord, Lord Faulks, we again pursued this relentlessly for six months. Bill Browder said to me on several occasions that, if this Bill is to go through, we must make sure that we have some cost capping in it. It is a war of very unequal proportions. We know that the agencies have small budgets and that they have to go cap in hand to the Treasury if they need more money, which is never given. They even have to return the costs they recover to the Treasury. All this is doing is sending a message to these bad actors that, if they take on this kind of behaviour, they will have significant risks. We have amended this on several occasions to give more discretion to the courts to ensure that, if an agency overreacts and behaves rapaciously or capriciously against individuals, those individuals are not penalised.

If we are serious about dealing with the tidal wave of economic crime that is coming to this country, the Minister will give us the assurance that this is being dealt with. If not, I will have to support the noble Lord, Lord Faulks, in his Division.

Lord Wolfson of Tredegar (Con): My Lords, we have heard two different reasons for the proposed Motion from the noble Lord, Lord Faulks. He said that it was to give the courts a gentle nudge, but my noble friend Lord Agnew said that it would give fraudsters a significant warning that they might not get their costs. The same words cannot do both. The problem lies in the amendment being entirely unnecessary.

The previous version of the amendment said:

"The court should normally make an order that any costs of proceedings … are payable by an enforcement authority … unless it would not be in the interests of justice".

We now have a list of factors—proposed new paragraphs (a) to (d)—but a court would always take those factors into account in its general discretion to make an appropriate costs order in a particular case.

My concern with this list is that it appears to be exhaustive and therefore does not include, for example, the result of the case or the effect on the successful party of not getting the legal costs which he has expended. I declare an interest as a lawyer, although not an expensive one in the category identified by the noble Lord. I therefore respectfully suggest that this amendment is entirely unnecessary. It reduces the discretion that we generally give the courts on matters of costs and omits factors that the courts should take into account in particular cases when considering costs. Therefore, I suggest that the House leaves this well alone and does not accept the amendment.

4.15 pm

Lord Wallace of Saltaire (LD): My Lords, I will talk a little about the role of the House as a revising Chamber and the legislative process. I am not an expert on the legalities of combating fraud, although I am well aware of the international dimensions of economic crime as someone who worked in the international sphere.

We have had a thorough committee process which was largely non-partisan; indeed, the way this House has treated the Bill has been almost entirely so. I have learned a great deal from a number of former Conservative Ministers and Cross-Benchers on the Bill, and I am interested to hear that two other former Conservative Ministers in the House of Commons supported the approach of these two Motions.

We are a revising Chamber, and the parliamentary process should be one in which reasoned amendments are taken into account by the Government and, where the Government are not entirely sure of their ground, compromises are made. The role of a Lords Minister is partly to act as a mediator between the reasoned arguments in this Chamber and the insistence of Cabinet Ministers that whatever they had thought of in the first place should absolutely go through unchanged. I have a strong memory of talking to Cabinet Ministers when I was a Lords Minister about why perhaps they might not wish to insist on their full original, because the reasoned arguments made in the Lords were sufficiently persuasive. That is the process that should be taken on. This is not an attempt to delay the Bill further: we are all committed to it going through. We are also committed to future-proofing it, so that it does not have to be amended, and to producing a Bill that commands as wide a consensus of support as possible.

I remind the Minister that we have not followed that for some Bills we have seen in recent Sessions. I am sure that he is well aware of the issue of party finance, which came up in the Elections Act and the National Security Act. He was sufficiently firm in resisting some of our arguments as to accuse me at one point of spreading rumours about a non-problem. I have now learned that the Leader of the Commons, Penny Mordaunt, has just written to the Security Minister to ask for the assistance of the intelligence agencies in investigating the origins of donations to

[Lord Wallace of Saltaire]
political parties from foreign sources, so clearly there is now recognition within government that there is a real problem. There are other aspects of that Elections Act, particularly the insistence on a strategy statement from the Secretary of State, which the Government also appear to have had second thoughts on. Sadly, whoever become the next Government will have to introduce another elections Bill to put right some of the things that this House wished to amend but that the Government resisted.

Here we are with a Bill that has been improved and carefully scrutinised, and on which I, certainly, am persuaded by having listened at length and in succession to the arguments made by former Conservative Ministers wanting simply to improve the Bill to improve the fight against international fraud and economic crime.

Having been persuaded by that, I and the team on these Benches will recommend that Members of the Liberal Democrat group in the House support both the noble and learned Lord and the noble Lord in pressing their amendments, if they wish to do so, because we believe in a legislative process in which this House has a role to play, in carefully scrutinising and improving Bills, and making sure that when a Bill becomes an Act, it lasts for some time, because it commands a widespread consensus.

Lord Eatwell (Lab): My Lords, I listened carefully to the case that the Minister advanced against these amendments. The core of that case seemed to be that the cost of a company actually responding to this legislation would make the company less efficient, and that it should be concentrating, as he said, on increasing its production and activities, and not be bothered with issues such as fraud, perhaps. What was peculiar about the Minister's argument was that it was an argument which could be placed against any regulation whatever. It could be placed against the need, as has been commented already, to have seatbelts in cars. That increased the costs of production of the vehicle and, indeed, the cost of the vehicle. It could be argued that most financial regulation, which seeks to increase the stability and respectability of the financial system in this country, increases costs. Yes, it does, but the benefit far exceeds the cost.

If the Minister feels that the amendment of the noble and learned Lord, Lord Garnier, increases costs and damages production, why is he accepting it at all, even for larger companies? It seems to me that this is an empty argument. The Minister has not produced any data or argument for the cost-benefit trade-off on which he has rested his entire case. In fact, I think he has no case at all.

Lord Coaker (Lab): My Lords, I start by echoing something that the noble Lord, Lord Wallace, said: overall, we all believe that this is a good Bill. It is a step forward, and we welcome the changes that the Government have made over a number of months to improve it, and that they have listened to the various points that have been made. It would be churlish not to say that to the Minister at the outset, but that does not alter the fact that the amendments tabled by the noble and learned Lord, Lord Garnier, and the noble Lord, Lord Faulks, seek to address two omissions where, even at this late stage, the Government could act to further improve the Bill. I say to both that should they choose to test the opinion of the House, we certainly will support them in the Lobbies to do that.

I will not repeat the arguments. It was interesting; sometimes, when you are constrained by time, the argument distils down to its essence. I think that what the noble and learned Lord, Lord Garnier, said, supported by the noble Lords, Lord Agnew, Lord Eatwell and Lord Wallace, really summed it up with respect to his amendment. As he said, the failure to prevent bribery offence applies to everyone; there is no opt-out or exemption. The Government do not think that that is too burdensome for anyone. As he also said, no company is too small to be exempted from the failure to prevent tax evasion offence. But on this particular emphasis, the failure to prevent fraud, the Government come forward and say: "We need to protect a certain number of businesses".

The noble and learned Lord, Lord Garnier, has moved amendment after amendment to try to come closer to the Government's position. As the noble Lords, Lord Agnew and Lord Eatwell, have just said, if you took that to its extreme, you would impose no costs on business at all, and they used the seatbelt argument. So we are very happy to support the amendment of the noble and learned Lord, Lord Garnier, should he choose to test the opinion of the House.

I shall pick out one aspect of the amendment of the noble Lord, Lord Faulks. It was a feature of all our debates and discussions that we wanted law enforcement to take tougher action against those who committed fraud. We believed that the state could and should take more action, that the amount of money lost with respect to fraud was enormous and that we need to do something about it. What I picked out from what the noble Lord said was about reducing the possibility of action not being taken by law enforcement agencies because they were frightened of the possibility of costs —not on the merits of the case that they might seek to pursue but simply because they were frightened that they may incur costs. As such, both amendments are simple but important ones that would do what this House, and I believe the public, expect Parliament to do, which is to give as much power as possible within the Bill to tackle the problem of fraud, which is what we all want.

Lord Sharpe of Epsom (Con): My Lords, I thank all noble Lords who have contributed to this relatively short debate. Like my noble and learned friend Lord Garnier, I am in danger of sounding like a cracked record on this subject, so I will keep my remarks brief. I reassure my noble and learned friend that I still find his joke funny and I am glad he keeps making it. I thank him for being incredibly gracious although we continue to disagree on these matters. I have to say I do not believe the Bill is a dog's dinner or that these arguments are dog's-dinnery. We are not in a sticky hole on this; it is a difference of opinion, and I will make a couple of the arguments that I have rehearsed before in support of that.

I shall deal with my noble and learned friend's amendment by first reminding him and the House that this may be a relatively small number of companies

but, as I have said many times before from this Dispatch Box, they account for 50% of economic output in this country. The heart of the argument comes down to why there is a threshold for this offence but not for the offences of failing to prevent bribery or the criminal facilitation of tax evasion. As I have reminded the House on numerous occasions, the Law Commission has identified the disparity here: it is easier to prosecute smaller organisations under the current law, which this failure to prevent offence will address. The new offence is less necessary for smaller firms, where it is easier to prosecute individuals and businesses for the substantive fraud offence. The Government therefore believe it would be disproportionate to impose the same burden on them. The fact is that this is not an exemption from the law; the law applies in a different way to these smaller companies, as we have tried to explain on a number of occasions. I think I will leave that there.

On Motion B1 in the name of the noble Lord, Lord Faulks, I do not think that this represents a tender approach to fraudsters. As we have said and made the case on a number of occasions, fundamental changes are being proposed here, and the review that we have proposed seems like a fair way of assessing precisely the implications of making those changes.

I thank my noble friend Lord Wolfson for highlighting some of the complexities in this area in his particularly acute legal way, which I am not equipped to follow. However, I can perhaps answer the question about the difference in introducing the cost protection amendment for civil recovery compared with unexplained wealth orders. This issue has come up in previous debates as well. The fact is that the difference between the changes made to the unexplained wealth order regime by the first Economic Crime Act last year and what is proposed in this amendment is that unexplained wealth orders are an investigatory tool that do not directly result in the permanent deprivation of assets, whereas the civil recovery cases covered by the amendment could do so. There could therefore be a host of serious unintended consequences of such a change to the wider civil recovery regime, so the Government cannot support the amendment. A review is the appropriate way to look at this issue. As I tried to make clear in my opening remarks, that may well be a very good idea, but we would like to be convinced of that and to do the work before we actually accept it.

I thank the noble Lord, Lord Coaker, for generously accepting that we have made significant improvements to the Bill through its passage. I say to the noble Lord, Lord Wallace of Saltaire, that we have engaged extensively with all noble Lords in this House on the Bill. I thank him for his explanation of how he believes a revising Chamber should operate. The fact is that we are not sufficiently persuaded of the arguments against this, so there is a genuine difference of opinion. I do not think the noble Lord would mean to imply that this House should necessarily have a veto where there is such a difference of opinion. I think that is a fairly straightforward argument and a perfectly respectable one.

Throughout the passage of this Bill, the Government have worked hard to ensure the right balance between tackling economic crime and ensuring that the UK remains a place where law-abiding businesses can flourish without unnecessary burdens. The Motions tabled by the Government today achieve that balanced and proportionate approach. I therefore urge all noble Lords to support them.

Lord Garnier (Con): My Lords, I will make one point in total agreement with my noble friend the Minister—we are not having a row, we are having an argument. He and I have a different view about the merits of our respective arguments. If the House listens to no other speeches, and if it wishes to forget mine, I urge noble Lords to remember what the noble Lord, Lord Eatwell, and my noble friend Lord Agnew said. From both sides of this House, they perfectly summed up the lacuna in the Government's case.

I thank all noble Lords who have taken part in this short debate. Despite the fact that this is not an argument about party politics—it has nothing whatever to do with the Salisbury convention—I regret that I am insufficiently persuaded by my noble friend the Minister that he has quite got the point. I must therefore ask the House if it will join me in agreeing with my Motion by testing the opinion of the House.

4.31 pm

Division on Motion A1

Contents 245; Not-Contents 204.

Motion A1 agreed.

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4.42 pm

Motion B

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

That this House do agree with the Commons in their Amendment 161A in lieu and do not insist on its Amendment 161B in lieu to which the Commons have disagreed for their Reason 161C.

161A: Page 172, line 44, at end insert the following new Clause—

"Report on costs orders for proceedings for civil recovery

Report on costs orders for proceedings for civil recovery

(1) The Secretary of State must assess whether it would be appropriate to restrict the court's power to order that the costs of proceedings under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 are payable by an enforcement authority and, if so, how.

(2) In carrying out the assessment, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(3) The Secretary of State must publish and lay before Parliament a report on the outcome of the assessment by the end of the period of 12 months beginning with the day on which this Act is passed.

(4) In this section "the court" means the High Court in England and Wales."

161C: Because the Lords Amendment would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.

Motion B1 (as an amendment to Motion B)

Moved by ***Lord Faulks***

Leave out from "House" to end and insert "do insist on its disagreement with the Commons in their Amendment 161A, do not insist on its Amendment 161B, to which the Commons have disagreed for their Reason 161C, and do propose Amendment 161D in lieu—

161D: After Clause 187, insert the following new Clause—

"Civil recovery of proceeds of crime: costs of proceedings

Civil recovery: costs of proceedings

After section 316 of the Proceeds of Crime Act 2002 insert—

"316A Costs orders

(1) This section applies to proceedings brought by an enforcement authority under Part 5 of the Proceeds of Crime Act 2002 where the property in respect of which the proceedings have been brought has been obtained through economic crime.

(2) When assessing what order to make in relation to the costs of proceedings, the court should take into account—

(a) the merits of the case,

(b) whether the enforcement authority acted reasonably in bringing proceedings,

(c) whether costs were reasonably incurred by any party to the proceedings, and

(d) the impact of any order on—

(i) the enforcement authority, and its ability to carry out its enforcement functions, and

(ii) any other party to the proceedings."""

Lord Faulks (Non-Afl): My Lords, I will not amplify what has already been said. I am grateful to all noble Lords, including the Minister, for engaging in this debate. He said that it was not a bad amendment, which was kind of him; I would say that it is an amendment that this House, for the reasons that I have already given, should welcome. It is an improvement to the Bill and I beg to test the opinion of the House.

4.43 pm

Division on Motion B1

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Motion B1 agreed.

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Altrincham, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashcombe, L.
Ashton of Hyde, L.
Attlee, E.
Bailey of Paddington, L.
Balfe, L.
Barran, B.
Bellamy, L.
Benyon, L.
Berridge, B.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Brady, B.
Bray of Coln, B.
Bridgeman, V.
Browning, B.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Camrose, V.
Carrington of Fulham, L.
Cathcart, E.
Chisholm of Owlpen, B.
Colgrain, L.
Cormack, L.
Courtown, E. [Teller]
Crathorne, L.
Cumberlege, B.
Davies of Gower, L.
De Mauley, L.
Dobbs, L.
Duncan of Springbank, L.
Dundee, E.
Dunlop, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Effingham, E.
Evans of Bowes Park, B.
Evans of Rainow, L.
Fairfax of Cameron, L.
Fall, B.
Farmer, L.
Fellowes of West Stafford, L.
Fink, L.
Finn, B.

Fleet, B.
Forsyth of Drumlean, L.
Foster of Aghadrumsee, B.
Foster of Oxton, B.
Framlingham, L.
Fraser of Craigmaddie, B.
Frost, L.
Gascoigne, L.
Geddes, L.
Glendonbrook, L.
Godson, L.
Gold, L.
Goschen, V.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Hailsham, V.
Hamilton of Epsom, L.
Hammond of Runnymede, L.
Hampton, L.
Hannan of Kingsclere, L.
Harlech, L.
Harrington of Watford, L.
Haselhurst, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hoey, B.
Holmes of Richmond, L.
Hooper, B.
Hope of Craighead, L.
Horam, L.
Houchen of High Leven, L.
Howard of Lympne, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jackson of Peterborough, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Jopling, L.
Kakkar, L.
Kamall, L.
Kempsell, L.
King of Bridgwater, L.
Kirkhope of Harrogate, L.
Laming, L.
Lamont of Lerwick, L.
Lancaster of Kimbolton, L.
Lansley, L.
Lawlor, B.
Lea of Lymm, B.
Leicester, E.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Lucas, L.
Magan of Castletown, L.
Mancroft, L.
Manzoor, B.
Markham, L.
Marland, L.
Marlesford, L.
McColl of Dulwich, L.
McInnes of Kilwinning, L.
McLoughlin, L.
Meyer, B.
Minto, E.
Mobarik, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Mott, L.
Moylan, L.
Murray of Blidworth, L.
Naseby, L.
Neville-Jones, B.
Newlove, B.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
Offord of Garvel, L.
O'Neill of Bexley, B.
Owen of Alderley Edge, B.
Parkinson of Whitley Bay, L.
Patel, L.
Patten, L.
Penn, B.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Rawlings, B.
Redfern, B.
Remnant, L.
Risby, L.
Robathan, L.
Roborough, L.
Rose of Monewden, L.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Sassoon, L.
Sater, B.
Seccombe, B.
Sewell of Sanderstead, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shinkwin, L.
Shrewsbury, E.
Smith of Hindhead, L.
Soames of Fletching, L.
Spencer of Alresford, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Stroud, B.
Sugg, B.
Suri, L.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tugendhat, L.
Tyrie, L.
Udny-Lister, L.
Vere of Norbiton, B.
Wakeham, L.
Waldegrave of North Hill, L.
Wasserman, L.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Willetts, L.
Williams of Trafford, B. [Teller]
Wolfson of Tredegar, L.
Wyld, B.
Young of Cookham, L.
Young of Old Windsor, L.
Younger of Leckie, V.

Mayoral and Police and Crime Commissioner Elections, Recall Petitions and Referendums (Ballot Secrecy, Candidates and Undue Influence) Regulations 2023

Motion to Approve

4.55 pm

Moved by ***Lord Mott***

That the draft Regulations laid before the House on 6 July be approved.

Relevant document: 47th Report from the Secondary Legislation Scrutiny Committee

Lord Mott (Con): My Lords, this statutory instrument is largely technical in nature and makes updates to the relevant electoral conduct rules to ensure effective implementation of measures in the Elections Act 2022 and the Ballot Secrecy Act 2023.

Undue influence is an electoral offence that criminalises behaviour which seeks, in various ways, to coerce a person to vote in a certain way or abstain from voting. The 2015 Tower Hamlets petition demonstrated that protection from undue influence remains highly relevant and important in 21st-century Britain. However, the offence originated in the 19th century and prior to our changes in the Elections Act 2022 was considered difficult to interpret and enforce.

The Elections Act updated the existing offence of undue influence for UK parliamentary and local government elections in England and all elections in Northern Ireland. The revised offence better protects voters from improper influences to vote in a particular way or not to vote at all. It also provides clearer legal drafting to assist authorities in enforcing it. The purpose of these regulations is to apply the updated offence to police and crime commissioner elections, recall petitions, local authority referendums and neighbourhood planning referendums.

Political intimidation and abuse have no place in our society, which is why Part 5 of the Elections Act introduced a new disqualification order aimed at offenders who intimidate those who participate in public life. The order introduces a five-year ban on standing for or holding public office. The Elections Act also extended the powers of returning officers to hold a nomination paper invalid where a candidate is disqualified under the new order and requires candidates to declare that they are not disqualified under it. These changes apply to Northern Ireland and to local and UK parliamentary elections.

The Act also amended the relevant vacancy rules, including for UK parliamentary elections, to reflect the timing of vacancies occurring as a result of the new order and ensure that those disqualified vacate office. This SI replicates these changes for nomination for police and crime commissioner elections as well as for local and combined authority mayoral elections, and updates the vacancy rules for combined authority mayors.

In addition, the Elections Act introduced a new measure to permit greater flexibility in the use of commonly used names by candidates on nomination

[LORD MOTT]
and ballot papers. This change means that candidates can use their middle name as a commonly used name—an odd omission from previous legislation on this topic—and amends the existing rules for UK parliamentary elections, elections to the Northern Ireland Assembly and local elections in Northern Ireland.

This change clarifies the law for candidates and returning officers. We know that practice has varied on this at times and across local authorities. Therefore, clarification will also provide consistency. This instrument makes the same change to the conduct rules for local and combined authority mayoral elections in England and police and crime commissioner elections in England and Wales. It also amends the nomination paper completed by candidates at these polls to reflect the new provisions.

I turn to the provisions in the instrument concerning the Ballot Secrecy Act 2023 and pay tribute to my noble friend Lord Hayward for his work on this important new measure. The Act introduced two new offences: first, for a person to be with another person at a polling booth and, secondly, for a person to be near a polling booth while another person is at that booth, with the intention in both cases of influencing the other person to vote in a particular way or to refrain from voting. This Act, which applies to UK parliamentary elections and local elections in England, as well as elections in Northern Ireland, aims to provide polling station staff with a firmer basis on which to challenge suspected inappropriate behaviour in polling stations. This instrument completes the implementation of the Act by extending the new offence to police and crime commissioner elections in England and Wales, MP recall petitions across the UK, and local government, council tax and neighbourhood planning referendums in England.

It is vital that these rules be updated in relation to the Elections Act and Ballot Secrecy Act measures to ensure consistency and fairness across electoral law. Applying these measures across the relevant election rules will modernise and strengthen the integrity of voting and offer necessary protection for electors, candidates, campaigners and elected officeholders. I commend these regulations to the House.

5 pm

Lord Jones (Lab): My Lords, I thank the noble Lord, Lord Mott, for his helpful and detailed introduction. Paragraph 2.1 on page 1 of the Explanatory Memorandum reflects the complexities of modern democratic citizenship. Its last sentence must be welcomed; it is a definite no to undue influence. Likewise, it is interesting to note in the Explanatory Note

"the amended candidacy rights for EU citizens introduced by section 15 of the Act"—

for example, form 2A on page 14.

Concerning the police and crime commissioner elections, I draw attention most positively to Schedule 5. There are four pages in the language of heaven—the Welsh language from the lovely land of Wales, which is my homeland. You rarely see Welsh on official Whitehall and Westminster papers, and pages 47 to 50 are distinctive; this is good. Were these pages prepared by the department, was it subcontracted to the Senedd or was it entirely the work of the translation service?

Our North Wales Police force is well regarded. It has major challenges and overcomes them. Its terrain is mountainous, coastal and estuarial and exhibits the great earthworks of the early medieval warlords Offa and Wat. They were not specifically dug to keep us warrior Welsh out of Saxon territory, and today they are notable for the Welsh place names on the western side of the earthworks and for the Saxon on the eastern—the Saxon -tons, for example. Commissioner Dunbobbin is excellent, and for ever amidst the far-flung citizenry. I had the honour of teaching his mother, and observe and know him well. Our recently appointed chief constable is on the Welsh speakers course, and I suggest that the noble Lord visits our constabulary; he would be warmly welcomed by a hospitable chief constable and by our diligent commissioner.

I note that Regulation 11 applies to Wales only. The mayoralty of London is fast becoming a great office of state and sometimes appears to rival our premiership: the City, money, influence, Heathrow's runways and the Met—it is quite a list. The mayoralty of Manchester has been made a great success; a former Cabinet Minister just knows how.

Has former Cottonopolis, now the home of magical graphene, edged ahead of Chamberlain's second city, Birmingham? For certain, the mayor, the former head of the ubiquitous John Lewis, has brought further fame to Birmingham and—intentionally or otherwise—allied his HS2 thinking to that of Manchester's mayor. That is quite a local government alliance. The mayoralty of Teesside appears talismanic to His Majesty's Government, and its noble presence is in your Lordships' House. Is it appropriate to describe a group of elected mayors as a "clutch" or a "gathering"? Perhaps the pressured PM of the day would deploy the description of a "gang". Concerning mayoralties, there do seem to be constant, strong, hitherto unforeseen challenges to Downing Street. However, they are all constitutional, democratic and buttressed by the secret ballot of regional citizens.

Lastly, referendums have edged big time into British parliamentary life. Some 53 years ago, when one entered Westminster, they were not there; now, the unforeseen consequences of devolved Governments in Cardiff, Belfast and Edinburgh have manifested themselves over nearly a quarter of a century. For example, in the Covid emergency, central government was occasionally embarrassed by First Ministers who knew how to deploy well-timed televised press conferences. It really can be a challenge when central government is of one political complexion and the other Governments of Britain are of the opposite—so very obviously critical, angry and ambitious, yet legitimate and constitutional.

I am very proud of the Wales Assembly, now the Senedd. It powers on some 25 years; it is but an eye-blink in the great history of Wales, a sort of infinitesimal timeline. Government is messy and always challenging. Constitutional change is often a step in the dark. A referendum on a British scale is truly an "historic midwife", but it is constitutional of course. I end again by thanking the noble Lord for his helpful introduction.

Lord Rennard (LD): My Lords, it is a pleasure to follow the noble Lord, Lord Jones, who I think entered the other place at a point when my role in elections

was counting the posters as I walked to my primary school, wondering what on earth this was all about.

After our extensive debates on the Elections Act, I do not think we need to spend a lot of time dwelling on these various measures which are necessary following the changes made by that Act, and by the Ballot Secrecy Act that was steered through so skilfully by the noble Lord, Lord Hayward, who I am pleased to see in his place. I will not dwell on any of these measures, except to say that I think they again really illustrate the need to properly codify all of our electoral legislation, as recommended by the Law Commission some years ago. I would be grateful if the Minister, who I can see is nodding, might confirm that the Government are interested in this idea in principle.

I will, however, say today that the Ballot Secrecy Act was necessary, as shown by the legal advice obtained by the Electoral Commission, and that it provides greater clarity for presiding officers. It is clearly right, therefore, that the provisions of the Ballot Secrecy Act apply to all other elections, to referendums and to recall petitions.

Lord Hayward (Con): My Lords, I first thank the noble Lord, Lord Rennard, for his kind comments. As he knows, and as I think many others in the Chamber also know, he played a prime role in progressing the idea that we should seek counsel's opinion from the Electoral Commission to establish clarity in relation to the law, to which I shall return in a moment.

In relation to the noble Lord, Lord Jones, I am reminded that in fact, the first time I ever cast a vote in person—I can say it in Welsh, but I am not sure I could spell it if *Hansard* asked me to check it—I voted in favour of Sunday opening. This was a referendum in Pembrokeshire at the time that I lived there. I will not go down the Welsh language route.

Lord Jones (Lab): The first referendum was lost; the second was won. In the Marcher area on Sundays, you would see thirsty men queuing for a bus from Wales to Chester.

Lord Hayward (Con): I thank the noble Lord for that intervention—it saved me from my attempt to speak Welsh.

Before I move on to one or two aspects of this, I seek clarification on what my noble friend the Minister said as he opened the debate: that is, that on page 51, the note refers to a series of different elections with regard to the application of the Ballot Secrecy Act. There is no reference to parliamentary elections but, as I understood it, he was confirming that the Ballot Secrecy Act would be included when it comes to the general parliamentary elections—I note that he is nodding in response to that, and I appreciate it.

As the noble Lord, Lord Rennard, said, the Ballot Secrecy Act was intended to establish free and fair elections, cover aspects of equality and give power to presiding officers to intervene where actions were inappropriate. In my time of progressing what was the first Private Member's Bill from this House in four years to complete its passage and only the third in 15 years, I learned a lot about the processes that Private Members' Bills go through in the House. It is tortuous, unnecessarily long and in some cases distinctly disadvantageous to the proposer of the legislation as regards the manner in which amendments from government are considered and the like. I suggest that either the effective second Chamber group of the noble Lord, Lord Cormack, should look at the way we operate, or some committee should do so. Even having navigated the way through the difficulties in the House, Bills from this House go to the bottom of the queue in the House of Commons, whereas Bills from the House of Commons go to the top of the queue in the House of Lords. It seems an unacceptable variation in the process; therefore there are several needs for change in relation to this.

The noble Lord, Lord Rennard, touched on the question of whether the Bill was necessary. As I indicated in the debate on 15 July last year, in which others here participated, it was unclear whether the officials' advice that it was not necessary to pass my Bill or the Electoral Commission's broad advice that it was necessary at that stage was a matter for question. Counsel's opinion came down quite clearly in favour of a need to change the law. However, out of curiosity I would just like to know whether the Minister can say, now or at a later stage, at which point the officials in the department received the Electoral Commission's guidance. It is relevant to the process of the Bill and the views expressed to Ministers, to officials and to others on the ministerial write-round. I will not go into great detail at this point about my concerns about the handling of that; I put them in writing to the Minister and have received a reply. I have been offered a meeting, which, as yet, has not been taken up. I understand, given the ill health of the noble Baroness, Lady Scott, and the circumstances of these SIs and so on, that things are necessarily delayed. However, I am concerned about the aspect not of the decision-making process but of the accuracy and consistency of the advice that has been given to Ministers on the ministerial write-round.

5.15 pm

I am completely in favour of the regulations as drafted in the SI. I am pleased to see that we are making progress on aspects of the Elections Act, as well as the Ballot Secrecy Act. I share the concern that the noble Lord, Lord Rennard, expressed that we really need some form of consolidation of election law. The fact that one has to have a document of this size, which is only one of a series, to implement the legislation because we have to confirm it in relation to each of the different elections that we have in this country, also acknowledging that there are varied systems in Wales and Scotland, shows that, at some stage very soon, the Government should get around to consolidating all the elections law. It would be in the interests not only of us but of those who are obliged to administer the multitudinous elements of law so that we can all vote freely and fairly at any given appropriate time.

Lord Khan of Burnley (Lab): My Lords, this instrument applies measures relating to undue influence to police and crime commissioner elections, as well recall petitions and local referenda in England. These provisions seek to provide greater clarity on this offence, including by specifically covering intimidation.

[Lord Khan of Burnley]

Undue influence and any practice involving intimidation have no place in our voting system. If we want to call our elections free and fair, we must act proactively to stop those who seek to unfairly influence how others vote. It is right that we update the definition of undue influence to accommodate a modern understanding of the phrase in the statute book. The current law was brought into force 40 years ago, and 100% of the respondents to the *Protecting the Debate* White Paper agreed that a clear definition should be adopted. We welcome this update of the definition of undue influence. It is clear language—not quite the heavenly language my noble friend Lord Jones referred to—and this point was well supported by the noble Lord, Lord Hayward, who has been a great champion and campaigner in this area.

In addition, we welcome provisions to ensure that disqualification orders are effectively enforced and that those served with them cannot stand in relevant elections. We also support the implementation of the Ballot Secrecy Act to the elections covered in this regulation. Alongside that, we welcome clarity on whether a commonly used name can be used on nomination papers.

I want to press the Minister, given that these regulations include provisions relating to influencing individuals to sign petitions: can he explain how these will be applied to e-petitions and can he provide an update on the application of the broader intimidation offences under the Elections Act? Have any charges resulted from these new offences? I look forward to the Minister's response.

Lord Mott (Con): I thank noble Lords on all sides of the House who have participated in what is turning out to be a relatively short debate. I particularly thank the noble Lord, Lord Jones, for his invitation to Wales; I would be more than happy to visit at any time, and look forward to the very warm welcome which he described. With regard to translation, which I think was the core point of what he asked, as per our existing practice, Welsh forms have been translated by Welsh translation services.

On the comments from the noble Lord, Lord Rennard, I guess that, a few years ago, we would have been in a very different place today, on the eve of two parliamentary by-elections. I think the point he made is incredibly important. It would be wrong for me to do anything other than say that I will come back to him, which I am very happy to do in writing.

My noble friend Lord Hayward also commented on the need to bring election law all together and update it. From a personal point of view, I am very much with him on that. Having had more than three decades in front-line politics, I am aware that there may well be a need for change going forward. I will come back to him in writing, because that is the right thing to do.

My noble friend Lord Hayward asked for clarification on there being no reference to general elections in this SI. For the record, let me make it very clear that the Ballot Secrecy Act 2023 applied the new offences to UK parliamentary elections and local elections in England, as well as to elections in Northern Ireland. These regulations ensure the effective implementation of the Act by extending ballot secrecy offences to police and crime commissioner elections in England and Wales, recall petitions, and local government council tax and neighbourhood planning referenda in England. This is why the Explanatory Notes for the SI do not reference UK parliamentary elections.

Regarding the points made by the noble Lord, Lord Khan, I have not got that information in front of me, but I am more than happy to write to him with an explanation.

In conclusion, these regulations are vital to ensure that the changes already agreed in primary legislation are applied to the relevant electoral conduct rules as intended. Failure to do so would create divergence across reserved electoral law, creating confusion instead of clarity. It would be a negative outcome for electors, as well as for candidates, campaigners and elected office holders, as applying these measures to the relevant election rules will strengthen the integrity of voting and offer further protection to those who wish to take part in public life. I hope noble Lords will join me in supporting these regulations.

Motion agreed.

Representation of the People (Franchise Amendment and Eligibility Review) Regulations 2023

Motion to Approve

5.21 pm

Moved by ***Lord Mott***

That the draft Regulations laid before the House on 6 July be approved.

Relevant document: 47th Report from the Secondary Legislation Scrutiny Committee

Lord Mott (Con): My Lords, in moving the Representation of the People (Franchise Amendment and Eligibility Review) Regulations 2023 I will speak also to the Representation of the People (Franchise Amendment and Eligibility Review) (Northern Ireland) Regulations 2023.

This Government are committed to protecting the integrity of our democratic processes and we have delivered on that commitment. Last year, Parliament passed the Elections Act, which includes changes to ensure that UK elections remain secure, fair and modern. Today, I am delighted to bring forward two statutory instruments which flow from that Act. The changes made by these instruments are very similar, so I intend to talk through both in parallel. Taken together, the instruments provide a single package of measures covering non-devolved elections in England, Wales and Northern Ireland.

The Elections Act amended the franchise to reflect the UK's new relationship with the EU and protect the rights of UK citizens living in EU countries. This moved us to the principle of a mutual grant of rights, through agreements with individual EU member states. Qualifying EU citizens from EU member states that

have bilateral agreements with the UK will have the right to vote and stand in relevant elections. We also preserved the existing rights of all EU citizens who chose to make the UK their home prior to the end of the implementation period. As such, EU citizens with retained rights will continue to have the right to vote and stand. The long-standing voting rights of Irish citizens remain unchanged. Likewise, the voting rights of Maltese and Cypriot citizens, as Commonwealth citizens, are not affected by these changes.

These instruments provide for a new registration process for EU citizens which includes clear information about the new eligibility criteria for electors. Persons applying under the retained rights criteria will have to make a legal declaration that they have been legally resident in the UK since the end of the implementation period. Registration officers will be able to accept this declaration as sufficient evidence of eligibility or, if they deem necessary, will be able to require further information and evidence from the individual to make a determination.

Electoral registration officers have a legal duty to ensure that the electoral register remains accurate, so the instruments require them to conduct a one-time review to determine eligibility of all registered EU citizens. It may be helpful to note that the Chief Electoral Officer for Northern Ireland is the registration officer for the whole of Northern Ireland, and therefore this process will be conducted by them. This bespoke eligibility review process is designed to be fair and transparent for review subjects and to minimise burdens on registration officers. As far as possible, it has been based on and benchmarked against existing practice and processes.

Initially, registration officers will use data already available to them to confirm an elector's continued eligibility without the need for an elector to take any action. Where a registration officer is unable to confirm eligibility using existing data, this instrument requires them to contact the elector to request the information necessary to determine eligibility. In the event of no response, a registration officer must make at least three attempts to contact the elector in writing, and at least one attempt to contact them in person, before they may determine them to be ineligible. All those reviewed will be notified of the franchise change and the review outcome, with the contents of all review communications prescribed for consistency. Where a person is deemed ineligible and removed from the register on the basis of non-response, they will be invited to reapply if they believe they are eligible to do so. We anticipate that the end-to-end review process will take up to three months to complete. Registration officers will have a nine-month implementation window from 7 May 2024 to 31 January 2025 to undertake the one-time review.

Finally, the SI requires registration officers in England and Wales to report on the operation of the review process to the Electoral Commission upon completion. The Secretary of State will write to the Chief Electoral Officer for Northern Ireland to request similar data.

This franchise change will apply only to polls which are non-devolved. These instruments cover all local elections in England, and police and crime commissioner elections in England and Wales, as well as local and Assembly elections in Northern Ireland. Secondary arrangements to implement candidacy changes in England are being taken forward in other statutory instruments. The changes will update nomination forms to reflect the new qualification criteria for EU citizens. Candidacy changes for Northern Ireland were implemented in the Elections Act. In practice, candidacy processes at local and Assembly elections will not change significantly. I commend these regulations to the House.

Lord Rennard (LD): My Lords, our debates on the Elections Act last year highlighted a number of inconsistencies with the franchise. The rights of Irish citizens, and, for example, Maltese and Cypriot citizens as members of the Commonwealth, are protected, but the rights of some EU citizens who live and work here and pay their taxes here, and who may do so in future, are not properly respected. It is time to look fundamentally at the issues of the franchise, as we are now going backwards with post-Brexit changes.

The Government estimate that under the new criteria around 2 million EU citizens will be verified and remain on the electoral register, but around 160,000 EU citizens will be removed from that register and will lose their right to vote in local elections in England and Northern Ireland. EU citizens moving here in future will never have such rights. It seems to me that permanent residency should really be the basis for voting, at the very least in local elections, and that we need to look at the rights of all EU citizens in the same way as we do for Irish and qualifying Commonwealth citizens.

The franchise is increasingly inconsistent, and therefore confusing, in different parts of the UK, and none of these measures provide any more clarity on these issues. Will the Minister accept that there should be a proper government-led consultation on the principles of the franchise for voting at different levels?

Lord Hayward (Con): My Lords, in the previous debate, I referred to a letter that I had written to my noble friend Lady Scott where I raised a number of electoral issues. I mentioned this when we debated other SIs in the Moses Room a few weeks ago, when I said that I had received replies to questions that I had not asked. One was on a subject covered by this statutory instrument.

5.30 pm

I raised the question of environmental referendums in neighbourhood plans, and I sent a copy of the letter to the Electoral Commission, the AEA, the noble Lord, Lord Rennard, the noble Baroness, Lady Hayman, and others because, as I indicated at the end of that letter, these are broad electoral matters—I am referring to page 31 and the requirement to ensure that ratepayers, who may be multiple ratepayers, are fully aware that they are entitled to vote only once in the area where a referendum is taking place, even if they have more than one property there. I was seeking clarification on the guidance because the police had decided not to take action where somebody voted five times because he maintained that he genuinely believed that he was

[Lord Hayward]
so entitled. The response from the police was that the guidance was not clear. I was seeking a response from different people and the response I received from the Minister said that I was asking the department to intervene on a police operational matter. I was not; I was seeking clarification on the guidance. I am taking this opportunity to re-emphasise that somebody, whether the Electoral Commission, the law or whatever it is, has to make the guidance clear so that people cannot reasonably come to that conclusion, and the full force of the law can be applied to somebody who votes five times when they are entitled to vote only once.

Lord Khan of Burnley (Lab): My Lords, these instruments would implement provisions in the Act to remove the automatic right of EU citizens to vote and stand in local elections in England and PCC elections in England and Wales.

After their implementation, only EU citizens from countries that currently have a bilateral treaty with the UK or citizens lawfully resident in the UK before 2021 would have the right to vote and stand. Of the 2.1 million EU citizens affected in England, around 160,000 are expected to be removed from the register—a point made by the noble Lord, Lord Rennard.

As a principle, Labour believes that people who contribute to society, work hard and pay their taxes should have some say in decisions being made for their community. This is about not just who can vote but devolving power to communities so that they have a say over local decisions. Current rights give EU citizens the power to vote and stand in local elections, regardless of immigration-based eligibility criteria. However, we recognise that the status quo around decision-making cannot continue following our departure from the EU and we will not oppose the regulations today.

Can I press the Minister on the important franchise changes due to come into effect from 7 May 2024? If a general election takes place prior to this, will this timescale remain feasible? Can the Minister also provide an update on the guidance being prepared for electoral registration officers? The Explanatory Memorandum states that it will be completed by the end of 2023.

My final point was made also by the noble Lord, Lord Rennard. What work are the Government doing with local authorities to ensure that the 160,000 EU citizens affected have clear guidance on how they can become permanent citizens and change their criteria in order to vote?

Lord Mott (Con): I thank the noble Lords, Lord Khan and Lord Rennard, and my noble friend Lord Hayward for taking part in this debate. I would like to add some explanation in light of one or two of the issues that have been raised.

First, to pick up on my noble friend Lord Hayward's point about neighbourhood plan referendums, I am happy to arrange that meeting with officials after this debate and to look into that further. My noble friend and I have discussed it at some length in the past few weeks and it seems to me that a very small tweak is required to make it more straightforward. I am happy to facilitate that after today.

The noble Lord, Lord Khan, made some very important points on preparation and dates, and I will come back to him on the specifics. Obviously, it is not in the gift of your Lordships' House to call a general election; nevertheless, it is very important to make sure that everything is ready and that all electoral registration staff are completely prepared, were that to happen.

Probably the most substantive issue raised in the debate was that raised by the noble Lord, Lord Rennard, on EU citizens. Parliament resolved to update the electoral franchise in the Elections Act 2020, and the UK Government's position remains unchanged: the right to reside in the UK should not automatically confer the right to participate in our democratic processes. Now that we have left the European Union, the right to vote and stand in local elections, which we granted as a consequence of our EU membership, cannot continue. The parliamentary franchise is rightly restricted to British citizens and those with the closest historic links to our country. As noble Lords are aware, there has never been a general right for European nationals to vote in parliamentary elections. I am happy to write to the noble Lord giving more detail, and I know he has a very strong view on this, but I would now like to close the discussion.

I know that all Members of the House support these instruments enabling us to enact Parliament's duty to uphold the franchise and ensure that we continue to meet our commitment to respect the rights of EU citizens who have made their home in the UK. I am therefore pleased to be able to introduce these measures. I beg to move.

Motion agreed.

Representation of the People (Franchise Amendment and Eligibility Review) (Northern Ireland) Regulations 2023

Motion to Approve

5.37 pm

Moved by ***Lord Mott***

That the draft Regulations laid before the House on 4 September be approved.

Relevant document: 51st Report from the Secondary Legislation Scrutiny Committee

Motion agreed.

United Kingdom Internal Market Act 2020 (Services Exclusions) Regulations 2023

Motion to Approve

5.37 pm

Moved by ***The Earl of Minto***

That the draft Regulations laid before the House on 20 July be approved.

Relevant document: 49th Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Department for Business and Trade (The Earl of Minto) (Con): My Lords, this statutory instrument will help to ensure that seamless internal trade is maintained for the shared prosperity and welfare of people and businesses across all four nations of the UK. It will enable the effective operation of services regulation in the United Kingdom by adding, amending and removing service sectors excluded from the market access principles in Part 2 of the United Kingdom Internal Market Act 2020—the UKIM Act. I will cover both the purpose and impacts of the instrument in detail, starting with the former.

The UK internal market plays a vital role in maintaining equality of opportunity and certainty for businesses, no matter where they are in the UK, by ensuring that there is an internal market where the free flow of goods and services is protected across the whole of the UK. The UKIM Act was introduced to preserve the United Kingdom's internal market as powers previously exercised by the EU returned to the UK.

The Act establishes two market access principles: mutual recognition and non-discrimination in relation to goods and services. The principle of mutual recognition means that service providers, such as businesses, that meet authorisation requirements to provide their service in one part of the UK can provide their service in other parts of the UK without having to comply with any additional authorisations or requirements. Non-discrimination prevents service providers being discriminated against, based on where they are from in the UK. For example, if, under a regulatory requirement, a regulator requires a service provider to pay a higher fee because they are from another UK nation, this could be discriminatory.

The Act's market access principles will apply only to new or substantively amended authorisation or regulatory requirements for providing services introduced after 31 December 2020. For example, a new licensing requirement for accountancy services would be in scope of both the mutual recognition and non-discrimination principles of the UKIM Act, if it were enacted on or after this date.

However, service sectors listed under either or both parts of Schedule 2, on services exclusions relating to mutual recognition or non-discrimination, are not within scope of those market access principles. The market access principles additionally do not apply where the requirement is a response to a public health emergency or there is a legitimate aim for it, as set out in the Act.

In the UKIM Act, there is a power under Section 18(2) to amend Schedule 2. During the passage of the Act through Parliament, this Government gave a commitment to review and further develop the list of services exclusions after the Act received Royal Assent. This commitment was made because the list in Schedule 2 is mainly based on exclusions in the most relevant pre-UKIM Act regulatory framework, the Provision of Services Regulations 2009, which is retained EU law. The exclusions in Schedule 2 were therefore based on the sectors originally excluded with intra-EU trade in mind, rather than intra-UK trade.

In February 2021, the former Department for Business, Energy and Industrial Strategy publicly consulted on whether the existing services exclusions were fit for purpose in a post-EU exit context. The consultation had three main aims: first, to establish whether there were any instances in which regulators previously disapplied the existing mutual recognition requirement to recognise authorisations under the previous retained EU law; secondly, to establish whether any other changes needed to be made to the services excluded in Schedule 2 to better reflect the UK's circumstances post EU-exit; and finally, to ask for any other ways in which the internal market for services could be further strengthened.

Following my department's assessment of the consultation responses, including engagement with other government departments and the devolved Governments, this statutory instrument is making the following changes. First, it will add exclusions from the mutual recognition principle for services for the supply of gas, electricity and water, sewerage and waste sector services, construction and operation of heat networks and qualifications-awarding services. This change will mainly reflect how these sectors currently operate. These exclusions will maintain the status quo in areas where mutual recognition was not already in operation, to reflect long-standing existing regulatory arrangements in the UK. Without these exclusions, regulators in the gas and electricity supply sector would not be able to regulate as they have done previously, for example, as they would have to accept authorisations from another part of the UK. Evidence from the consultation responses highlighted that this could have a harmful impact on these sectors, causing consumer protection and public safety issues due to the different standards and systems in the parts of the UK. Not making these modifications to the existing exclusions schedule could also lead to higher regulatory costs, as it would instigate market framework changes that industry is not prepared for.

Secondly, this statutory instrument will also amend the existing exclusion relating to social services. This change will not alter the scope of the exclusion but will make it clear that it applies to children's social care and childcare services provided by both private and public providers.

Finally, this statutory instrument will remove the existing exclusions for financial services, electronic communications services, statutory audit services, postal services, and services of temporary work agencies. Our view is that exclusions are not needed in areas where the UKIM Act market access principles will have little to no impact on how the service is regulated or provided in the UK. This is because the sectors either are reserved or already currently operate on a UK-wide basis. Removing these exclusions and making the service in question subject to the mutual recognition and non-discrimination principles should therefore have little impact on how this service is provided in the UK. Detail on these changes can be found in the government response to the consultation, published in July 2022.

5.45 pm

My officials have worked collaboratively and transparently with their devolved government counterparts on this policy over the last two years. I thank them—that is, the devolved Governments—for their engagement and for sharing the public consultation with their stakeholders. We received responses to the consultation

[The Earl of Minto]
from stakeholders operating in Scotland, Wales and Northern Ireland. We have continuously engaged with Ministers and officials in the devolved Governments on the proposals. As a result, we adapted the policy, based on their feedback, in cases where the evidence supported those changes, and the integrity of the UK internal market was not undermined. We sought the consent of devolved Ministers to this instrument, as required under the Act. We have not received consent from the Scottish Government or Northern Ireland, but I am happy to report that the Welsh Government provided formal legislative consent to the regulations.

Under Section 18(10) of the UKIM Act, the Secretary of State may make the instrument without consent from all the devolved Governments as long as an explanatory Statement is published stating why they are proceeding without such consent. The Secretary of State duly published a Written Statement on the Parliament website on the same day that the instrument was laid, 20 July, explaining why the changes were being made without consent from the Scottish Government and the Department for the Economy in Northern Ireland.

I assure noble Lords that, following an extensive public consultation and engagement process, the instrument will ensure that the services exclusions in Schedule 2 to the UKIM Act are both appropriate and effective. The changes reflect how those services are currently provided and regulated in the UK. I commend the draft regulations to the House.

Baroness Kramer (LD): My Lords, I was not involved with the legislation for the United Kingdom Internal Market Act 2020 and I have to admit that, even after reading the Explanatory Notes, much of this SI seemed to me more like a Rubik's cube, so I was appreciative of the clarifications from the Minister.

To a non-expert like me, the SI appeared at first glance to be essentially technical tidying, but I can also see that it tangles with the underlying tensions between the UK Internal Market Act and the common frameworks—that is to say, the intergovernmental agreements that set out how the Governments of the UK nations will work together to manage regulatory divergence in policy areas that were formerly governed at EU level. That leads me to be a little concerned, at least, that the instrument before us received the formal consent only of the Welsh Government. I have no idea whether that is because of objections by Scotland and Northern Ireland, simple oversight or, perhaps, in the case of Northern Ireland, because its Assembly is unable to sit. Perhaps the Minister might expand on that and explain to us why that formal consent was not given, because on the surface it is certainly a little troubling. I remember warning some colleagues involved in the internal market Act when it was passed that it created the likelihood of confusion and tension between Westminster and the devolved authorities, so I am wondering whether this is an instance of that.

I am also trying to understand what the SI will do on a day-to-day basis for the workforces that it names and what the impact will be on their potential customers. I can understand the removing of the exclusions for financial services providers; I assume that it has a positive impact on competition. But I wonder if there was any consideration that it might have a detrimental impact on the provision of local services. We have always had a great problem in financial services stopping everything being either sucked into London or the major centres and in making sure there is local activity across the whole United Kingdom.

I am struggling to understand the consequences of amending social services exclusions. It is very hard to understand why the qualifications for someone who works in social services should differ and whether this reflects some deeper issues within social service provision.

But I am most mystified by the exclusions that have been introduced for what I will group together as qualified utility engineers. They are now excluded from mutual recognition and the non-discrimination principle. We are in a period where we know we have to focus on net zero. That creates dramatic change in the way energy is provided. There are issues of introducing insulation as rapidly as possible across the country and issues with utilities—for example, shortages of reservoirs and transport. All these individuals will apparently be excluded from mutual recognition and non-discrimination. Could the Minister explain what the day-to-day impact is of that exclusion decision?

I thank the Minister and once again apologise for my lack of familiarity with the underlying legislation. It would certainly help in some of these areas to have some further clarification.

Baroness Blake of Leeds (Lab): My Lords, I thank the noble Baroness, Lady Kramer, for the image of a Rubik's cube in looking at this legislation. I welcome the detail that has been provided; it has been very helpful and, as a result, I will keep my comments fairly brief. I thank the officials who have been involved in the process and the Minister for his detailed explanation.

The major concern I want to raise is that, despite the detailed consultation—I am very pleased to see the extent to which that was undertaken—it is troubling that consent was only achieved with Welsh Ministers and not Scottish Ministers. Obviously, the Written Ministerial Statement was laid before the Summer Recess, which was a significant time ago now, and I wondered whether there have been any more conversations between those bodies to seek further reassurance about the progress of this.

I have a specific question. The Scottish Government made a request in relation to heat network authorisations. Can I seek clarification that that has been incorporated into this SI?

I too would like to ask if the noble Earl is able to give us a more detailed explanation of why consent was not forthcoming. As we know, the Scottish Government did not consent to the UKIM Act. Could the Minister explain whether this is the reason? Has he had any explanation of the reasons? Is there a reflection of any concern with the content of the SI as a result? We obviously have to note the continued absence of the Northern Ireland Assembly and Executive. We want to explore with the Minister if that is seen as one of the reasons consent was not forthcoming.

This speaks to a broader concern, which we have expressed on many occasions, about the hoarding of power in Westminster. This is still seen as an issue. Perhaps the lack of progress on an agreement on a

range of common frameworks with the devolved Administrations, and the failure to bring this forward, undermines the co-operative working with the DAs.

In terms of review, paragraph 14.1 of the Explanatory Memorandum mentions a review of the Act's amendment powers, which "must take place" between the third and fifth anniversaries of the passing of the legislation. Could the Minister provide an update on this? Would it be reasonable to assume that there will be further review towards the end of the period stated? If this is the case, has work already begun to detail what further amendments might be required?

The Earl of Minto (Con): I thank noble Lords for their valuable contributions to the debate on this instrument. I agree that it is a very technical SI, and I would like to answer some of the detailed questions properly in writing. I have a lot of the detail here, but I know that time is short, and we want to get on with it. A number of very valuable points have been made, and I will endeavour to answer them to the best of my ability.

The provisions of the UKIM Act naturally bring up historic opposition, but I hope that the legislation that we are looking to pass today will be considered on its own merits in relation to protecting the UK internal market. As a reminder, the instrument will enable the effective operation of services regulation in the UK by adding, amending and removing service sectors excluded from the market access principles in Part 2 of the UKIM Act to reflect current regulatory practice in the UK.

This instrument is a direct result of a public consultation and therefore a rare amendment to the exclusions list, following the intention to make the scope of the UKIM Act better support intra-UK trade. It continues to guarantee that services connected with the supply or production of gas and electricity can be regulated separately in the parts of the UK. This will ensure regulation, mainly in environmentally sensitive areas, can continue without the application of the UKIM Act's market access principles maintaining how the service is provided or regulated in parts of the UK. It will also ensure the services excluded in Schedule 2 better reflect the UK's circumstances post-EU exit by removing exclusions which are no longer necessary in this new context.

Baroness Kramer (LD): Could I ask for clarification? If you are one of the relevant engineers, who is excluded, and you move, do you need to get another set of qualifications? I want to clarify that that is the way this has gone.

The Earl of Minto (Con): I do not believe that that is the case, but I will confirm that.

On the issue of the devolved Administrations and consent, there was absolutely no intention to pass this SI without getting everybody's consent. Our officials have worked continuously throughout this process with Ministers and officials to bring them along. It is extremely gratifying that the Welsh Government accepted everything. The situation in Scotland is slightly different. There was a fairly robust defence of why they did not want the UKIM Act in the first place. I think that has obviously had an impact. However, we have accepted some of the exclusions they wanted put in.

6 pm

On the Northern Ireland side there are obviously some difficulties and I will write to both parties with exactly what those issues are if I can.

We listened to the Scottish Government's request for an exclusion on the heat networks and carefully considered the evidence they provided for an exclusion of heat network services. Based on this engagement, the Scottish Government are taking account of the views of relevant policy officials in the UK Government. We added an exclusion for heat network services through the mutual recognition principle of our instrument. The Scottish Government still felt unable to consent to the instrument due to their broader opposition to the Act.

There was another point about changing the Act. For example, we are adding exclusions from the mutual recognition principle for certain energy and utility sectors where regulators suggested exclusions were needed to maintain continuity with pre-UKIM Act legislation to prevent any changes to how the services currently provided are regulated in the UK. I hope that has answered that particular question.

I will write in detail on the other issues, because they all require quite detailed responses. The Government are committed to ensuring the status quo of seamless international trade as maintained for the shared prosperity and welfare of people across all four nations of the UK. It is very important to remember that. However, I should emphasise that this is only for a small number of sectors, where the sector already operates UK-wide or is reserved to the UK Government.

The question was raised of whether this is a power grab for Westminster from the devolved Governments. The answer is no: the UK Government are committed to the principle of devolution, and the devolved Governments now exercise more powers than they did before the EU exit. The changes made by this instrument mainly ensure that this status quo is maintained.

To conclude, I trust that noble Lords recognise the need for this instrument. I assure the House that the Government are more committed than ever to facilitating a workable system of domestic services trade that achieves our strategic business and trade objectives. We believe that this instrument will foster exactly that outcome, making the internal market arrangements for the UK services sector simpler and more workable in the post-EU context. Once again, I thank noble Lords for their contributions—in particular for the image of the Rubik's Cube that is going around in my head—and I commend these regulations to the House.

Motion agreed.

Windsor Framework (Retail Movement Scheme) Regulations 2023

Windsor Framework (Plant Health) Regulations 2023

Motion to Regret

6.03 pm

Moved by ***Lord Dodds of Duncairn***

That this House regrets that (1) the Windsor Framework (Retail Movement Scheme) Regulations 2023, and (2) the Windsor Framework (Plant Health)

Regulations 2023, have been introduced under a truncated timetable and with no public consultation despite their constitutional and political significance in facilitating the application of EU laws to the United Kingdom; fail to secure unfettered trade between Great Britain and Northern Ireland; cause trade diversion; and are contrary to the objectives of the Northern Ireland Protocol listed in Article 1(2).

Relevant document: 51st Report from the Secondary Legislation Scrutiny Committee

Lord Dodds of Duncairn (DUP): My Lords, in moving this Motion, I want to ensure that Parliament has an opportunity to debate and scrutinise measures that have profound political and constitutional ramifications for the union. Otherwise, the Government would have pushed these measures through without any debate.

The Secondary Legislation Scrutiny Committee, in its *51st Report*, expressed concern about the lack of an impact assessment or, as it put it, "even basic information", saying that

"it undermines Parliament's ability to scrutinise the legislation effectively".

It regretted that the retail movement scheme came into force during the recess, denying Parliament the opportunity to form a view before it was launched—something of a recurring theme when it comes to these Windsor Framework SIs. It also expressed concern about the truncated timetable. On the lack of consultation, it again criticised the Government for failing to consult formally on the details. Given the import of these regulations and their impact across the board on everyone in Northern Ireland, it beggars belief that the Government have not undertaken a formal consultation on the contents of these SIs and others.

The protocol/Windsor Framework has already led to the inevitable consequence of the collapse of the Assembly and other institutions, given that it breaches the Belfast agreement as amended by the St Andrews agreement. It is the greatest irony that proponents of the protocol claim to be great protectors of the 1998 agreement, yet they support measures which drive a coach and horses through that agreement. Indeed, rigorous implementors of the protocol in other Northern Ireland political parties—the SDLP, Sinn Féin and the Alliance Party—all penned a letter calling for its "rigorous implementation". They did not see anything wrong with its flaws, slavishly following the line of the EU. Yet now everyone—including them, it seems—agrees with us that change is necessary.

Make no mistake: the regulations before the House this evening, along with others, establish a regulatory and customs border in the Irish Sea, with Northern Ireland subject to EU jurisdiction in over 300 areas fundamental to our economy. They give effect to EU regulation 2023/1231. This is EU law which now governs internal UK trade. The EU now has the final say over the law on internal trade within the United Kingdom, and if, at some point in the future, it decides to change it, it can.

Contrary to the facts, we are told that this so-called green lane removes the Irish Sea border. In fact, these regulations require traders, trading within the United Kingdom, to have an export number, become a trusted trader, complete customs and SPS paperwork, go through a border control post and be subject to 10% identity checks on goods that are moved—and that is only for the so-called green lane. It is, in fact, a slightly less red lane. It is certainly not the unfettered access promised by the Prime Minister because, if it were, there would be no need for any of this.

Of course, it is not just the extra costs of all of this for business, which will be passed on to consumers in Northern Ireland; we also have the costs to the taxpayer through the trader support service and other schemes set up to implement the Irish Sea border. Can the Minister furnish us with the figures—the costs of all those schemes? Are they intended to be permanent or are they going to be phased out?

The new arrangements have also caused trade diversion, which was supposed to be one of the reasons to implement Article 16 of the protocol in the first place. Although designed primarily to benefit big retailers, the new arrangements have already led to one announcing that it was restructuring its supply chains to move as much as possible of what previously came from Great Britain to Northern Ireland, so that after 1 October it comes from Irish Republic. If anyone is any doubt about the effects of the Windsor Framework, I refer them to the report of the Protocol on Ireland/Northern Ireland Sub-Committee of your Lordships' House on the Windsor Framework. It concluded that the Windsor Framework rendered the situation worse in many areas compared with what has been experienced in reality, on the ground, up to now.

The original protocol was unworkable and could not be implemented without doing major damage to Northern Ireland's economy. That led to grace periods and easements. Now these grace periods and easements are done away with, to be replaced with the more burdensome provisions of the Windsor Framework. Those are the conclusions of the sub-committee. Despite all of this, however, we have been told, "Don't worry—1 October has come and the sky hasn't fallen in". Of course, that ignores the restructuring of supply chains to try to shift as much as possible of what previously came from Great Britain to Northern Ireland, as I have already referred to.

However, clearly worried about how things would look if fully implemented on day 1, the Government have, in fact, in the regulations before us, introduced quite an extraordinary measure to camouflage the reality of what will happen when red/green lanes are fully implemented. That measure is in Regulation 11(2). It is extraordinary because it mixes considerations that pertain to risk, such as risk of disease and so on, with other considerations that have nothing to do with risk but instead pertain to the capacity to carry out checks—to the number of staff there may be and the structures that will be built or not built. Checks can therefore be reduced or eliminated according to the capacity to carry them out. That is important because there is no capacity to carry out such checks at the moment in Larne, Warrenpoint and Foyle. The only new border control post capacity that has been built is in Belfast. Things will not come to a head, in fact, until 2025, when the new border control posts will have been built.

The Government are easing things in, making sure that the real effects are not felt immediately. Once we get to 2025—if not before, when conducting the risk assessment—the competent authorities will be able to say that they have the capacity to conduct fully all the checks. Then we will start to see the real consequences of the sea border. That of course leaves aside the fact that a lot of companies whose goods will end up staying in Northern Ireland—so intra-UK trade—will have to use the red lanes, which are subject to the entire panoply of EU external border customs controls.

These regulations do not do what the Government claim they do. They are in fact another piece of the Irish Sea border superstructure under the Windsor Framework protocol. As such, it is contrary to Northern Ireland's constitutional position, as demonstrated through the courts, where, in relation to a key building block of statehood—internal trade—the Act of Union has, according to the courts, been set aside. The creation of a customs border—with Great Britain now designated, in law, as a third country vis-à-vis Northern Ireland—as well as regulatory borders are inconsistent with Northern Ireland's place as a full, legal and economic part of the United Kingdom.

As Jeffrey Donaldson said at our party conference at the weekend,

"the imposition of a customs border on goods moving between Great Britain and Northern Ireland and remaining within the UK Internal market, was unnecessary and unacceptable in 2019. It was unnecessary and unacceptable in 2021 and … it is unnecessary and unacceptable now".

It will have to go. These measures are contrary, ironically, even to the stated objective of the protocol itself, which states in Article 1(2) that

"This Protocol respects the essential State functions and territorial integrity of the United Kingdom".

The courts have ruled that it does not. The framework is contrary to democratic norms, since we are now subject to EU law in 300 areas without ever having had a say or vote in the matter. Such a denial of sovereignty and democracy is a blot and stain of shame on the entire United Kingdom. This taxation without representation is something that many so-called Brexiteers will regret in the years to come, as others take advantage of the need to move the whole of the United Kingdom closer to the European Union. It is, of course, also contrary to the *New Decade, New Approach* agreement of January 2020, which established that the Government would fully restore Northern Ireland's place in the internal market of the United Kingdom.

There is a lot of talk about the political process and the time that it has taken to deal with these matters in Northern Ireland. Let me remind your Lordships' House that unionists have been urging progress for change for years. Let us remember the moment when the EU started to instigate Article 16 because it did not want the vaccines for Northern Ireland to come over the border from the Irish Republic. That was January and February 2021. We have waited patiently for successive Governments to deliver on the promises and pledges that they made—including the current Prime Minister. We summarised those pledges in our seven tests, which are in fact merely iterations of these prime ministerial commitments. When there is little or no political engagement at the proper level, and it is instead left primarily to civil servants and advisers to carry the load, it is little wonder that there is so little progress. If the institutions are to be restored, then let us restore the agreements that established them and let them operate as they were set up to do. They cannot operate if there is no radical, meaningful change to the Windsor Framework/protocol.

The Assembly has been changed into a different model, where large swathes of powers are no longer under its or Westminster's control—not under the control of anyone who represents Northern Ireland either in the Assembly or in Parliament. Instead, those powers have been handed over to a foreign political entity, acting in its interests, and which is designed eventually to bring about an all-Ireland economy. No one can reasonably argue that unionists should simply shrug their shoulders and say, "Well, never mind, we'll just move on". Republicans would not do that; indeed, they demonstrated that when they said that there could not even be an extra camera on the Irish land border. No one can reasonably argue that unionists should just ignore the setting aside of the Belfast agreement, as amended by the St Andrews agreement. The Windsor Framework and the protocol tear up the principle of consent and trash the east-west relationship —strand 3—elevating and giving priority instead to the strand 2 relationship, the north-south dimension.

6.15 pm

The fact of the matter is that, in threatening violence and civil disobedience, republicans, nationalists and indeed the Irish Government—who can forget the scenes of Leo Varadkar waving about photos of bombed customs posts—have essentially got their way: a nationalist solution to the Brexit issue. The Windsor Framework also trashed strand 1 by removing the cross-community consent mechanism uniquely for the 2024 vote on its applicability.

You cannot expect unionists to operate a regime that ruptures the union. We are told to expect the Government's response in the coming days, and we are told to expect legislation. Such legislation must rectify the current arrangements in all dimensions. It must be effectual and instigate real change. It must not merely be declaratory or simply address problems in areas that do not go to the core of our current difficulties with trade from Great Britain to Northern Ireland, nor our subservient position under foreign jurisdiction. It must restore our constitutional and economic rights as equal citizens of the United Kingdom. The Government know what they need to do. If they seriously believe in devolution, if they seriously believe in the agreements that they have entered into previously, and if they seriously value the union, as we told they do, then they will legislate for the necessary change—real, effectual change. It is really up to the Government as to what happens next.

Lord Morrow (DUP): My Lords, I first congratulate my noble friend Lord Dodds of Duncairn, who has set the whole thing out very succinctly, and I hope that the Minister has been listening. When these regulations were published, we immediately saw that they were of huge political importance, not least because they give effect to EU Regulation 2023/1231, which seeks to govern what happens within the United Kingdom—the movement of goods within a country that is not a

[Lord Morrow]

member state. Specifically, the regulations govern what happens to goods leaving one part of the United Kingdom, namely Great Britain, and entering another part of the United Kingdom, namely Northern Ireland, with the purpose of giving effect to an international customs and SPS border, splitting our country in two. This statute is without precedent, as far as I am aware, anywhere in the world and constitutes the ultimate humiliation of the United Kingdom. It not only blatantly disrespects the territorial integrity of the United Kingdom and the essential state functions of the United Kingdom, but it also actively seeks to undermine them.

The EU regulation does not remove any sense of border in the Irish Sea, which is what we were told by the Prime Minister would be secured by Windsor. Rather, it affirms the presence of the border and offers two different border experiences. The removal of the border is not contemplated at any point. Both border experiences are the same in the sense that they both require those wishing to trade to have an export number, to fill in customs and SPS documents and to be subject to 100% documentary checks and at least 5% to 10% identity checks and some physical checks at border control posts. The real presenting distinction is not between one border experience and the other, but rather between these border experiences compared with movements within an internal market, as in GB, France, Japan, Australia et cetera, which, by definition, involves no customs or SPS fettering and thus no border experience at all.

The retail movement and plant health regulations both provide a means of accessing one of the border experiences provided by EU Regulation 2023/1231, which is less disruptive than the default border experience which the EU reserves the right to impose through Article 14. We pointed out in our submission that, contrary to government statements that the Windsor Framework provided unfettered access to and from Northern Ireland within the United Kingdom internal market, these regulations affirm an arrangement that actually accepts an ongoing border in the Irish Sea and the fact that Northern Ireland has not been reconnected with the UK internal market.

Our submission to the Secondary Legislation Scrutiny Committee was published by the committee in full and the Government issued a response, which was also published by the committee. I would like to look at the Government's response. The first thing to say is that they do not actually disagree with our analysis, although they seek to give the term "internal market" a new meaning. On EU Regulation 1231/2023, they state:

"This regulation sets out specific rules relating to the entry into NI from other parts of the United Kingdom of certain consignments of retail goods, plants for planting, seed potatoes, machinery and certain vehicles operated for agricultural or forestry purposes, as well as non-commercial movements of certain pet animals into NI".

There you have it: the Government accept a border, in that the EU makes rules for Northern Ireland that do not apply to GB, such that a border must rest between them, where one set of rules ends and another set of rules starts.

The Government then say:

"The SPS Regulation also disapplies more than 60 provisions of EU law in respect of retail agri-food goods moving into NI under the Scheme, with UK standards to apply in their place, ensuring that the same products available on the shelves in Great Britain can be sold in Northern Ireland".

That applies to those who access the alternative, less disruptive border arrangement, but critically the Government do not claim that all EU legal requirements, and thus the border, are removed. EU rules continue to apply, and thus the border continues to apply.

The Government then say:

"The Windsor Framework achieves a longstanding UK Government objective to provide for an effective set of trading arrangements for goods remaining within the United Kingdom, as part of supporting the UK internal market. Through its arrangements, it supports the smooth flow of trade within the UK internal market, freeing movements of unnecessary paperwork, checks and complex certification requirements. Instead, the Northern Ireland Retail Movement Scheme will enable consignments to move using a single remotely approved digital certificate, rather than individual certification at product level with inspections required for each certificate under the original Northern Ireland Protocol".

Again, while this sounds positive, it does not actually call into question anything that we have said, beyond its misapplication of the term "internal market".

Yes, the regulations before us today seek to access the alternative and less disruptive border experience that will make trade smoother than will be the case for goods being traded in the so-called red lane, but they still involve our looking at goods moving across a customs and SPS border and not the removal of the border and reintegration of Northern Ireland in the UK internal market. In that sense, while the Government talk about promoting "the smooth flow" of goods within the internal market, they are deploying the term "internal market" in a way that destroys the concept of an internal market.

Terms have meanings, and any attempt to drag an established term with an established meaning into a new context in the hope that the general public will not realise that what we are actually looking at no longer is an internal market in any credible sense but something entirely different must be rejected. An internal market is a market that involves the free movement of goods without the fettering of a customs or SPS border with border control posts. These regulations are not part of an attempt to promote smooth trade within the UK internal market; they are about trying to promote smoother trade between Great Britain and Northern Ireland now that they are no longer part of the same internal market for goods. We can pretend that the UK internal market for goods still exists, but it does not. It urgently needs to be recreated, with the restoration of Article 6 of the Act of Union.

Our point to the Secondary Legislation Scrutiny Committee and to this House is that these regulations are of immense political and constitutional importance, because they affirm the splitting of our country into two, and the Government's response does not question that. Once one allows for the verbal gymnastics involved in the Government's redesignation of the term "internal market", and looks past this terminological sleight of hand to the reality that they actually describe, it is plain that all that is on offer is an alternative border experience that makes the border less economically disruptive than would otherwise be the case.

We made a number of points that the Government did not respond to, presumably because they were not in a position to contradict us. First, we pointed out that at the heart of EU Regulation 1231/2023 is Article 14, in which the EU asserts the right to withdraw the alternative border experience, leaving us with just the most disruptive border experience. Moreover, in understanding this we must remember that it has never offered an alternative border experience for all goods, such that they already insist that a significant proportion of products is already subject to the most disruptive border experience.

In this regard two points must be understood. At the moment, the EU is in no position to use its Article 14 rights, because the border control posts that effectively divide the country into two will not be completed until the end of 2025—my noble friend Lord Dodds has already made reference to that. Moreover, it is also really important to understand that, although the red lane is currently supposedly being operated, there is very limited capacity to enforce it because the border control posts are not properly in place. It is currently the worst kept secret that border enforcement has had to be suspended in relation to triangular trade.

In seeking to assess the disruptive implications of the border at the moment, we also need to call out Regulation 11 in the retail movement scheme regulations. Regulation 11 is an extraordinary provision. It asks officials to conduct a risk assessment, prior to conducting checks at the border, that in addition to asking questions about risk also asks questions that, far from being concerned with avoiding risk, provide grounds for ignoring it. Specifically, in making a judgment about whether there is a risk, the regulations ask officials to ask whether they have the capacity to conduct checks to confirm their suspicions. The plain implication is that, even if officials believe that there is a risk, they can ignore it if they do not have capacity to deal with it. This has presumably been inserted to give people the impression that, from 1 October, the Windsor Framework is far less disruptive than is actually the case, something the Government plans that we should not experience until July 2025—it will be too late then —when the border control posts are completed. I suspect that they then intend to move an SI amending Regulation 11, which I am sure will greatly relieve the EU.

Lord Weir of Ballyholme (DUP): Given what my noble friends Lord Morrow and Lord Dodds have said about the lack of border posts—it will be two years down the line before they are actually put in place—and what my noble friend Lord Morrow said about the lack of capacity for any level of enforcement at the moment, does it not therefore beggar belief that a government Minister said this week that we now have a smooth flow of goods, and that that is the yardstick against which this is based, two years away from any implementation?

Lord Morrow (DUP): I thank my noble friend Lord Weir for making that point. I think the Government are now on a mission to try to convince not only themselves but the watching public that all is well. Let me state quite categorically in your Lordships' House today that all is not well, and it is not going to get better until the Government grasp the situation. We can turn our heads and look the other way, and let on that we do not see or understand, but one day we will understand and, by then, a lot of damage will unfortunately have been done.

6.30 pm

The key point is that it will not be possible to know what it is like until 2025. We pointed out that the regulations began promoting trade diversion even before becoming law. Businesses knew they were coming and knew they had to prepare. Prior to 1 October, businesses moved goods on the basis of the STAMNI scheme, which had been introduced to prevent the collapse of supply chains in 2021. It barely paid lip service to the idea that there was a border, so the two sets of borders on offer in the EU Regulation 1231/2023 are much more disruptive than previously. Businesses could see that even though the alternative border, the so-called green lane, was less demanding than the red lane, it was much more demanding than STAMNI. Between February 2023 and October 2023, we witnessed very significant trade diversion as businesses sought to redirect much of their product into Northern Ireland through the Republic in order to avoid the border.

My colleague made the point about diversion. There was a promise at that time that if there was diversion, the matter would be looked at and taken into account. Let me be very clear: if you have an all-Ireland economy, de facto you have an all Ireland. That is what this will one day bring about. As those who come from Northern Ireland, we would be remiss not to make that point clearly. We pointed out that this was a very serious state of affairs, because Article 16 of the Windsor Framework, in setting out the grounds for derogation from the treaty, makes it clear that trade diversion is inimical to the purpose of the treaty, such that if any provisions within it cause trade diversion, that provides grounds for derogation.

The article says:

> If the application of this Protocol leads to serious economic, societal or environmental difficulties that are liable to persist, or to diversion of trade, the Union or the United Kingdom may unilaterally take appropriate safeguard measures. Such safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation. Priority shall be given to such measures as will least disturb the functioning of this Protocol."

The interesting thing about the form of words employed here is that the diversion of trade is recognised to be such a serious matter that even if it does not lead to

> "serious economic, societal or environmental difficulties that are liable to persist",

Article 16 can still be triggered just because it results in a diversion of trade. That is not at all surprising because trade flows that are definitive of a single market are definitive of the economic nationality that underpins the modern nation state—and are, as such, of an entirely different constitutional effect to trade flows between economies—which could not be cut away without shaking the very foundations of the polity in question. Again, not surprisingly, the Government said nothing. Then we raised other matters.

It behoves the Government to take a look around and see exactly what is going on. The days of spin are over. The moment is now upon us: we need action on

[LORD MORROW]
this. Do the Government place greater emphasis on placating a Europe that can be sometimes hostile and belligerent, rather than having the restoration of a Northern Ireland Assembly and an Executive? I hope that they do not repeat what happened in 1972.

Baroness Hoey (Non-Afl): I genuinely congratulate the noble Lord, Lord Dodds of Duncairn, on putting down this regret Motion and giving us the opportunity to discuss something that, as he said, needs more discussion. I thought the submission from the Democratic Unionist Party to the Secondary Legislation Scrutiny Committee was well worth a read. I hope that noble Lords who are here, and the very many who are not and never seem to come for anything to do with Northern Ireland, have read it. It is a clear indictment of what is wrong with the Windsor Framework.

Three times the Secondary Legislation Scrutiny Committee said it notes that these submissions reflect the views of the DUP and that no other submissions were received—as if somehow that implied that this was not very important. The regulations were laid during the summer. Some of us, even in this place, who have been in Parliament for a very long time find it quite difficult to know exactly when SIs are laid, how they are put forward and when things have to be in by. How does anyone expect the average small business, small shop or trader in Northern Ireland to understand what is going on in the way we need to in this place to get that scrutiny? I hope members of the committee did not mean to suggest in a derogatory way that, because there were not many submissions on these regulations, they are not important.

Both noble Lords have gone into great detail about how the regulations will work. It is very clear, the more we see what is happening with the Windsor Framework, that it has not been any kind of genuine reset or change to the protocol. It has been spun and spun as if it is something remarkable. I do not want again to go over when the Prime Minister came to Northern Ireland to tell us how wonderful this was. We are now seeing that detail, which was never looked at by many in the press lobby, who lapped up what the Prime Minister said to spin it to people in Northern Ireland that it would be brilliant. There has been criticism of Conservative and Labour Members of Parliament—but particularly Conservative and Unionist, who I would have thought would have more sense than to be taken in by a bland statement about how wonderful it would be. Many of those Members of Parliament said to move on to something different because they were fed up with it. That is not going to happen, and as the noble Lords have said, the deal is unworkable. It may not seem it at the moment, because of all that has been said about it being very early days and the structures not being in place. There is a feeling that we must be as careful as possible not to be too diligent because it should look like it is working normally, and that trade is moving back and forth just as if there had never been an Irish sea border.

Anyone reading the detail of these regulations can see clearly that the green lane is not a green lane. It is nonsensical to say that it is. It does not give unfettered access: that term is used, in my view—and, I hope, that of noble Lords—for free movement within a single market, which automatically would not have to face customs, SPS borders or border control posts.

The alternative arrangements made by the Windsor Framework are simply an alternative form of border arrangements. They do not remove, as the Prime Minister said they would, any sense of a border in the Irish Sea. This deals just with trade issues, not things such as people going as foot passengers to Cairnryan, as I mentioned in Committee the other week, and being told to get there early to go through border control. It is unbelievable that that can be said to people moving within their own country and that any Government would allow this to happen. It is extraordinary that this so-called Conservative and Unionist Government have allowed it.

As has been referred to, the very important European Union document from which all of this comes is EU regulation 2023/1231 of the Council of 14 June 2023 on

"specific rules relating to the entry into Northern Ireland from other parts of the United Kingdom of certain consignments of retail goods, plants for planting, seed potatoes, machinery and certain vehicles operated for agricultural or forestry purposes, as well as non-commercial movements of certain pet animals into Northern Ireland".

Do not get me started on pets. I know that they are not the subject of this SI, but in the detail of this many-paged regulation, under article 12 there are three pages on what you will have to do to take your pet with you from London when visiting family in Northern Ireland. Yet the Prime Minister said there would be no problem—pets would be moved without you having to do a single thing. It is outrageous. It has not come into effect yet and, presumably, we will get a detailed SI on it, but I warn every pet owner in Northern Ireland that, if they think this is sorted, they are very mistaken.

The section of this document—which refers to all the issues we are discussing today—that is so shocking, as has been referred to already, is article 14. It will allow the European Union when it suits it, when the time is right and it wants something else to have a go at the United Kingdom for, to stop the green lane completely. It can say that, if we are not doing it properly—and it can always find some reason to say that it is not being done properly—it will stop the green lane.

We have left the EU—supposedly. Northern Ireland has not, as we know, although people had the same ballot paper, as I keep reminding people. It did not say: "If you vote to leave, you're not actually going to leave. Only a little bit will leave, and the rest of you will stay within the EU". This document shamelessly pertains to the Government not just of Northern Ireland but of the United Kingdom, to divide us into two. It is very different from all the other rules that apply to Northern Ireland, which apply to the EU as a whole and to Northern Ireland because it is part of the EU in that respect. However, this regulation applies just to the UK. Not only does it divide it in two, but it is far more humiliating than anything we were subject to as a member of the European Union because we have not made it.

Let us be honest. The European Union is still in charge of a substantial part of the United Kingdom and still governs Northern Ireland in many ways, this

time without any involvement from us. I will not even mention the Stormont brake because it is not really relevant today, but it is complete and utter nonsense. Everyone knows that it is, but no one in the Government wants to admit it.

6.45 pm

I could go on for a long time, but I expect that most noble Lords know the real situation. This will go down in history as one of the greatest insults of a British Government to the British people. I completely support devolution not coming back to Northern Ireland until this is sorted. Why should any Member of the Assembly even attempt to work this, as they would have to do if they were back in the Assembly? If the United Kingdom Government care enough about Northern Ireland and want devolution, they must accept that they need to go back to the European Union and take back control of Northern Ireland because Northern Ireland has been taken away from the United Kingdom. That will not lead to devolution or a solution to the issues in Northern Ireland.

I hope that the Minister, who has been put in a difficult situation, will be able to respond to some of the details. Can he answer a simple question based on something that happened to me last week? I ordered some bulbs from a company advertised in the *Daily Telegraph* or the *Sunday Telegraph*. It took my money, which went through instantly, and I was told that I would receive them in a few days' time. Three days later, the money was back in my account and I had a little note saying, "Sorry, we don't send to Northern Ireland any more". That is happening over and again. It is a divergence of trade. Article 16, as was mentioned, should have been brought in months ago. This is a disgrace. Even if he cannot respond in any other way than his brief, I hope the Minister realises deep down that this is outrageous.

Baroness Lawlor (Con): My Lords, I support the noble Lord, Lord Dodds, and I am very pleased that he has raised his concerns about these regulations on retail and plant safety made under the Windsor Framework. I share those concerns on two main grounds.

First, there is the impact on trade, about which noble Lords have spoken. I draw your Lordships' attention again to the report of the European Affairs Committee's sub-committee on the Windsor Framework in respect of plant trade. It pointed out that plants such as prunus, hazel and hawthorn are on the prohibited list. As noble Lords know, these are vital to the hedgerows and ecosystems of both islands. We ought to look at the problem of trade as a whole.

My second concern is about who can send or receive these items. To the best of my knowledge, unless you are a registered provider you cannot use the green lane. This will eliminate internet providers, many of which are small businesses that rely on internet trade. It will undermine such providers' competitiveness. Needless to say, I am also concerned about the impact of these regulations on producers in Northern Ireland, who will suffer a competitive disadvantage vis-à-vis the Dublin Government's arrangements with the EU.

Finally, the constitutional status of Northern Ireland should prompt His Majesty's Government to rethink the whole premise of the Windsor Framework. I understand that it is an easement, but it should be seen as an easement in some respects for certain areas of trade and certain traders. It should not be seen as an end in itself until the whole arrangement respects the constitutional status of Northern Ireland under both the Good Friday/Belfast agreement and the protocol. The noble Lord, Lord Dodds, referred to Article 1(2), but the whole protocol respects the constitutional status of Northern Ireland. We are undermining that by giving our consent to regulations that do not accept the premise of the Good Friday/Belfast agreement or even the Northern Ireland protocol.

Lord McCrea of Magherafelt and Cookstown (DUP): My Lords, at paragraph 7.10 the Explanatory Memorandum says:

> "The Windsor Framework establishes a new, sustainable and durable framework for GB-NI trade … This instrument is required in order to implement the Framework".

In coming to consider the regulations before us, it is possible to assess whether they are worth while only if noble Lords first ask what their purpose is? As other noble Lords have mentioned, both instruments relate to EU Regulation 2023/1231, whose object is to affirm and effect two different border arrangements, one of which is less destructive than the other. As such, the regulations are not about removing any sense of border in the Irish Sea, as the Prime Minister suggested, but rather they are concerned with providing two different border experiences. Notwithstanding their differences, they are both united in upholding a border that can be negotiated only with an export number, customs and SPS paperwork—the extent of which, as my colleagues have said, varies depending on which set of border arrangements you use—at least 100% documentary checks, 5% to 10% identity checks and some physical checks at border control posts. This plainly does not give effect to the reintegration of Northern Ireland into the UK single market but, rather, puts in place mechanisms to process the challenges arising from the fact that, rather than Northern Ireland being integrated and enjoying unfettered customs and SPS access, fettering is being put in place, with costs and profit-loss margins recalculated and commercial decisions revised accordingly.

Given that rather than removing the border, these regulations are concerned just with the details of the border arrangement and the extent of SPS border bureaucracy and cost, the question necessarily arises about whether it is right to support regulations that have the effect of affirming and effecting aspects of the border and EU Regulation 2023/1231. The question is: why have a border? What is it for? It is there to protect the integrity of the different legal regime that exists in Northern Ireland from what might come to Northern Ireland and from the different legal regime that exists in Great Britain. That confronts us with a central difficulty that some might be willing to paper over and ignore but that we unionists living in Northern Ireland have not the luxury of ignoring: the fact that every one of the different laws in Northern Ireland is a result of legislation that has been imposed on us by the EU without our consent.

The Windsor regulations are concerned with navigating the border and thus affirm it in at least two ways.

[Lord McCrea of Magherafelt and Cookstown] First, they authenticate the border by making provision for dealing with it through EU regulation 1231, which is based on the existence of the border. Secondly, in engaging with the EU regulation that I have mentioned, the regulations inevitably authenticate the principles set out at the heart of Article 14: that the EU can impose a division on the body politic of the United Kingdom as exists between separate states. Some 700 different pieces of legislation have been imposed on us since January 2021, and of course over time the divergence will become greater as more new EU laws are passed and as more laws are made by Westminster. EU laws will be imposed on Northern Ireland without any representation or democratic accountability. I ask Members of your Lordships' House whether that is acceptable? Would it be acceptable for England, Scotland or Wales? Why, then, for Northern Ireland? The border created by these regulations must be rejected not only because it places obstacles between Northern Ireland and our main market in GB but because it is a symbol of our denial of full democratic rights within the United Kingdom. It tells us, the long-suffering people who have recently endured a murderous campaign for over 30 years, that while the people of England, Wales and Scotland are worthy of the right to stand for election to make the laws to which they are subject, the people of Northern Ireland are not. The right that we should enjoy, being British, is having a common citizenship with every other citizen of the United Kingdom, but these regulations prove otherwise and therefore ought not to be accepted.

When we carefully consider what we are asked to support today in these regulations, I say so much for respecting the territorial integrity of the United Kingdom and the consent principle which we were told lay at the very heart of the Belfast agreement. The agreement said

"it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of its people".

It prohibits any change in the constitutional status of Northern Ireland that involves a shift away from government by the United Kingdom towards more government by the Republic of Ireland or the EU, save with the consent of the majority of the people of Northern Ireland. The words "any change" include the threat that often emanates from some Members opposite, that if unionists do not get back to Stormont, Northern Ireland will be governed by a cabal of UK and Republic of Ireland Ministers. In reality, the suggestion is to bin the central principle of the Belfast agreement—an international agreement, we are told, that numerous Governments across the world heralded as historic and must not be broken; it is set in stone. However, the Government have chosen to mark the 25th anniversary of the Belfast agreement by rejecting parts of it in agreeing the Windsor Framework and hoping that no one notices.

The Windsor Framework and its forerunner, the Northern Ireland protocol, were mischievously sold on falsehood. Learning the lessons of the past, unionists are fed up with successive Governments' spin and will not be beguiled by it, but we will carefully scrutinise the substance. I notice that the spin continues—my noble friend Lord Weir referred to it—because the Government suggest that what is happening under the present arrangements, which started only on 1 October, is a resounding success, when, in fact, it has not been really implemented. That undermines credulity, but it satisfies the government spin-makers. We are told to welcome warmly the PM's amazing achievement with Europe concerning the Windsor brake. However, it is a convoluted complaints procedure which, when the dressing is removed, has as much chance of succeeding as a genuine brake on Europe as refloating the "Titanic".

7 pm

In conclusion, let me refer to the desire expressed by many in your Lordships' House concerning the re-establishment of the Executive at Stormont—we usually hear it in every debate and I have no doubt we will be told it once again. I suggest to those who are going to speak today on that issue that they had better search their own hearts, because they have a way to start that Executive again, and that is by having the consent principle right across the community accepted, which we are told is the very basis and heart of the Belfast agreement. They say that when it suits, of course.

I also think that it is very interesting that today we are talking about the Windsor Framework and Northern Ireland business, yet not one nationalist is in the House to hear or be a part of this debate. Neither are those who usually speak up for them and parrot the nationalist line—they are also absent from the Opposition Benches. Where they have got to, I do not know, but everything must be very important for them to be removed from this specific debate. Or is it rather that they feel that what they have got under the Windsor Framework, done by the Government, is really all they need done, so they do not need to say anything more?

The Government have had the seven tests set down by the DUP for some time now, and we await their response. I know that some within government have expressed extreme frustration with the DUP, for they claim that they have provided sufficient fig leaves for the DUP leader to get back into Stormont. I find that statement from a Government Minister deeply insulting. Surely everyone knows that fig leaves were not able to cover Adam and Eve in the garden, and they will not be able to cover any grubby deal done by the Government over the heads of the people of Northern Ireland when it deals with the constitutional future of our children and the generations to come.

The Prime Minister must realise that any policy decision to go back into Stormont is the sole competence of the DUP party officers, and they will carefully and fairly scrutinise any government proposal—bearing in mind how successive Governments have dealt with unionists over many years, they need to carefully scrutinise it all. Over the years, the decisions taken by our party were not taken simply to be popular; they were taken in the best interests of the people of Northern Ireland. That again will be the basis of any future decision that we will make, and no other spin will be sufficient to make us break our firm resolution.

Lord Browne of Belmont (DUP): My Lords, I am not convinced that the regulations before us today are intra vires, for exactly the same reasons I doubt that the Windsor enforcement regulations are intra vires.

I set out in detail the reason why I am unconvinced about this in my speech on the enforcement regulations when they were debated on 19 September, but the Minister did not respond at that time. I do not intend to repeat my speech of a month ago today in full and want to move on to address some additional points today, but I begin by drawing it again to the attention of the Government and asking for a response, not merely in relation to the enforcement regulations but the retail movement scheme regulations and the plant health regulations we are debating today.

In brief, while I acknowledge that the regulation-making powers are quite broad, they are not infinitely elastic, but held accountable to a fixed reality: the language of the protocol, now renamed the Windsor Framework. Both these sets of regulations have at their heart and give legal effect to EU Regulation 1231/2023. As we have heard, that affirms and effects the division of the UK into two, for the reasons that have been set out by the earlier speakers. This is a hugely important matter for the Windsor Framework retail movement scheme, plant health regulations, as well as the enforcement regulations 2023, because Article 1(2) of the protocol states, as I said on 19 September:

"'This Protocol respects the essential State functions and territorial integrity of the United Kingdom'.

It is made directly effective in UK law by Section 7A(l)(a) of the European Union (Withdrawal Agreement) Act, requiring that

'all such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the withdrawal agreement'

are applied.

How can Article 1(2) be applied if attempts are made to implement other parts of the protocol that have the effect of actively disrespecting the territorial integrity and essential state functions of the United Kingdom that it insists on respecting? I can see that, if the regulation-making power were for the purpose of giving effect to certain articles of the protocol and not others, this vires difficulty may not necessarily apply. But the regulation-making power simply references the protocol/Windsor Framework, which means that it must be taken as a whole. That means that any Act that purports to implement it cannot contradict any part of the protocol, including Articles 1 and 2". —[*Official Report*, 19/9/23; cols. GC 287-88.]

The same problem also arises because of the trade diversionary effects of both sets of regulations before us today and the trade diversionary implications of preparing for them. It is now known that the amount of product coming from Great Britain to Northern Ireland is significantly less than previously, with an increased number of empty trailers on the return journey. How can it be appropriate for the Government to introduce legislation within the confines of the regulation-making power to give effect to legislation which is supposed to be accountable to the Windsor Framework, when its actual consequence is to create trade diversion, which Article 16 of the Windsor Framework expressly states is inimical to the purpose and intention of the Windsor Framework, such that if this is the result, the parties may derogate from the treaty? I very much look forward to what the Minister has to say.

In order to understand the regulations before us today, and particularly the green lane that they purport to help construct, it is useful to look at how signage works in the rest of the European Union. Moving from one European Union jurisdiction to another, you are effectively presented with three lanes. The blue lane is for any goods moving from one EU jurisdiction to another EU jurisdiction. There is no paperwork and there are no checks. Then there is a red lane. This is for any good that has to be declared and subject to customs and potentially SPS paperwork and checks. Then there is a green lane, which means you can move freely, because you have nothing to declare. However, here in Northern Ireland, as a unionist, I particularly know what a fake green is when I see it. The truth is that what the regulations before us today offer is not an arrangement that, in the words of the Prime Minister,

"removes any sense of a border in the Irish sea", —[*Official Report*, Commons, 27/2/23; col. 571.]

such that he could then, and we can now, talk about the regulations before us today as giving effect to aspects of the green lane.

In reality, the Windsor Framework, as the regulations before us today powerfully testify, effects and affirms a border where no border has a right to be. EU regulation 2023/1231, which it is the purpose of these retail movement and plant health regulations to operationalise—and without which they make no sense and cannot be understood or assessed—is about making provision for an alternative and less disruptive border experience than one would otherwise have. However, two things must be understood. First, the alternative arrangements are alternative border arrangements and thus the border remains very much in place and can be negotiated only if you have an export number, apply to join the trusted trader scheme and are accepted, fill in SPS forms, and are potentially subject to some checks at border control posts.

Secondly, article 14 of EU regulation 2023/1231 makes it absolutely clear that the EU reserves the right to remove this border experience in favour of the most disruptive available that it could mete out between itself and a foreign country. In that sense, the Windsor Framework does not get rid of any sense of the border in the Irish Sea any more than it creates a green lane. Its actual effect is to confirm the presence of the border in the Irish Sea and to introduce two red lanes, one of which is less demanding than the other, but which defaults to full disruption at the behest of the European Union.

Neither arrangement reconnects Northern Ireland to the UK single market, which can happen only when it is given unfettered access, which means access without the fettering of customs or SPS requirements as per trade movements between Scotland, England and Wales, or trade movements within any single market. Indeed, rather than reconnecting Northern Ireland to the UK single market, the purpose of the regulations today is to define two different levels of fettering at the border.

Therefore, rather than removing the border, the purpose of these Windsor regulations is to effect and affirm it. This makes it absolutely clear that talk about green lanes is totally confusing and, frankly, misleading. It generates an impression of a green light, of the coast being clear, and so on, but nothing could be further from the truth.

However, in order to really understand the regulations before us today, we need to see them in context, because the truth is even more awkward. Under the border target operating model, it is widely recognised that it is much easier to move goods from the EU into GB than to move goods from GB to the EU. This has

[Lord Browne of Belmont]
immediate consequences for Northern Ireland because all red-lane goods movements between Northern Ireland and GB, which are in the same country, are subject to more fettering than movements of goods from the EU to GB—between different countries.

To this one might say, "But what about the green lane?"—which is of course a red lane. In the first instance, Northern Ireland is part of the same country as the rest of the UK and so should not be disinherited from its own single market by the imposition of any kind of border obstacles. In the second instance, when we study the particular manifestation of the red lane that masquerades as a green lane, we find that some companies regard the burdens associated with it as so onerous that they actually prefer the other red lane. For example, Lynas Foodservice has said that it intends to move 75% of its products on the red lane; in other words, we will have accepted an arrangement that places the interests of GB more with those of France, Germany, Bulgaria and Estonia than with Northern Ireland, because we will want to make it easier for goods to be traded between those countries and Great Britain, in terms of fettering, than with part of our own country. We will have done this, even as we know that through the EU we are offering easy access to our market to those countries—France, Germany, et cetera—that are refusing to respect the territorial integrity of the United Kingdom, imposing both economic disadvantage and the partial disenfranchisement of part of the UK.

I am happy to support this Motion to Regret.

7.15 pm

Lord Weir of Ballyholme (DUP): My Lords, I do not intend to stray beyond the two statutory instruments themselves, but they are symptomatic and symbolic of the wider problems with the Windsor Framework. First, the retail movement SI in particular goes to the very heart of the Windsor Framework arrangements and, secondly, the SIs very much epitomise the fact that the concerns that have been there from the start of the Windsor Framework have not just not been removed but have in fact been reinforced by these regulations. Indeed, the reassurances that were given, particularly by the Prime Minister at the time the Windsor Framework was signed, have been shown to be spin, and these regulations highlight that they were fairly meaningless.

Proponents of these regulations may point to some very marginal improvements on what was there with the protocol. If you are a seed potato farmer, you will at least be able to import, whereas that would have been banned beforehand, and there is a little bit less paperwork. However, if we compare the situation as proposed in these regulations—which indeed has been retrospectively imposed on Northern Ireland, because we are debating after the fact, in effect—with either what was there prior to the situation or even in terms of the grace periods or the STAMNI arrangements, we see that we are in an infinitely worse position. Indeed, any changes that have made are very much at the grace and favour of the European Union, as has been indicated by regulation 1231, which states, as been said by others, that if there is a discontent from the EU with the operation of the procedures, yes, it will consult with the UK Government but it alone will then have the power to set aside these arrangements and impose, in effect, a completely red-lane arrangement on all trade going into Northern Ireland.

It is worth pausing for a moment to think about that. What is contained within the regulations before us today in terms of retail movement is designed to apply only to the so-called green lane; it is supposed to apply only to trade where the end use is in Northern Ireland. This is not about trade which will cross into the EU, and not even about trade that is at risk of travelling into the EU; it is about trade which is entirely within the United Kingdom. Yet the final and unilateral say on this lies with the European Union.

Many reassurances were given at the time of the Windsor Framework: we were told that it would restore the UK internal market and lead to unfettered access in both directions. Indeed, I believe that one of the phrases used was that it would remove any sense of an Irish Sea border, and on one occasion the Government said about the paperwork, "This isn't going to be any different from if you are transporting goods between Southampton and the Isle of Wight". I confess I have not travelled, or indeed sought to transport, goods between Southampton and the Isle of Wight, so I am not aware of whether a customs declaration is required, or indeed an export number, or of whether a firm doing that has have a trusted trader status. One would assume that there would be several complaints from the MP for the Isle of Wight if goods coming from Southampton had to go through border posts, let alone if there had to be declarations on every consignment or inspections. That has clearly been shown to be a level of spin.

We then come to inspection checks. We know that documentation has to be provided for 100% of goods, and we know that where there is intelligence that would suggest that goods could be taken across the border, there will be physical checks. However, we are told also that between 5% and 10% of consignments—I think the suspicion in the haulage industry is that it will remain close to 10%—will be physically checked by way of an inspection. That is not a quick glance in the back of a van. Let us remember that to comply with these regulations, every consignment coming into Northern Ireland will have to be sealed with a special seal; that will have to be removed, then replaced, presumably, after the inspection.

It is interesting to compare that level of inspection with territories which, for instance, abut the European Union. There is one Russian enclave within the European Union, Kaliningrad, and goods have to be transported between Kaliningrad and mainland Russia through Poland and Lithuania. Yet the EU instructions, even post sanctions, are that they are to intervene where they believe there is the breaking of sanctions, but otherwise, there is to be no impeding of road transport of goods between Kaliningrad and Russia. There is not a 10% level of inspections there. It seems remarkable that, potentially, goods moving between Great Britain and Northern Ireland are going to have a higher level of inspection than in a sanctioned Russian state.

Similarly, on diversion of trade, this is not simply an anxiety; it is a reality. For example, in preparation for this, one of the largest supermarkets, Tesco, showed

us slides indicating how it plans to divert trade through the Republic of Ireland. Morgan McLernon, the wing of the largest hauliers in the United Kingdom, has made redundancies in Northern Ireland because it is going to shift its operations to the Republic of Ireland. The testimony of hauliers, which has been given on a number of occasions to the committee, is that this is leading to a considerable level of divergence—let alone the fact that a lot of smaller traders, if they are going to trade fairly infrequently with Northern Ireland, will simply take the view that it is too much hassle.

The restoration of the internal market cuts another way, which has not been mentioned. Government documentation refers to the transportation of goods, and to standards that apply in Great Britain to goods going to Northern Ireland. It also states: "However, enforcement powers against EU standards will remain for goods produced in Northern Ireland". If we take the port of Larne as an example, you can transport goods from Glasgow to Larne, and they can be sold in Larne according to GB standards. However, the very same shop will not be able to sell goods produced in Larne itself to GB standards. Northern Ireland companies are not even put on a level playing field with the rest of the United Kingdom.

Turning briefly to plant health, given that some of the Government's answers on these issues have tended to be opaque at best, I may be in a better position to elucidate for the noble Baroness, Lady Hoey, regarding her bulbs. It is pretty clear from the legislation that the dispensation the EU has given us on a grace-and-favour basis to transport plants, bulbs and seed potatoes applies only where they can be brought in to a professional operator recipient. To be fair, the company probably did apply the law correctly, but it would appear that the noble Baroness, Lady Hoey, is not entitled as an ordinary consumer to receive those goods. During the recent recess, I was in Prague. Had I decided in Prague to get some bulbs or seed potatoes and made arrangements there for them to be imported to Belfast through the EU, that would have been an awful lot easier, to be perfectly honest, than trying to get them from mainland Great Britain. That is the kind of Alice in Wonderland territory we are in.

A dispensation was generously given in the Windsor Framework that 11 species which were previously completely banned from Northern Ireland could now be brought in. We were told by some in the horticultural industry that they hoped that this would be the start of a process. Some 35 other species were banned, and their hope was that gradually, one by one, that figure would be reduced. I look forward to the Minister explaining whether there has been any further progress on widening what can be brought into Northern Ireland.

These regulations are the symptom of a much larger problem. The reality is that no one who has concerns about the Windsor Framework, particularly those of us on the unionist Benches, seeks anything extraordinary. All we are seeking is restoration of the constitutional status. All we are seeking is the restoration of the UK internal market, and the removal of the sea border. Funnily enough, those were exactly the promises made by the Prime Minister. All we are seeking is for the Prime Minister to fulfil what he promised and turn rhetoric into action.

Baroness Suttie (LD): My Lords, this has been an at times impassioned debate and we have heard comprehensively, I think it fair to say, from the DUP and one point of view. I listened carefully to the many points made by the noble Lord, Lord Dodds, and his colleagues. While I have some genuine sympathy with many of his concerns, I none the less think that the Windsor Framework, as the recent report from the Northern Ireland Protocol Sub-Committee said, marks a significant step forward and is an improvement on what went before. It is far from perfect, but, as we have said many times from these Benches, these proposals continue to stem from incompatible promises that were made to the people of Northern Ireland as a result of Brexit.

There is also little doubt that there is a case for further pragmatic changes to be made in future, based on the realities of how these mechanisms work in practice for the people and businesses of Northern Ireland. Just so that I do not disappoint the noble Lord, Lord McCrae, I will give my statutory plea to noble Lords from the DUP: I genuinely believe that their case would be much more powerfully heard if there were a return to a functioning Executive and Assembly in Northern Ireland. Indeed, as Sir Jeffrey Donaldson said at the DUP conference last weekend:

> "Having no say in our future will not be a recipe for success … having local institutions that succeed in delivering for everyone in Northern Ireland is an essential element of our case".

I agree with that.

I will make a few brief comments on the regulations before us. It is deeply to be regretted that once again, an impact assessment has not been published. I agree with the Secondary Legislation Scrutiny Committee's report, which said that, at the very least,

> "basic information on the expected financial impact on businesses and the public purse should have been included in the explanatory memorandum".

Even at this late stage, can the Minister commit to producing an assessment of the impact on businesses, so that we can have debates based on fact rather than anecdote? It is surely in the Government's own interest to do so.

Like noble Lords from the DUP, I too question the decision to publish these regulations during the Summer Recess. Publishing them at a time when effective parliamentary scrutiny was not possible inevitably adds to our sense of distrust. Given that the Windsor Framework was agreed in February this year, it was surely possible to publish them before the Summer Recess. I seek reassurances from the Minister that the Government are confident that the temporary SPS infrastructure will be fit for purpose, given that the permanent infrastructure will not be ready until July 2025, as several noble Lords from the DUP said.

The Explanatory Memorandum states that the Government

> "has considered and reflected engagement with interested stakeholders".

Is it possible to publish a list of the people who were consulted? I remain convinced that transparency helps to generate the atmosphere of trust that has been so lacking during this whole process.

In conclusion, we on these Benches support the Windsor Framework and, by extension, the regulations we are debating today. However, I do understand many of the criticisms of the Government and the

[Baroness Suttie]
concerns expressed by the noble Lord, Lord Dodds, about the lack of transparency and consultation. I think it fair to say that the whole process leading to the Northern Ireland protocol and now the Windsor Framework has not exactly been a model of transparency and effective communication or consultation. I therefore hope that we can now move on to a more practical, pragmatic phase, learn from the mistakes of the past and make the Windsor Framework work for the people and businesses of Northern Ireland.

7.30 pm

Baroness Anderson of Stoke-on-Trent (Lab): My Lords, I thank your Lordships' House for a truly comprehensive debate. Given the detail of the contributions and that these issues have been considered in depth during this debate and during the consideration of an associated statutory instrument prior to the Conference Recess, I will keep my contribution short.

We consider this legislation to be vital to the implementation of the Windsor Framework and, as we have consistently stated, we support a negotiated outcome with the EU. While the Labour Party does not believe that the Windsor Framework is perfect, it is a substantial improvement on what came before. Although it may be to the disappointment of some, the core tenets of the Windsor Framework are now in operation. While this regret Motion would not undermine it in legislative terms, supporting it—whether at this Dispatch Box or in the Division Lobbies should the noble Lord, Lord Dodds of Duncairn, decide to test the opinion of the House—would suggest that we believe that there is a viable alternative. We are unable to say that and therefore cannot support him.

For the avoidance of doubt, this is not a wholehearted endorsement of what the Government have achieved because important gaps remain, as we have heard. However, it reflects our belief that a negotiated outcome is preferable to threats or unilateral action and that once a deal is translated into an instrument of international law, it must be respected and upheld. Successive Conservative Governments have, at times, fallen short in this regard. We welcome that, on this occasion, Ministers are doing things by the book.

As I have said, the Windsor Framework is not a comprehensive framework and not every issue with the protocol has been fully resolved. There are several important changes to GB-Northern Ireland trade which strengthen the internal market, but there is still work to do. The Motion tabled by the noble Lord cites concerns around the speed of implementation and lack of public consultation. While we accept the public interest in, and general business support for, moving swiftly, I hope that he remembers my previous comments in relation to the consultation: stakeholders may have been able to make submissions to the Secondary Legislation Scrutiny Committee, but that is no substitute for a more formal process.

I have a few questions for the Minister. He will know that in recent days his noble friend Lady Neville-Rolfe provided a written update on the switch-on of the Windsor Framework arrangements. Can the noble Lord the Minister elaborate on the recent changes and confirm how businesses can provide feedback on their operation? We have just returned from the Conference Recess. Many of us in your Lordships' House would have welcomed the comments from Sir Jeffrey Donaldson, the leader of the DUP, which suggested that progress was being made in discussions around the Windsor Framework and the all-important restoration of the Northern Ireland Assembly and Executive—a sentiment he also alluded to in the other place today. On that note, can the Minister provide any update to the House on the DUP's proposal for the establishment of an east-west council to deal with issues relating to GB-Northern Ireland trade?

It is imperative for all of us to make this work. While we support the negotiated settlement reached earlier this year and hope that it will lead to a marked improvement in the experiences of Northern Ireland businesses and consumers, I sincerely hope that moving forward, whether on the Windsor Framework or other issues, His Majesty's Government make a renewed effort to work with and listen to parties and communities in Northern Ireland, rather than imposing policy and legislation on them. I look forward to hearing from the Minister.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, I thank the noble Lord, Lord Dodds of Duncairn, for tabling this Motion, and all noble Lords who have contributed to this debate today. I pay great tribute to him and his colleagues. I entirely understand the passion that underlies their concerns about this. All of us who have had knowledge and understanding of the situation in Northern Ireland over a great many decades appreciate the underlying emotions that exist on issues relating to this. Trade is so important to every person in Northern Ireland for all of us who care about the union.

We have before us two key pieces of legislation, the Windsor Framework (Retail Movement Scheme) Regulations 2023 and the Windsor Framework (Plant Health) Regulations 2023. Both play a pivotal role in the implementation of the Windsor Framework. I am pleased to announce that, as the noble Baroness, Lady Anderson, has said, the schemes are now live and trade between Great Britain and Northern Ireland is once again on a more stable and long-term footing. It is our fervent wish to successfully restore the smooth flow of trade within the UK internal market and safeguard Northern Ireland's place in the union.

First, I would like to provide some background on the retail movement scheme regulations. The scheme establishes a robust and sustainable legal framework for the movement of pre-packaged retail agri-food goods from Great Britain to Northern Ireland. This framework offers traders a unique set of arrangements, reducing barriers to trade by facilitating the movement of consignments based on a single certificate, compared with hundreds of vet-signed certificates for individual products needed under the old protocol. One of the key benefits secured by this scheme is the disapplication of over 60 pieces of EU legislation for goods moving from Great Britain to Northern Ireland, ensuring a consistent approach across the entire United Kingdom. This means that goods which meet British public health, marketing and organics standards will be able to move to Northern Ireland.

We have a long-standing commitment to ensure that Northern Ireland's businesses have unfettered access to their most important market, Great Britain. The Northern Ireland protocol guaranteed unfettered access for Northern Ireland's businesses to the GB market. This was legislated for in the United Kingdom Internal Market Act 2020 and is reflected in the border target operating model. Furthermore, it has been raised in this debate that the instruments are contrary to the objectives of the Northern Ireland protocol listed in Article 1(2) of the Windsor Framework. In response to that assertion, I assure noble Lords that the Windsor Framework restores the smooth flow of trade within the UK internal market by removing the unnecessary burdens that have disrupted east-west trade. We are now able to achieve the long-standing UK government objective of restoring the smooth flow of trade within the UK internal market by pursuing a green lane for the movement of goods from Great Britain to Northern Ireland, supporting Northern Ireland's place in the UK. We are confident that the Windsor Framework upholds our objectives to ensure that Northern Ireland's place in the union is protected. Specifically, the framework allows for goods which meet British standards to be available in all parts of the UK, ensuring that consumers in Northern Ireland have access to the same goods as those elsewhere in the UK.

The plant health regulations pave the way for the smooth movement of plants and seeds for planting, seed potatoes and used agricultural and forestry machinery and vehicles between Great Britain and Northern Ireland when applying a Northern Ireland plant health label. The Northern Ireland plant health label scheme aligns closely with the current UK plant passport regime, making it familiar and accessible to all businesses engaged in the commercial movement of plants within Great Britain. This label will replace the need for plants and seeds for planting to be accompanied by a phytosanitary certificate, significantly reducing costs. Instead of paying £150 per movement into Northern Ireland, growers and businesses can now pay approximately £120 annually to be part of this scheme, which is the same as the cost for the UK plant passport regime.

Importantly, these regulations will also allow previously banned seed potatoes to be once again available in Northern Ireland from other parts of the UK while remaining prohibited in the Republic of Ireland. This will have a significant impact on trade between Scotland and Northern Ireland, with an estimated 2,500 tonnes of seed potatoes expected to move from Great Britain to Northern Ireland. The EU's risk assessment process for the movement of so-called high-risk trees, a point raised by my noble friend Lady Lawlor, is being expedited. Once approved, they will move from Great Britain to Northern Ireland with the Northern Ireland plant health label. We prioritised removing bans on the movement of plants and trees of greatest importance to industry—seed potatoes and the 11 most important British native and other commonly grown trees. I assure my noble friend that hawthorn is under that definition.

The Windsor Framework has also removed the Irish Sea border for goods remaining in the UK, providing a firm legal foundation for trade and allowing everyday goods to move efficiently between Great Britain and Northern Ireland. It does so while protecting biosecurity on the island of Ireland, which has been treated as a single epidemiological unit for decades. It also safeguards Northern Ireland's privileged access to the EU single market, which has been a clear demand from businesses to protect livelihoods. These regulations play a critical role in facilitating the seamless movement of goods between Great Britain and Northern Ireland, reducing trade barriers, and promoting a more efficient and cost-effective trading environment. They are essential components of the Windsor Framework; I hope therefore I can convince all noble Lords to support their implementation, as we debated before the Summer Recess.

Baroness Hoey (Non-Afl): Could the Minister clearly define "unfettered access"?

Lord Benyon (Con): I will refer to the noble Baroness's bulbs. I do not know why the company she bought her bulbs from returned her money and did not wish for her custom, because the movement of plants, including bulbs, to consumers is possible if it is through a registered operator, including mail order and internet sales. I hope that one day bulbs from GB will adorn her garden in Northern Ireland. In direct answer to her question on unfettered access, I say that we all want is for goods—whether bulbs or anything else—to be traded within the United Kingdom in a similar way to anywhere within GB. I want to make sure that we are working towards that, and this is not perfect, as the noble Baroness, Lady Anderson, said—nothing that we pass through Parliament is perfect—but it is a considerable improvement and one that has been welcomed by many businesses in Northern Ireland. I hope that in moving towards that goal we will see greater understanding as the schemes are rolled out.

The noble Baroness, Lady Anderson, asked me about recent changes and the points raised by my noble friend Lady Neville-Rolfe. There has been a huge amount of engagement with business, and that will continue. We want to make sure that the east-west trading discussions continue. I also want to assure the noble Baroness, Lady Suttie, that we believe that even though some of the infrastructure is not yet built, the temporary arrangements are adequate; they are not perfect, and the sooner that we can have the more formal infrastructure in place, then we will see an improvement not just for trade but for the people who work there.

The Government recognise that it is vital that we are now able to restore the Northern Ireland Executive and Assembly. Although our retail movement scheme protects Northern Ireland from problems caused by regulatory divergence between the UK and the EU, we are seeing problematic divergence from the lack of an Assembly. We are, for example, unable to apply prohibitions on dangerous dogs UK-wide. Outside my departmental brief, we are seeing growing divergence on health waiting lists and core public services. I echo the points made by a number of noble Lords about the need to move towards some form of local democracy, which we put in place through the arrangements that have superseded the end of the sitting of the Assembly. I really welcome the comments made by the leader of the DUP indicating why it is important that decisions are taken locally.

[Lord Benyon]

I am grateful for this further opportunity to make the case for a greatly improved trading arrangement and for the valuable discussion. A number of points were raised of a highly technical nature, and if I have not covered them in my reply I am very happy to take them forward with noble Lords after this debate. I really hope I have gone as far as I can to convince the mover of this Motion to Regret, the noble Lord, Lord Dodds, and others to not push it to the vote.

7.45 pm

Lord Dodds of Duncairn (DUP): My Lords, I am grateful to the Minister for addressing some of the points raised in the debate this evening. A wide range of issues have been discussed, and I am grateful to all noble Lords who have taken part. It has been extremely useful, and important indeed, for this Parliament to actually discuss these matters. It beggars belief that had it not been for this Motion to Regret, these matters of such fundamental importance—central to the Windsor Framework, according to the Government—would not have been debated at all in Parliament. I will put down a marker. If the Government are so proud of the Windsor Framework, why do they continue to shy away from debate on it? The Prime Minister rushed a quick vote on the Stormont brake when he introduced the Windsor Framework, and said it was a vote on the entire framework, but it has hardly been debated since—certainly not in government time. It is important that those of us who have a responsibility to properly scrutinise the Government in Parliament, especially on these matters of such constitutional and political import, take every opportunity to bring these matters to the Floor of the House and have them debated, and, if necessary, voted on.

The Minister in his response said that goods made to British Standards are now available in all parts of the United Kingdom as a result of the Windsor Framework. He omitted to say, "Except, of course, if they are made in Northern Ireland". That is not an improvement. He said it removed the Irish Sea border for goods staying in the United Kingdom—no, it does not. If goods staying in the United Kingdom happen to be on a lorry with goods going to the Irish Republic, they have to go through the red lane, so that is not a correct statement. On the matter of bulbs raised by the noble Baroness, Lady Hoey, I will correct the record again: it is illegal for such items to be sold directly to consumers in Northern Ireland. Those are the facts. One of the problems we have had in this whole Windsor Framework and protocol debate is the spin that tries to make it out to be something it is not. Just be honest with people that this is the best you can get, but do not try to cod people in Northern Ireland that this is something that it is not. This is where the Conservative and Unionist Party has gone badly wrong in Northern Ireland. Ineptitude and a lack of engagement now passes for the top level—certainly in the top two at the NIO, whose policy seems to be to avoid engagement and discussion with anyone in Northern Ireland, lest they say something that causes further controversy and difficulty for the Government.

The protocol sub-committee on which I have the honour to serve made it very clear that the Windsor Framework may be a technical improvement on the original protocol, but it is not an improvement on the position with the easements and grace periods. It will be more burdensome, so again let us be accurate about the matter. As for the institutions of the Belfast agreement—the Assembly, the north-south body, the east-west body and all the rest of them—it is in the hands of the Government, this House and the other place to decide when devolution comes back. Let us restore equal citizenship; let us be honest with people; let us have the same rights as UK citizens, as the rest of our citizens—the right to make laws for our own country here at Westminster or in the Assembly. As my noble friend Lord Weir said, these are not matters in which we demand special privileges; we simply demand our rights as UK citizens.

Jeffrey Donaldson was quoted. We agree with devolution. I was a Minister in three different departments of the Northern Ireland Executive. We shared power with Sinn Féin, a party that is unrepentantly in favour of murder of our kith and kin, in order to get devolution and to move things forward in Northern Ireland, but we did so based on an equitable settlement which respected strands 1, 2 and 3 of the relationships within these islands. Those agreements have been trashed by the protocol and the Windsor Framework. They must be restored. As Jeffrey Donaldson said on Saturday—I notice that some people left out this part—the customs border was "unacceptable" in 2019 and 2021 and it is unacceptable today. So let us get on. The Government know what needs to be done, so let us get on and help them along their way. I hope that we restore those institutions sooner or later.

I do not intend to press this Motion to a vote tonight, but I reserve the right to bring all issues affecting Northern Ireland to the Floor of the House, unless the Government are prepared to do so of their own volition, to debate them and to vote on them, going forward.

Motion withdrawn.

Access to Musical Education in School

Question for Short Debate

7.51 pm

Asked by ***Lord Boateng***

To ask His Majesty's Government what plans they have to address inequalities in access to musical education in school.

Lord Boateng (Lab): My Lords, in raising this Question for Short Debate, I declare my interest as an unremunerated, independent, non-executive director of the Royal Philharmonic Orchestra.

Music matters. It drives both personal and intellectual development, lifts our spirits and the soul, and drives the creative industries that add so very much to our economy. So access to music matters—access to performances, and the opportunity to perform and to be employed in the industry of which music plays such a part. It matters.

For all this to be possible, music teachers matter. I cannot say those words without naming three: Leonora Rennel, Iris du Pré and Hans Seelig. More than 50 years

ago, in the music block of a state school on a council estate of a new town called Hemel Hempstead, they gave me the opportunities that I have enjoyed ever since. They gave me access to music and the capacity to find in it something that has nurtured me, as I know it has all Members of this House present at this debate. We could not have a more distinguished list of contributors, as music has nurtured us all. All of us will be able to name the music teachers who were important in our lives.

Equity and access to music, and to the best qualified music teachers, matters. It is under threat today perhaps more than it has been at any time of our lives, despite the good intentions of government and numerous plans. I have no doubt that we will hear a lot from the Minister, whose sincerity and commitment in this area is beyond question, about those intentions and a refreshed national plan for music education. But however welcome the good intentions are and however much we applaud the ambitions, the lack of capacity and resource in the system is a grave concern. Our very own All-Party Parliamentary Group for Music Education concluded in its report, *Music Education: State of the Nation*, that

"the overall picture is one of serious decline. If the pace continues, music education in England will be restricted to a privileged few within a decade, and the UK will have lost a major part of the talent pipeline to its world-renowned music industry".

The facts speak for themselves. The Independent Society of Musicians states in no uncertain terms that this year's exam results are "a wake-up call". They are, and they tell their own story: a 36% drop in GCSE and a 45% drop in A-level music entries in England, Wales and Northern Ireland since 2010. There is a crisis in teacher training and recruitment, with schools increasingly forced to cut music provision or use non-specialists to teach music as a result.

It is also a picture of increasing inequality. All too often, those in a private school have access to the very best of music but those in a state school simply do not. In the most deprived areas, many do not have any access to music education at all. There is increasing pressure on resources and the current annual funding for music hubs of £75 million per year, however welcome, needs to be seen in context. It amounts to roughly £9.34 per pupil per year. Compare that to the £73.63 per pupil per year that we spend on sport. There is simply no comparison, yet both ought to be and are valued in our national life.

I have no doubt that we will hear much about the £25 million that has been ring-fenced to buy instruments, but that £25 million is less than we spent on training the rowing team for the 2020 Tokyo Olympics. I know whose results I prefer and whose are truly outstanding. I am fond of rowing and encourage my grandson to row, but it does not play the part in our national life that music does.

We have a crisis. It needs to be addressed by funding but also by looking at the way in which we value music within our education system. The fact is that the English baccalaureate does not value the subject. I fear that the measures we use to establish the school league tables do not emphasise the importance of exposure to music education. This creates a perverse disincentive to teach music and to expose young people to music in our schools. How do the Minister and the Government propose to address that issue? What measures will they bring forward to ensure that these refreshed music hubs do what they are meant to?

The funding for music hubs is less than the £83 million-plus we were spending before they came into being. How are music hubs to be incentivised in their partnerships with schools, unless there is a statutory duty on schools to deliver a musical education? There is none. Do the Government intend to address that lacuna—that massive hole in all that we seek and aspire to do for young people in music education?

The Institute for Fiscal Studies has reported a 9% drop in funding per student between 2010 and 2020. There was a promise in this Government's last manifesto for a £90 million arts premium. Whatever happened to that? There is an issue about funding that we simply cannot escape. When it comes to teacher training, the figures show that the number of secondary school music teachers fell by 15%, from 8,043 in 2011 to 6,837 in 2020. The ITT census for 2023 shows that only 64% of the target for music trainees has in fact been reached. So how do the Government intend to restore and fund a sufficient number of places for trainee specialist teachers of music?

We know it works, and we know it makes a difference. The work that the Royal Philharmonic Orchestra is doing in Hull and Brent in driving talent and workforce development for the profession, and the improvement in schools such as Feversham Primary in Bradford, which went from a failing school to an outstanding school after it introduced three hours-plus of music per week for each individual student, tell their own story. There is an African proverb that says:

"Music speaks louder than words".

Our education system needs to amplify the voice of music.

8.02 pm

Baroness Fleet (Con): My Lords, it is an immense pleasure to follow the noble Lord, Lord Boateng. I congratulate him on securing the debate. I declare my interests as chair of the national plan for music education and the London Music Fund. We will, no doubt, hear from many noble Lords this evening who share our passion and commitment to music education and the absolute belief that it should be available to all children and young people, whatever their background and financial circumstance. This is at the heart of the national plan for music education, which I chair. I am determined that it will be implemented. The noble Lord made many excellent points. We are acting and are determined to move the dial. In this debate, I will focus on the importance of implementing the plan and on some of the barriers that I admit we have to overcome.

Music creates unimagined life chances, as I have seen, and found such pleasure and determination in, through my work as co-founder and chair of the London Music Fund. I set up the charity more than 10 years ago to give young people from disadvantaged backgrounds access to high-quality and sustained music education. More than 60% of our scholars are from black, Asian and ethnically diverse backgrounds. They

[Baroness Fleet]
often have little experience of life beyond their neighbourhoods. Over four years, we provide instruments, weekly music lessons, Saturday music school, mentors, opportunities to play with professional musicians, and visits to concerts.

The results from the first cohorts can now be seen. Many are at university, some at conservatoires. Flautist Aliyah is at the Guildhall, cellist Aisha at the BRIT School, saxophonist Yasmin studying medicine at Cambridge, and clarinettist Monique studying maths at Imperial College. All now have the opportunity to develop into outstanding young citizens, with the skills, knowledge and confidence to succeed in life and work. More young people like Aliyah and Aisha could be helped next year by the national plan's new progression fund. This programme, which will support 1,000 young musicians from low-income families, needs to be replicated right across the country.

In spite of reports of music in schools being in crisis, all of us here have, I believe, seen remarkable music in many different schools, not just private but state schools, in many communities. The noble Lord mentioned Feversham Primary Academy in Bradford. It is an outstanding school that has put music at its heart. The enlightened head teacher, who did this nearly 10 years ago now, is being rewarded with excellent results. All children learn to sing and to play a musical instrument. They do six hours of music a week. Imagine this—and it is all delivered within the school budget. It is not just about money but the determination of the head teacher to follow this route. Every primary school could follow its example and see results soar, as well as having many very happy children. A recent RPO poll showed that 85% of children want to learn a musical instrument.

It is good news that the DfE has provided £25 million for musical instruments; that all schools, primary and secondary, are now mandated to provide an absolute minimum of one hour a week of curriculum time for music; and that the Government have finally agreed to fund bursaries for music students in teacher training. But there are barriers. The workforce remains an issue. We need more specialist music teachers. Those we are lucky enough to have need to feel valued, rewarded and not left behind in the pay stakes. A top-up for the £79 million for music hubs would make a huge difference and show that the Government really care about music education. Most important of all, we must get every single head teacher, governor and parent on side to recognise the power of music and embed music education in their school right across the country.

8.07 pm

Lord Watson of Wyre Forest (Lab): My Lords, it is a pleasure to follow the noble Baroness's passionate contribution. I commend my noble friend for initiating this important debate. It calls for us to answer three things: we need to highlight the importance of music to education, identify existing shortcomings, and propose actionable solutions.

I offer these remarks as the non-executive chair of UK Music, to which I draw noble Lords' attention to my entry in the register. UK Music is the umbrella organisation comprising 10 key industry organisations: the Ivors Academy of songwriters, the Featured Artists Coalition, the Musicians' Union, the collecting societies PRS for Music and PPL, the Music Producers Guild, the BPI and AIM for the labels, the Music Publishers Association, and the Music Managers Forum. Together, they form the complex but vital ecosystem of our nation's music industry, a sector that contributes £5.8 billion in gross value added to our economy and makes the UK one of only three countries in the world that is a net global exporter of music.

While these organisations hold varied views on many issues, they universally affirm that quality music education is vital for the future of the industry. It does not just prepare the professionals of tomorrow but enriches our society, as my noble friend outlined. Yet research confirms the comprehensive benefits of music, including the proven advantage across academic subjects between music students and their non-musical counterparts. Regrettably, nearly half of adults say, when asked, that they wish they had invested more time in music. That might be because, as UK Music research says, parents acknowledge music's positive impact on their children's development.

Despite these benefits, I believe that we are facing an educational crisis. We have seen a deficit of nearly 1,000 secondary school music teachers compared to 2012. Less than a third of secondary school music teacher recruitment targets will be met this year, partly exacerbated by the scrapping of training bursaries in 2020. We are extremely grateful that the Government have reinstated them for 2024. It is a step in the right direction, but there could be more. Furthermore, and more worryingly, as my noble friend has highlighted, there is a steep decline in students taking exams—45% at A-level is particularly worrying.

To tackle these issues, I suggest the following commitments that all political parties may wish to consider before the next general election. First, implement the arts pupil premium, which would ensure equitable access to music education. It was a government commitment in the 2019 election; it would be great to see it implemented by the next election. Secondly, train and recruit 1,000 additional new music teachers to redress the cuts made over the last decade. Thirdly, increase funding for music education hubs, whose real-term budgets have been cut by 17% since 2011, and establish a UK-wide commission to assess and remedy regional inequalities in music education. Here, we can learn from the Scottish Parliament, which has seen a 35% uplift in music instrument education since it made tuition fees free. Finally, we can expand apprenticeships and vocational qualifications, catering for the unique needs of the sector.

If we aim to succeed in music's invaluable contribution to export-led growth, then resolving the decline in music education is absolutely imperative.

8.11 pm

Baroness Garden of Frognal (LD): My Lords, it is a great pleasure to join enthusiasts in this debate. When I asked a Question this week on music and other arts subjects, the Minister gave me to understand that all was well: generous bursaries would lure music teachers out of the woodwork and there would be money for music hubs. But there are still schools where there is

no singing, no recorder playing and no banging of drums. As the noble Lord, Lord Boateng, has said, the EBacc has marginalised music.

I had two grandsons at a state primary school in Henley which has a very impressive musical tradition. The adult musicians had funded musical instruments for every state primary pupil to play. One grandson chose the double bass—which even as a child-size was quite an encumbrance—and played happily for two or three years. His brother chose the cornet, continued to grade 8 and has just graduated in music from Southampton. Each year there would be a grand concert, in the company of professional musicians, where all these little people played their hearts out. Many came from very disadvantaged backgrounds where music would have played no part, but the glee on their faces as they blew, scraped and banged was a joy to behold. It has to be said that the enjoyment probably exceeded the musicality, but no one worried because the experience was so beneficial. It was an amazing gift from Henley musicians, which few areas would be able to emulate. It set all those youngsters on a path of love of music and gave them confidence—obviously sometimes misplaced, of course—that they could play an instrument. I think violins are particularly prone to excruciating amateurism.

Not so long ago, all schools sang, particularly hymns in morning worship, but this has long disappeared. Singing requires only a piano, and not even that if there is a voice to start a tune. Children love to sing; how sad it is if they do not have the opportunity. What are the Government doing to encourage all schools to sing?

How valuable music is for disabled or disadvantaged pupils. There was a girl at my school who was never going to pass any exams, but when she sat down at the piano we could only marvel and enjoy. She was a true prodigy, who earned her place in our friendship because of her extraordinary talent.

What about music for blind and partially sighted students? Can the Minister say what support there is for braille or large-print music? I gather there are problems with this. For those who are missing sight, their hearing is often enhanced, and music can play a seminal part in their education. We think of amazing singers such as Andrea Bocelli, who became completely blind at 12 after a football accident, but whose wonderful tenor voice has enchanted audiences around the world. He played the piano and multiple instruments before abandoning a career in the law to pursue his talent. What a very wise decision.

Music has the capacity to evoke memories and give confidence to learners who struggle with class lessons. It should play a key role in all schools. Penny whistles, drums and recorders are not so expensive and, once acquired, can be passed down to succeeding generations, so some sorts of instruments could be within budget and encouraged. Many schools will still have pianos, or, if not, a friendly local church will have an organ, which a teacher with some keyboard skills could play. Surely most schools will have a teacher who has had piano lessons at some stage—or is that too a thing of the past? I speak as someone who was lured into being a reluctant organist at RAF chapels when my daughters announced that, "Mum plays hymns".

I thank the noble Lord, Lord Boateng, for initiating this debate. I hope against hope that all children, particularly those who have no music at home, will be able to benefit from music at school and, who knows, go on to delight us all with their talents.

8.15 pm

Lord Berkeley of Knighton (CB): My Lords, it is a pleasure to follow the noble Baroness. I salute the noble Lord, Lord Boateng, on securing this debate, which is so important.

I begin by mentioning something I mentioned 10 years ago in my maiden speech. I talked about how, through the Koestler Trust, I managed to get somebody in Wormwood Scrubs a guitar. He wrote to me and he said: "I cannot tell you how grateful I am for this instrument. If I had had the opportunity to express myself through music when I was at school, I would not now be serving life for murder". It is that powerful. Music matters, as we have heard.

At this point, I would like to say that I also agree with the noble Lord that the Government have heard what we are all saying. My conversations with Minister Gibb revealed an aspiration that we all share. There is a lot to do, because we are starting from a rather bad point, but we are getting there. I salute the noble Baroness, Lady Fleet, for what she has done with her charity and for disadvantaged children.

That brings me to a particular point. The £25 million for instruments is enormously welcome, but we also have to think about repairing old instruments. I mentioned this to Minister Gibb and he was sympathetic, but the problem is that the way the £25 million has been apportioned, in Treasury terms, means that it cannot be used for repairs. This is something the Government might like to look at. I will give noble Lords an example. I managed to find a violin for one of the talented musicians of the noble Baroness, Lady Fleet. I had it looked at to see if it would work. I was told: "It could be very good; could be front-desk NYO"—that good—"But it needs £1,000 spending on it". We managed to achieve that, but it shows exactly what the problem is.

The mention of blind and deaf people is terribly important. I declare an interest as president of Decibels, which tries to help deaf people have greater access to everything, not just music. Think of the achievements of somebody such as Dame Evelyn Glennie, who learned to be able to play music to a very high level by using vibrations as a means of reading music. The point about braille is very important. There is a wonderful story about a young man who has a real talent—I have heard him play—but who says: "I cannot keep up with my colleagues because there aren't the funds or time to transcribe my music into braille". Is it not wonderful that you can transcribe music into braille? To be honest, I did not realise that before, but what a wonderful thing to be able to do. I encourage the Minister to look at the possibility of funding this—I do not suppose that it would be a vast amount.

We live in very difficult times—the ENO, the Middle East, Ukraine. While I do not suggest that music can in any way explain or improve these things, I think it can help us to process them. Consider Beethoven and the problems that he had to overcome: in listening to

[Lord Berkeley of Knighton]
his music, we understand the greater truth about ourselves. Music can take us to places that almost nothing else can, and that is because it is an abstract art. In its abstraction lies a certain magic or mystery, which is why so many artists aspire to the condition of music.

8.20 pm

Lord Polak (Con): My Lords, I also thank the noble Lord, Lord Boateng—and, if I may, the three teachers who inspired him—for initiating this debate. I went to King David High School in Liverpool, a Jewish state school, where music was one of the top criteria for getting in. We had a school of 500 pupils, with four orchestras. You knew on the first day of the new term that if a child was not carrying a violin case then they were a pianist.

One of my closest friends is a lawyer, Stephen Levey, who has a real passion for music—so much so that, in his mid-50s, he left the law and became head of music at Immanuel College, Bushey. The inspiration that he shows to the pupils, as I have seen first-hand, is quite remarkable. For him to have left the law to do that and to follow his passion means that that passion is passed on. Maybe I should ask the Minister if she can find a way to have Stephen cloned, because clearly we are short of passionate music teachers. My own grandchildren go to Sacks Morasha school up in Finchley. I learned today that, since last September when the music teacher left, there has been no specialist music teacher at their school.

I shall concentrate today on a charity that I have got involved with—I am not a trustee but have just got involved—called Restore the Music. In many different ways, it does things that my noble friend Lady Fleet talked about. A friend of mine, Gordon Singer, who moved from the US to manage a hedge fund here, and Polly Moore, who left her work as a commodities broker, met and created this charity. In my view, the Restore the Music model is an answer to some of the lack of funding and resourcing of music departments. That model is quite simple: a capital grant programme funded by the private and charitable sector; the delivery of grant awards between £10,000 and £20,000 directly to schools; and a focus on highly socioeconomically deprived areas. The spending of the grant is bespoke to the school, allowing the teacher to build their own vision for their own school and their pupils.

That model gives young people a place in school, as we all know, to find their voice, to find their place and to follow their passion. As the charity says on its website, a young person in school is a young person not on a street or in a gang. I went to a "battle of the bands" that it did at a school not far from here a couple of years ago, and I was particularly moved by the 15 or 16 year-old guy who stood up, holding his electric guitar and ready to play, and said, "If I wasn't holding this electric guitar, I'd be holding a knife and I'd be in a gang". It does so much good, as we all know.

Over the last five years, the charity has funded 125 schools with £2.2 million in London, Manchester, Newcastle and Birmingham. I repeat that it is unique because it is bespoke to the schools; the schools are told to build a solution that fits their community. I ask the Minister if she will meet the founders to see not only how they can be supported in expanding their work but if they can be helpful in ensuring that the £25 million, which is extremely welcome, will be spent in the best way.

8.24 pm

Baroness McIntosh of Hudnall (Lab): My Lords, the way that this debate is evolving, and I suspect it will go on in the same way, is already demonstrating that everyone—in this Room, anyway, and I include the Minister in that, no matter that I may not entirely agree with what she is going to say in the end—is not only convinced by the importance of music education but trying in their own way, to the best of their individual ability, to promote it. It is just that there are an awful lot of different ways of doing that, and they are not terribly joined up. I pay great tribute to my noble friend Lord Boateng who has set out the agenda very clearly, to the noble Baroness, Lady Fleet, for the work that she is doing, and to everything that we have heard about so far that demonstrates how much is actually going on.

So I hate to start with a "but", but there is one: there are inequalities, and they are deeply rooted. There are inequalities within the maintained sector because, as we have heard, some schools do very well and choose to give special emphasis to music and effectively make themselves specialists, but others choose not to or feel they cannot. The point is that it is a choice that any school is free to make about music but which no school is free to make about maths, English or science. I do not want to repeat all the evidence and stats about how music has been deprioritised in many state schools, but we have evidence that it has, and that has consequences, many of which have already been mentioned.

I wonder if the Minister has had time to listen to a series of instructive programmes that are currently being rebroadcast on Radio 4 called "Rethinking Music". She is nodding her head, so I suspect she knows what it is about. I want to make a point about this: one of the key contributors to those programmes is Jamie Njoku-Goodwin, who used to be CEO of UK Music. What does he do now? He is the Prime Minister's director of strategy. Let us hope that his evident concern about the decline in engagement with music education, which he makes very clear in the programme, will lead him to use his considerable influence within government to help to halt that decline.

I shall make one more point, which is about the inequality between the state sector and the independent sector. My daughter, as I have mentioned before, is a professional musician. Alongside her life as a performer, she provided individual tuition for many years at an independent London day school, which had dozens of music staff. There was virtually no musical skill or genre that students attending that school could not access—at a price, of course. By contrast, her own children, educated in the maintained sector, got music tuition but not at school; they got it because their parents knew it was valuable and were prepared to pay for it. Not everyone can do that.

I know what the Minister will say, and we will all nod along because a lot of what she will want to say is entirely admirable. By the way, I hope she will mention and acknowledge the excellent work being done by arts organisations large and small, charities and indeed

churches in providing opportunities for young people to experience and participate in music. Sadly, however, these initiatives, worthy and significant as they are, are no substitute for the proper reinstatement of music into a forward-thinking, broadly based school curriculum from early years to A-level. That is what we need before it is too late.

8.29 pm

Baroness Bennett of Manor Castle (GP): My Lords, I join the universal thanks to the noble Lord, Lord Boateng, for securing this debate and introducing it so clearly. We have to note that we are holding this debate as the *Guardian* publishes an article noting how the £370 million government fumble in funding allocations to schools sees education in England in danger of being reduced to a "barebones, boilerplate model". Those are the words of an Essex head teacher, James Saunders, whose school is going to receive £50,000 less than anticipated.

Of course we are seeing the risk of cutting teaching assistants, which is of particular importance to children with special educational needs. A number of headteachers the *Guardian* has spoken to focus on the fact they will have to reduce enrichment activities to balance their books. What we have been talking about up to now are not so much the enrichment activities—the added value, of which music could be such an important part—but basic education in the national curriculum.

It is worth looking back at the recent Ofsted report. The noble Baroness, Lady McIntosh, among others, referred to inequalities. Ofsted has looked at these and said that in over a decade the situation has not improved. There has been some progress in primary schools, but secondary schools are still not giving enough time to music education to meet what is supposed to be the national curriculum requirement. The point I make in this context is that there are only so many hours in the school day. If we are forcing schools to become exam factories and to teach to the test, following on the English bacc subjects—a very narrow range of subjects—no matter how much money there is, there are not enough hours in the day. We need an education for life, not just an education for exams. That is not what we are getting. It is very easy to focus on the potential economic benefits of music; many have, and I agree with all that. But it is useful to focus on the way in which we need people in our communities who are able to contribute to community music.

I particularly want to bounce off the wonderful contribution from the noble Baroness, Lady Garden, which was delivered with such verve—"tempo" is perhaps the right word—and think about the well-being and mental health benefits of ensuring that a proper amount of music education is available to all pupils. I draw on a UK Music study, which says:

"Over half of parents whose children are learning an instrument believe it has helped their children with other skills like creative thinking … boosting their confidence … and encouraging perseverance and patience".

Playing music, listening to music and understanding music are good for people as human beings, equipping them to cope with the modern world and the many challenges we are facing. Yet there is such inequality:

"50% of children at independent schools receive sustained music tuition"

compared with just 15% in state schools. If we look at professionals, we see that

"17% of music creators were educated at fee-paying schools, compared with 7% across the population as a whole".

Music is something that is good for our society.

Finally, there is no proposed specific music T-level. The closest is media, broadcast and production. That demands work placements of a minimum of 315 hours, which the music sector is going to find very hard to provide. Could the Minister update us on how she sees music being included in the T-level future?

8.33 pm

Lord Watson of Invergowrie (Lab): My Lords, I also commend my noble friend Lord Boateng on securing this important debate and setting the scene most effectively, not least in listing the worrying statistics around the provision of musical education today.

A decade ago, I welcomed the establishment of a network of music education hubs, which provide a framework of provision on which schools can draw. But there is still significant variability in music provision, particularly in primary schools. The Independent Society of Musicians has major concerns about the investment programme the Government have announced, because it will cut hub numbers from over 100 to just 43 hub lead organisations. The hubs' current annual funding of £79 million sounds quite promising, yet is less than before the creation of hubs, when music services received around £82 million. That cannot be described as progress.

In response to a survey conducted by UK Music, more than 50% of responding primary schools said they did not meet their curriculum obligations to year 6 due in the main to the pressure of SATs testing, which demands that schools concentrate on English and maths to almost the exclusion of most other subjects. The same issue exists at secondary level, with the EBacc and Progress 8 measures.

Along with my noble friend Lord Knight, I am a member of the Select Committee of your Lordships' House that is considering 11-to-16 education. I should have said that the noble Baroness, Lady Garden of Frognal, is also a member of the committee. We heard from numerous witnesses that key stage 3, which includes compulsory music education up to age 14, is often shortened to allow subjects to be narrowed in year 9 in preparation for GCSEs. In evidence to the committee the chief inspector, Amanda Spielman, stated that she was opposed to any curtailing of KS3, yet stopped short of saying that her inspectors would mark down any school found to be doing so.

Music education should not be a political issue, but I am afraid to say that it is. As the Independent Society of Musicians highlighted in the briefing sent to all noble Lords participating today, much of the decline in music education is directly attributable to government policies. Funding cuts have squeezed school budgets, while those school accountability measures I mentioned—EBacc and Progress 8—have steadily undermined music in schools since 2010.

A major aspect of inequalities in music education provision concerns children with special educational needs and disabilities, for whom access to music can often be hugely beneficial. There is a perception that

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deaf children will not be able to access music but, for improving hearing, music can be really important and possible when they have access to early support through auditory verbal therapy. Earlier today, along with many other parliamentarians, I attended Auditory Verbal UK's event in Parliament as part of international awareness day for challenging perceptions of what deaf children can achieve. We met both Noli and Louis, who have developed a passion for music as a result of the role it played in allowing them, through auditory verbal therapy, to speak confidently and to thrive in mainstream education. But more than 90% of deaf children who could benefit from auditory verbal therapy are currently unable to access it. The Government should increase the support that they provide to extend those services because of their very beneficial nature.

In wider terms, I have to ask the Minister whether the Government are content for music in schools to remain dominated by the better-off, because that, as noble Lords have said, is what is happening. The Education Policy Institute reported prior to the pandemic that disadvantaged pupils' performance in music was 20 months behind that of their better-off peers. That was the biggest gap of any GCSE subject. That cannot be allowed to continue.

Labour is committed to introducing a broad curriculum, including design and technology, music, art, dance and drama. These are not soft options, but rigorous, creative subjects, vital to the prosperity of the economy and the enrichment of society as a whole. That curriculum will be compulsory for all state-funded schools. Until children are offered a properly broad and balanced curriculum, I fear we will not witness a reverse of the downward trend of uptake of music at GCSE and A-level. That would require a change of direction, if not emphasis, which in itself will require a change in government to one which actively values and will properly fund creative subjects in general and music education in particular. Fortunately, we have one in waiting.

8.37 pm

Lord Hampton (CB): My Lords, I also thank the noble Lord, Lord Boateng, for initiating this very important debate. As ever, I must declare my interest as a teacher of design and technology in a state secondary school. The Minister is going to be rather surprised and, perhaps, relieved that she and I are not going to go through one of our recent dances where I complain about the crushing weight of the curriculum and she replies that a knowledge-rich curriculum is good for everyone. No, I am going to suggest that there is, perhaps, some good news for once, because I think there is a simple first fix for addressing the problem of inequalities in access to musical education in schools.

When one thinks of music lessons, one tends to think of a single child playing an instrument, which, of course, is expensive and at the far end of the spectrum where most parents and children do not want to go, even if they could afford it. We must think of music lessons initially as a more collaborative process, whereby everyone gets to join in. As the noble Baroness, Lady Garden, said, we cannot all sing in tune, but nearly all of us can clap, stamp or make a rhythmic noise. It is that unity—the training to get a group making sounds in unison—that is at the heart of music's benefit to students, for this encompasses discipline, athleticism and co-ordination in a way that not even sport can better, often for students who hate PE. From this may come a lifelong love of music that will, perhaps, encourage students to continue the subject on to GCSE, take up an instrument, or follow it towards a career in the music industry.

The school where I teach has a thriving music department. We take the newly arrived year-7s and give them choir practice for an hour a week during the school day. After six weeks, at a parents' evening, the parents are treated to 220 year-7s, around half of whom will be eligible for pupil premium, singing "Moving On Up" in three-part harmony. I also speak as a parent when I say that it is an experience that truly makes the hair stand up on the back of one's neck. As a team-building, confidence-building, stress-relieving exercise for students, this is hard to beat. The music lessons then continue as part of the curriculum until the end of year 9, when GCSE choices are made.

For a rewarding music experience for all pupils, therefore, schools just need to provide the willingness to give music the opportunity to thrive: the room to do it in and the expert teachers with the enthusiasm to teach it. Therein lies the problem. As noble Lords have said, schools are under pressure. Teachers are leaving the profession and, from our experiences, new teachers are hard to find. Reintroducing bursaries in 2024 for music teachers can only be a good thing, but it will take time for that to filter through. The value of music must be recognised so that teachers, who are vital to any subject, may be persuaded to stay and can see their work valued.

Taught properly by specialist music teachers, the value of music can be as an effective way to foster the benefits of teamwork for all, to improve behaviour, to reduce stress and to benefit cognitive learning skills in maths and communication for a minimal cost. Why would anyone not encourage this?

8.41 pm

Lord Knight of Weymouth (Lab): My Lords, it is great to follow the noble Lord, Lord Hampton, and like others I am grateful to my noble friend Lord Boateng for securing, and the way he introduced, this debate.

The evidence of unequal access to music education is clear. My daughter, Ruth, had private instrument lessons and now her production of "La Traviata" opens on the ENO stage next week. Our 12 year-old, Coco, has private piano lessons and is learning the power of practice as she struggles on through her grade 7, but their privilege in having parents who can afford tuition is clear.

I recently read an excellent book by Jude Rogers, entitled *The Sound of Being Human*. In it, she quotes the cognitive psychologist, Professor Daniel Levitin. He points out that the earliest human-made artefacts were musical instruments, including a 60,000 year-old bone flute found in Slovenia. Singing around a campfire helped early humans to stay awake and ward off

predators, but it also helped us develop co-operation and turn-taking, strengthening human group dynamics. Not only does Levitin find that music is at the very core of being human but he finds that it is absolutely core to the brain development of children. It encourages different parts of the brain to work together in an integrated way, and the curiosity that in turn allows the development of language is formed from there. Three separate parts of the brain are connected by conversation through music: the most advanced with the most mechanical, connecting our most primitive with our most advanced selves.

The science around how music triggers subconscious memory is also well known. The neuroscience is clear. Music must be a core subject, especially in early years education. So how is it going? Like the noble Baroness, Lady Bennett, I have been reading last month's Ofsted report on music education in England, which was published with the headline:

"Music teaching too variable in quality and often not given enough time".

The report says:

"The inequalities in provision that we highlighted in our last subject report … persist. There remains a divide between the opportunities for children and young people whose families can afford to pay for music tuition and for those who come from lower socio-economic backgrounds".

We have also heard today about the decline in GCSE and A-level music entries since the EBacc was introduced 13 years ago. Yet, in the last 20 years, vocational music qualifications taken in schools have rocketed.

I remind the House of my education interests, especially as a member of Pearson's qualification committee. Has any thought been given to the impact on vocational music if the Government proceed with defunding BTECs to prioritise money for T-levels, which contain no music, as we have heard, and will have to be significantly reformed if they are to be a part of the advanced BS that the Prime Minister proposes? The decline in the music teaching workforce is also deeply worrying. Two years ago, we were recruiting into initial teacher training at 71% of target, and last year at 64%. If the National Foundation for Educational Research is correct, just 31% of target will be met this year. What is the evidence that a £10,000 bursary is enough?

In closing, I ask the Minister to reflect with her colleagues on the need for a change of approach. I am pleased that the Prime Minister wants a more balanced post-16 curriculum, but we need the same rebalancing throughout the secondary curriculum. We need a change to the accountability system of the EBacc and Progress 8 to give much-needed oxygen for the creative subjects. As the minister knows, AI is marching on apace. Our current curriculum is equipping our children to be outcompeted by technology. Our competitive advantage against machines is to be better humans. What better way to prepare our children for their human future than by ensuring that they have a strong music education?

8.46 pm

The Earl of Clancarty (CB): My Lords, I congratulate the noble Lord, Lord Boateng, on his passionate introduction to this debate. I start by quoting from the letter co-signed by music directors Edward Gardner, Mark Elder and Antonio Pappano on the proposed cuts to the English National Opera, which appeared in the *Times* yesterday:

"These cuts will put a stranglehold on the artistic future of the company, wherever it is based. Opera should be available to everyone — this is the founding premise of ENO …This isn't levelling up, it is the killing off of the art form".

There is a sense in which these words are emblematic of the struggle facing not only classical music but all the arts in this country, although the ENO is of course under particular threat.

We need to recognise, too, the ecology of the arts and the reality that industry and education work together and education does not exist in isolation. It is part of a wider ecology, which should also include the widest possible work and educational opportunities in music—and not just in the UK, but Europe too. What signal is now being relayed by these proposed cuts—and with the music director himself now resigning in protest at these cuts—to young people currently at school who are considering a career in music?

We have reached a crunch point. Some blame the Arts Council but, ultimately, this is the end result of 13 years of this Government's severe funding cuts to the arts, both in direct funding and to local authorities. Of course, it is the funding cuts, both in education and the arts themselves, that are a major factor in increasing inequality in educational provision in the arts. As the Independent Society of Musicians says in its excellent briefing, from which others have quoted, music education is in "serious decline" in England and the situation "requires government intervention". Look no further than that independent schools have mean yearly music budgets that are over five times greater than those of maintained schools. However, I also say to a potential future Government that, before they target independent schools, they should consider the educational models that may be driving that spending on the arts. This is not just about rich parents. These models may well be in opposition to the current knowledge-rich curriculum and academic educational environment in the state sector, where it is becoming increasingly hard for individual participation, performance and expression in the arts to gain a foothold.

At the heart of this constricting philosophy, of course, are the EBacc and Progress 8, which need to be removed. As the noble Lord, Lord Boateng, pointed out, since 2010, GCSE music entries have fallen by 36%—12.5% in the last year alone—and A-level music entries by 45%. Moreover, Cambridge Assessment data tells us that only 5.4% of young people from groups that experience high social deprivation took GCSE music; the EBacc will again exacerbate this.

As others have pointed out, there is a growing teacher recruitment crisis in music. It is good news that bursaries for teachers of arts subjects have been reintroduced, although since these bursaries are worth only just over a third of those for science subjects, this has to be heavily qualified good news. The National Foundation for Educational Research predicted earlier this year that music will reach only 63% of the target for teacher recruitment, as opposed to 98% or more for chemistry and biology, for example. Science subjects should of course be supported, but does the Minister

[The Earl of Clancarty]
agree that it is difficult to interpret the stark difference in the value of these bursaries as anything other than discriminatory?

I am a firm believer in bringing music properly back into schools, where there is the greatest likelihood of universal access, but as long as we have music hubs they should be supported. Yet it is clear that the sector has considerable concerns about this, with less money now going to hubs than to pre-hub music services, as well as a serious cut in the number of hubs themselves.

Finally, as others have asked, what happened to the £90 million arts premium, promised in the last Conservative Party manifesto? Will the Minister say something about that?

8.50 pm

Lord Faulkner of Worcester (Lab): My Lords, like every Member of your Lordships' House who has spoken in this debate, I extend my congratulations to my noble friend Lord Boateng. Even he must be surprised at the quality of the debate that followed his brilliant introduction. I have learned so much, as a non-musician and someone who cannot sing in tune or play an instrument but loves listening to music, from the contributions from all over the Chamber this evening.

I want to concentrate on the question of inequality, the subject of my noble friend Lord Boateng's Question, and speak up in favour of music hubs. It is deplorable that the National Youth Orchestra of Great Britain still draws only around 50% of its members from state schools, and it has been like that for years. Surely one simple target we could set today would be to express the hope that that percentage will grow in the next few years, and that we learn how to measure it.

Work by the Child Poverty Action Group in its Cost of the School Day campaign found that low-income families experience barriers to accessing music education:

"Music is a subject that creates additional costs for families when their children want to participate fully. Children in both primary and secondary schools have told us that instrument tuition usually comes with an additional cost for families: not only the cost of the tuition itself, but also the purchase or hire of an instrument so children can practise outside their dedicated lesson time".

Everyone agrees that there is a need for more and better music in schools. Schools generate interest and encourage development, and the responsibility for supplying that lies with the hubs established under the music hub investment programme since 2012. There are over 100 hubs in all, and DfE money to support their work has been distributed on an agency basis by Arts Council England. We have heard this evening that the number of hubs is to be reduced to just 43 next year. Can the Minister explain to me why that is so?

Though hubs did and do so much good work with the money they receive, the last 10 years have seen widespread concern about a fall in music teaching in schools—we have heard that in the debate this evening. There has been no authoritative evaluation as to whether the first 10 years of the national plan for music education have been a success or a failure. No one therefore knows whether musical attainment and proficiency levels have improved or declined. We have, instead, a compliance regime which is excessive, intrusive, often contradictory and, in some cases, unattainable. With standstill funding at the moment, the only way to extend music education is for hubs to generate more activity on their own account, but so much staff time is taken up in meeting funding requirements that the ability to do so has been compromised. Frankly, they are drowning in process, such that the administration of the programme reduces the potential for, and thus acts against, the achievement of its aims.

The Government's current answer to more and better music in schools was the publication in 2021 of the model music curriculum, which was recommended by the group chaired by the noble Baroness, Lady Fleet, whose contribution I particularly enjoyed earlier in the debate. Music hubs are now expected to promote the model music curriculum as a condition of their funding. This is making compulsory to one party, the hubs, something which is entirely voluntarily to the other, the schools. Hubs are being made the enforcers of something entirely outside their powers. Surely we can do something to make life easier for the hubs and get a better relationship between them and the schools.

8.55 pm

Lord Aberdare (CB): My Lords, I had not planned to speak in this excellent debate, introduced by the noble Lord, Lord Boateng. However, having chaired an online education conference on music education this morning, with speakers from schools, hubs and other music education bodies, I am grateful for this opportunity to speak briefly in the gap. I declare my interest as chair of a small classical music education charity. I will highlight three points which came across strongly, all of which have been echoed in the debate.

First, several speakers emphasised that delivery of the national plan and of the proposed realignment and reduction of music education hubs must address inequalities that arise from the widely varying needs of different local and regional areas. Schools in rural areas, such as Suffolk, disadvantaged by lack of local music resources or, indeed, scope for partnerships, face challenges which require forms of support from hubs that are different from those in better musically served urban areas. They also face extra costs, such as travel to music venues or events—it costs over £100 just to get there by bus—and greater difficulties in raising funds, whether from parents or from grant-makers like the excellent charity of the noble Lord, Lord Polak.

Secondly, hubs were seen as having key roles as champions of accessibility and inclusion and in promoting the partnerships which were such a crucial part of delivering music education, not least for special needs pupils. It was suggested that the national plan would benefit from having some more specific targets or outputs or, indeed, that core parts of the plan could even be made statutory.

Thirdly, one of the strongest common themes emerging—and, indeed, emerging this evening—was the need for a joined-up workforce strategy for music education and delivery of the national plan, consistent with the Government's broader vision for the music and creative sector as a whole. Several speakers commented

on what they saw as a mismatch between the ambitions of the plan and the ambitions of the DCMS strategy for the sector.

Many speakers raised issues of underrecruitment of specialist music teachers, of teachers leaving the profession early and of the pay and conditions offered to music teachers, making it less appealing as a career. There can be no effective music education without enough suitably qualified teachers.

Speakers at the conference radiated Lady Garden-like verve and commitment to delivering high-quality music education and addressing inequalities in access. They also highlighted many of the obstacles that we have heard about this evening. I look forward to hearing from the Minister how the Government seek to tackle those.

8.58 pm

Lord German (LD): My Lords, to echo the words of the noble Baroness, Lady McIntosh, this has been a passionate debate of people who are all in one team—the music team—who seek to find ways to deal with the inequalities that exist. Summing up what I have taken from each contribution, I think the Minister has to answer three key questions. First is the need for great teachers—that has been obvious from the debate. Second is the need for increased resources and capacity, in particular to deal with the inequality of provision. Some of that inequality is directed towards those with disabilities, as outlined by the noble Baroness, Lady Garden, and the noble Lord, Lord Berkeley. Third is the need to value music education, not least in our curriculum.

I would like to turn back a page. The national plan outlines on page 7 the purpose of music education—I believe these words were written by the noble Baroness, Lady Fleet, but even if they were not, they are very good words:

"For some, music will be the foundation of a career in one of the country's most important and globally-recognised industries. For others, it will provide experiences and skills which develop their creativity. For many, music will simply be a source of joy, comfort and companionship throughout their lives".

I will take that further. As the noble Lord, Lord Knight, indicated, some fundamental skills are not mentioned in that report which are crucial to understanding why music education is so important. Music education contains a huge range of important and transferable life skills. For example, music provides an essential understanding of the key skill of being on time and in time. It involves working collaboratively; as we have heard, ensemble work, at whatever level, requires discipline and develops an ability to work closely with others on a shared outcome. It also involves confidence—the ability to speak out and express yourself. Listening skills are fundamental to music; the ability to hear others while performing yourself, to listen to your own performance and to appreciate changes in dynamics and timbre, all lead to better listening skills, which are transferable to much that we do in life. If the ability to use time well, work collaboratively with others and have good listening skills is important for the personal, social and economic well-being of our country, we must ensure that this subject area is recognised as a primary way of delivering the benefit.

However, to deliver real inclusion and game-changing music provision for all pupils, we need a fresh approach and increased investment. We need to raise the quality of music education, extend its reach and build the confidence of non-specialist teachers, particularly in primary schools, who have not had much of a mention tonight. Our music educators have the potential to improve lives and give young people the opportunity to develop and believe in themselves as individuals and contributing members of society. If all young people received high-quality curriculum music at school, supported by a properly trained workforce who could identify and encourage those who wished to go further, we would be in a much better position to allocate resources wisely. Without proper funding, equality of access will never be achieved.

9.02 pm

Baroness Twycross (Lab): My Lords, I join others in commending my noble friend Lord Boateng for securing this debate. I was particularly struck by his comments on his childhood experience and on the need for the value of music education to be reflected in funding and have time allocated to it. I regret to say that I struggle to remember the names of any of my music teachers, but I agree with the noble Lords, Lord Polak and Lord German, that inspiring teachers matter.

Clearly, there is consensus in this House that music education matters. I do not think anyone could reasonably argue with the Government's refreshed national plan for music education's aim of ensuring that

"all pupils receive a high-quality music education, strengthen the creative pipeline, and help create the musicians and audiences of the future".

However, we need to see the Government take this from aims that we can all agree on to delivery for all children, irrespective of the type of school they attend. Access to music education, future careers and instruments should not be a postcode lottery or dependent on your parents' income. As the noble Lord, Lord Berkeley, said, even repairs can be costly.

It was good to hear from the noble Baroness, Lady Fleet, about her commitment to the implementation of the national plan and of the excellent work of the London Music Fund. I should declare an interest in that I work for the Mayor of London.

My noble friends Lord Faulkner and Lord Watson of Invergowrie mentioned the reduction in the number of music hubs. It would be particularly helpful to understand from the Minister how that reduction will increase the quality and scope of music education and equality of access, rather than do the opposite.

As this debate has shown, this Government have potentially overseen a decline in music education, limiting equal access to the music education that should enable young people to be part of the music industry and the range of roles within it. As my noble friend Lord Watson of Wyre Forest highlighted, the Musicians' Union estimates that the industry was worth £5.8 billion in 2019, just before the Covid pandemic.

My noble friend Lord Knight and the noble Baroness, Lady Bennett, quoted the recent Ofsted subject report on music education, which found that inequalities identified in 2012 persist. Can the Minister outline

[Baroness Twycross]
how the Government plan to address this and to reverse the decline in music education? The noble Lord, Lord Polak, made a powerful argument for music education having a social good in giving young people a valuable opportunity potentially to stay out of gangs and out of trouble. It was inspiring to hear from the noble Lord, Lord Hampton, about the work in his school to inspire pupils to sing and learn collaboratively. The noble Baroness, Lady Garden, mentioned the need for access to music for children with vision impairment, and my noble friend Lord Watson referred to the value of music education for children with hearing impairments. Can the Minister tell us how the Government will ensure that children with disabilities, including vision and hearing impairments and other special educational needs, can have equal access to music education?

As I said at the start, and as has been clear from this hugely interesting debate, there is consensus that music education and ensuring equal access to instruments, tuition, exams and careers in this vital UK industry is hugely important, but more still needs to be done to ensure that this happens in practice.

9.06 pm

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, I join other noble Lords in thanking the noble Lord, Lord Boateng, for securing this debate and congratulate him on restructuring BBC Radio 4's schedule to put on "Rethinking Music, the Next Generation" just as I was driving home after dinner on Saturday evening. I thought it was extremely well organised of the noble Lord to make sure that we were all particularly well briefed for this debate.

Noble Lords across the House know that there are many schools across the country that deliver high-quality music lessons to pupils and offer high-quality co-curricular opportunities. Equally, as we have heard so powerfully today, in some areas of the country music provision may be more limited, and equality of access is vital, as the noble Lord, Lord Boateng, set out.

To address this and to improve music education in England, a refreshed national plan for music education was published in June 2022. I echo the thanks of other noble Lords to my noble friend Baroness Fleet for her great work in leading and shaping that plan, and for her continued ambition to see it implemented with maximum impact. The plan clearly sets out the Government's ambitions to 2030: that every child, regardless of circumstance, needs or geography, should have access to a high-quality music education that affords them the opportunity to progress their musical interests and talents.

The expectations set out in the plan, starting from early years, are unashamedly ambitious. They are informed by the excellent practice we see demonstrated by many schools, music hubs and music charities around the country. We heard today from my noble friend Baroness Fleet about the work of the London Music Fund. I have been lucky enough to attend one of its events and was incredibly impressed and moved by what I heard. The noble Lord, Lord Berkeley of Knighton, talked about the work of the Koestler Trust and my noble friend Lord Polak referred to Restore the Music. I would of course be happy to meet with the founders of the charity—the Battle of the Bands sounds like a great event. As the noble Lords, Lord Berkeley, and Lord Hampton, said, music helps to unlock not just our talent but our humanity, and, in choirs, orchestras and bands, that sense of being part of a shared endeavour. Certainly, my recent visit to the Harris Federation's staff conference was exactly the kind of neck-tingling experience the noble Lord, Lord Hampton, described. Even though it was not my children who were playing, the choirs, bands and orchestra were extraordinary and very moving to watch.

As we heard from a number of noble Lords, when Ofsted published its recent music subject report last month, it highlighted that some schools do not allocate sufficient curriculum time to music. Schools are now expected to teach music at least one hour each week of the school year for key stages 1 to 3, alongside providing co-curricular opportunities to learn instruments, sing and form ensembles and choirs.

Higher levels of co-curricular participation have been reported this year, compared to May 2022. One of the points raised by the noble Lord, Lord Watson of Wyre Forest, was the importance of the involvement of parents. The survey data are due to be released any day now, but I can share with the House advance notice that 63% of parents in the survey in June of this year stated their child had received singing lessons during the academic year, compared to 52% in May of last year. Some 57% of parents stated that their child had received musical instrument lessons, compared to 43% last year. Some 40% had watched a live performance, and 35% had taken part in one, a point raised by the noble Baroness, Lady Garden of Frognal.

Ofsted's report also highlighted that curriculum quality of music provision is weak in some schools, with insufficient focus on musical understanding, sequencing and progression. To support schools to deliver a high-quality curriculum, we published a model music curriculum in 2021. According to a recent March survey of schools, some 59% of primary schools and 43% of secondary schools are now implementing this non-statutory guidance. The quality of curriculum was raised by the noble Lord, Lord Watson of Invergowrie. I did not quite recognise the description that the noble Lord, Lord Faulkner of Worcester, gave of music hubs as enforcers of the curriculum. It is non-statutory guidance, and that model music curriculum was put together by a panel of real experts in this area. I very much hope that it does not feel like it is being forced on people.

In partnership with their music hubs, we also invited every school to have a music development plan from this school year. The noble Baroness, Lady Twycross, asked about equality of access and the emphasis on each school having its own plan. That requires schools to consider how they will work together to improve the quality of music education. Our sample survey of school leaders in March showed that slightly under half of schools already had a music development plan in place. Of those without a plan, nearly half reported intending to put one in place in the current school year.

A number of noble Lords, including the noble Lords, Lord Faulkner of Worcester and Lord Watson of Invergowrie, and the noble Baroness, Lady Twycross, asked about the reduction in the number of music hubs. As the House will be aware, there was a re-competition of the music hub programme, led by Arts Council England. That competition is currently under way. This will enable hub lead organisations to become more strategic and build a wider number of strong partnerships, so that children and young people receive high-quality support in every local area, including particularly those areas where provision may currently be limited. The noble Lord, Lord Aberdare, raised the importance of partnerships in this area.

As a number of noble Lords highlighted, we know that it is incredibly important that there is access for all levels of participation in music across the country. As part of levelling up, our plan is to provide an additional £2 million of funding to support the delivery of a music progression programme that will support up to 1,000 disadvantaged pupils to learn how to play an instrument or sing to a high standard, and over a sustained period.

A number of your Lordships quite rightly raised the importance of the quality of teaching, including my noble friend Lady Fleet and the noble Lords, Lord Boateng and Lord German. Of course, this remains the single most important factor in improving outcomes for children, especially those from disadvantaged backgrounds. Just to clarify, I should say that close to 100% of hours taught in art, design and music are taught by a teacher with a relevant post A-level qualification. However, we are updating our teacher recruitment and retention strategy to build on our reforms to make sure that every child has an excellent teacher, including in music.

The noble Lord, Lord Watson of Wyre Forest, asked how we are going to encourage more teachers. For those starting initial teacher training in music in the academic year 2024-25, we are, as the House heard, offering £10,000 tax-free bursaries, which we hope very much will attract more music teachers into the profession and support schools in delivering at least one hour of music lessons a week. We are also establishing four national music hub centres of excellence, which will focus on inclusion, continuing professional development, musical technology, and pathways to industry. We plan to appoint all the centres by the autumn of 2024.

A number of noble Lords raised the issue of children with disabilities, particularly those who are visually impaired, blind or deaf. The national plan makes clear the importance of music being fully inclusive, and indeed it was widely praised by charities representing children with special educational needs and disabilities. The capital grant will emphasise the use of this funding for pupils with SEND, including blind and partially sighted pupils, and including the use of Braille or large print—in fact, that is across the whole curriculum, of course, not just for music—and we will consider how the capital funding could be used to provide Braille music machines in particular.

The noble Lord, Lord Knight of Weymouth, talked about how music would be included in the advanced British standard. Of course, as he is aware, we will be consulting extensively on this, but I have seen in the documentation that has already been published that there are examples of possible combinations of major and minor subjects, and music could appear either as a major or a minor in future.

The noble Earl, Lord Clancarty, talked about the importance of a strong musical and cultural offer in all the regions of this country. I remind him of the incredible focus that was put on exactly this point through the cultural recovery fund.

My apologies; as ever, I have run out of time.

Again, in relation to location, I mention to the noble Lord, Lord Watson of Invergowrie, the BRIT School North, a new 16-to-19 academy being opened in Bradford that will have a creative curriculum specialising in music and production.

There is still a lot to do to make our vision for music education become a reality, but I hope that in some way I have been able to reassure the House that together our reforms will lead to concrete action that every school and academy trust can take to improve their music education provision. As we have heard from all your Lordships this evening, studying and engaging with music is not a privilege; it is a vital part of a broad and ambitious curriculum, and our reforms ensure that all pupils will have access to high-quality music education and all the knowledge, joy and connection that brings.

Lord Evans of Rainow (Con): My Lords, I put a plug in for the Parliament Choir; it is always looking for new members.

Levelling-up and Regeneration Bill

Message from the Commons

The Bill was returned from the Commons with amendments and reasons. It was ordered that the Commons amendments and reasons be printed. (HL Bill 175)

House adjourned at 9.20 pm.

Grand Committee

Wednesday 18 October 2023

Arrangement of Business

Announcement

4.15 pm

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): My Lords, if there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells are rung.

Restoration and Renewal: Annual Progress Report

Motion to Take Note

4.15 pm

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

That the Grand Committee takes note of the report from the Corporate Officer of the House of Commons and the Corporate Officer of the House of Lords, *Restoration and Renewal: Annual Progress Report 2023* (HC Paper 1603).

The Senior Deputy Speaker (Lord Gardiner of Kimble): My Lords, this is the first time under the new governance arrangements for the R&R programme that a debate on the annual progress report has taken place.

As noble Lords will recall, following the publication of indicative costs and timetables by the sponsor body in early 2022 and concerns that the previous governance structure operated in a way that was too distant from parliamentarians, the commissions of both Houses jointly proposed that a new mandate and governance structure be established to continue work on the programme and to consider a broader range of options for the works. Both Houses agreed to the proposed new mandate in July 2022, which brought the governance of the programme back into Parliament.

The new mandate established a two-tier governance structure which is closer to parliamentarians. The first tier is the Client Board and comprises the two House commissions, chaired jointly by the Lord Speaker and Mr Speaker, and makes the critical strategic choices and recommendations to both Houses regarding the works.

The second tier is the programme board: a joint board of the two Houses with delegated authority from the client board which has conducted much of the heavy lifting for the programme in recent months. The programme board consists of parliamentary Members from both Houses, all of whom from the House of Lords I am very pleased to see here in the Moses Room today: the noble Lords, Lord Collins of Highbury, Lord Sherbourne of Didsbury, and the programme board vice-chair, the noble Lord, Lord Morse. The programme board also consists of the clerks of each House and four external members who bring outside expertise from major and complex projects.

The R&R client team, a joint department of Parliament, was established at the beginning of this year to bring the oversight function for the programme in-house from the former sponsor body. The client team delivers expert programme capabilities, works closely with in-house teams and is enhancing engagement with Members of both Houses.

As part of the recent changes to the programme structure and mandate, the statutory responsibilities and other functions of the sponsor body transferred to the corporate officers of the House of Commons and the House of Lords, the clerks of each House, acting jointly. The independent R&R delivery authority, which the client team is responsible for instructing on behalf of Parliament, continues its work under the new governance arrangements.

The two House commissions identified four priority areas for the works: fire safety and protection, building services, asbestos and building fabric conservation. The House commissions also established parameters to guide the works in the current development phase, calling for a wider range of options and different levels of ambition to be considered, to ensure maximum value for money. This sits within wider principles for the programme, which include ensuring a more integrated and cohesive approach between the R&R works and other critical works on the Parliamentary Estate.

In recent months, the delivery authority has been working at pace to provide the programme board with a suite of options on the levels of ambition for the programme and how the works could be delivered, which the programme board was tasked to shortlist. After careful consideration, the programme board recommended two shortlisted options, down from a longlist of 36, to the R&R client board. These two shortlisted options were endorsed by the client board in July. This means that the client board remains on track to present the shortlist to both Houses later this year in the forthcoming report on the R&R strategic case. The two shortlisted options comprise two different ways of delivering the programme but target the same outcome level—in other words, they both have the same level of ambition.

Regarding the level of ambition, the programme board considered carefully the benefits and drawbacks of six possible outcome levels, and recommended outcome level 4 of 5, with level 5 being the highest. This consideration included analysis of the risks and benefits, including the timescales and costs for the programme. The outcome level recommended will deliver improvements to the priority areas of fire safety and protection, mechanical, electrical and other services, health and safety, and building fabric conservation. It will also provide enhanced security protection measures, improve visitor access, significantly increase step-free access and provide broader accessibility improvements to support and facilitate the participation of Members and the experience of visitors to Parliament.

On the delivery of the programme, the client board agreed to recommend two options for further detailed design work and analysis, with the same outcome level, not least to meet the spirit of the new mandate for R&R agreed by both Houses last year, which was informed by engagement with Members of both Houses. The client board will propose that further work be

[Lord Gardiner of Kimble]
undertaken on one "full decant" option, where both Houses move out of the Palace at the same time, with one House, likely to be the Commons, returning to the Palace before the works are completed. In the other option, the House of Commons Chamber and essential support services would maintain a "continued presence" in varying locations in the Palace during the works, and the House of Lords would move out of the Palace.

I emphasise that both options will require some form of temporary accommodation. The client board has endorsed that the QEII conference centre is the preferred decant location for the House of Lords and agreed that the northern estate—either Portcullis House or Richmond House—should be explored further as the location for any decant of the House of Commons.

Both Houses are expected to have the opportunity to debate the strategic case before the end of this year, and both will be invited to endorse that further detailed work be undertaken on the two shortlisted options. Endorsement of further work will enable the development of fully costed proposals to support a decision by both Houses regarding the preferred option for delivery of the works, as required by the Parliamentary Buildings (Restoration and Renewal) Act.

It is expected that the costed proposals will be presented to the Houses in 2025, subject to the Houses agreeing the strategic case later this year. Further work on the shortlisted options will ensure that the costed proposals required under the Act are as taut, realistic and affordable as they can be. Having costed proposals for both shortlisted options will ensure that both Houses will be able to make an informed, evidence-based and robust decision regarding the best way forward for the programme, recognising our role as custodians of this historic building for future generations.

When the strategic case report is published towards the end of next month, an extensive programme of communications and engagement with Members will be undertaken ahead of the debates. Of course, the forthcoming decision on the strategic case for both Houses is supported by a significant amount of continuing work, which is set out in the 2023 annual report—the focus of today's debate.

I will not repeat all of the work set out in the annual report, but I will highlight some notable achievements of the programme, in addition to the significant work undertaken to establish the new governance structure and client team. There is now greater alignment between in-house teams and the delivery authority to ensure that we maintain the safety and services of Parliament and deliver value for money. To that end, parliamentary teams are getting on with works, including internal projects such as the safety-critical Victoria Tower external works. This is in line with the new mandate agreed by both Houses last year.

Over 7,500 hours of surveys were conducted during the 2022-23 annual year. This has developed our understanding of the condition of the Palace. Many further hours of surveys have been conducted over the recent Summer and Conference Recesses. This work, which involves significant collaboration between the delivery authority, parliamentary teams and contractors, will continue to inform development of detailed costings and schedules as the programme moves forward.

Significant work engaging Members of both Houses and domestic committees has informed decisions taken by the programme and client boards so far. There is further engagement planned for the months ahead to support the publication of the strategic case and work on temporary accommodation. This demonstrates the objective set out in the new mandate to engage Members more comprehensively and ensure that the R&R programme is closer to parliamentarians.

Tours of the Palace basement and the historic Cloister Court continue to be made available to Members. These tours provide a fascinating insight into the history of the Palace, but I found from my visit a troubling reminder of the decay that the Palace faces and the necessity to progress the programme as swiftly as possible. So I do recommend to those noble Lords who have not signed up to a tour that they do so. It is illuminating, as I say, but it also reveals some of the rich and lesser-seen heritage of which we are custodians.

UK-wide engagement with existing and potential suppliers, in partnership with the British Chambers of Commerce, continued in 2023 following the governance changes. This has included UK-wide visits to promote the programme and discussions with more than 100 businesses about potential opportunities to be involved in the restoration work, demonstrating that benefits of the programme should be felt across the United Kingdom. The heritage and collections team will continue to develop plans to ensure that the collections are safe when the restoration works commence.

The annual report sets out the financial performance for the R&R programme overall, including the costs of the client team and the independent delivery authority. Expenditure for both bodies is scrutinised by various means with the client team, as a joint parliamentary department funded by both Houses, subject to the scrutiny processes faced by the budgets of both Houses' administrations. The annual estimate for the independent delivery authority is scrutinised by the client team, the programme board—including a sub-board chaired by the noble Lord, Lord Morse, which undertakes detailed scrutiny—the client board and, finally, the Parliamentary Works Estimates Commission before it is laid in the House of Commons.

I will end my opening remarks with what I am confident are shared sentiments among all noble Lords present and beyond. We all know how privileged we are to work in the Palace of Westminster. It is, after all, the heart of our parliamentary democracy, a historic royal Palace and a building recognised the world over. We in our generation have a shared responsibility as custodians of this much-admired building and it is clearly an imperative that we preserve it for future generations.

I would be the first to accept—these are my words—the profound sense of frustration at times as to the progress of the R&R programme. I hope that the establishment of the new governance structure, the forthcoming debate on the strategic case and the annual report that is before the Grand Committee today can give noble Lords somewhat greater confidence, because we are clearly all going to have to play our part in the restoration and renewal of this iconic building. I beg to move.

4.29 pm

Lord Sherbourne of Didsbury (Con): My Lords, I have had the privilege of serving on many of your Lordships' committees in the last 10 years, but I honestly believe that the committee programme board on which I now sit is by far the most important that I have sat on. It is for this reason. While most of our committees make recommendations to the Government—who may or may not choose to follow them; more often than not, they do not—on this occasion we will bring forward the recommendations to the client board. The recommendations will require Parliament to take an executive decision itself; that is very unusual, but it is a huge responsibility for parliamentarians to take a decision about their own building.

As the noble Lord, Lord Gardiner, said, this has been going on for a long time—the can has been pushed down the road for a long time—so, when I was asked to go on the programme board, I did so with a great deal of trepidation, because I thought, "This could be Groundhog Day all over again". I asked myself whether we would achieve anything. The answer is: we have—much to my surprise. How have we done that? Without getting drawn into the boring structural description of governance, it has been the people on, and supporting, the programme board who have done this. We have had a fantastic team of people helping us, including a chairman, my right honourable friend Nigel Evans, who has run the board very efficiently; a vice-chair, the noble Lord, Lord Morse, who has his beady eye, as befits any former Comptroller and Auditor-General; and a tremendous team of experts.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): My Lords, there is a Division in the House. The Committee will resume at the end of the Division when everybody is back.

4.32 pm

Sitting suspended for a Division in the House.

4.53 pm

Lord Sherbourne of Didsbury (Con): I was talking about the progress that we have made and how well we have been served by the officials. We have had experts supporting the programme board, we have had objective outsiders on it, and we have had independent assessors.

When we began, we were faced with 36 options, as the noble Lord, Lord Gardiner, said. I was sceptical that we would be able to narrow them down at all, but we have—to two. We looked at the objectives that we could achieve, which ranged from keeping the building safe to making enhanced, extensive and very expensive improvements to the whole aspect of the buildings. We then had to look at what was involved with each objective. There was the cost, the different degrees of disruption that will be caused and the different degrees to which the two Houses and Chambers would have to operate from other locations, either within the Palace precincts or outside.

There was also the question of safety. This is a very tight space, so where will the workmen and women operate from? Where will they put their building resources, and where will they change, eat and do things like that? How do we get the resources and materials into the Palace precincts? There are questions of safety and making sure that the work that is done does not put people at risk—there is asbestos everywhere. There are great issues of heritage—this is a historic heritage building—and the question of security, as thousands of people work in the precincts. We had to look at all of these considerations, and, of course, we know that the unexpected will arise, as with any building development work.

The truth is that there is no clear, obvious or perfect answer. Everything involves trade-offs. It requires an acceptance that we can argue until the cows come home, but there will be no obvious perfect solution.

At some point, the options will be presented to both Houses. What has dominated much of our thinking in the programme board has been the safety of the building. This is an iconic building that is a symbol of British democracy throughout the world. The noble Lord, Lord Gardiner, used rather moderate language when he talked about the basement. He used the word "illuminating". I think that it is absolutely horrifying. When you go round the basement of this place you realise the tremendous risks. People do not know where the cables, wires or pipes go. There is a real danger of something terrible happening to our building.

Every parliamentarian has a responsibility to safeguard this building, so when the decision comes to Parliament, as it will do, the most important thing is not which option Parliament chooses but that it makes a decision. Parliamentarians—Members of the other House in particular, who have to be elected—take great pride in saying to the electors, "We are capable of running the country. We are capable of doing all the things to do with health, education, transport, security and defence". If you say that you can run the country, the big question is: can you run this building? It will be a real responsibility. There will be a crunch time, and it will test Parliament, but it will have to take that decision.

4.58 pm

Lord Blunkett (Lab): It is a pleasure to follow the noble Lord. I have nothing but admiration for those, past and present, who serve on what is now the programme board, and those who are supporting, advising and delivering. This is a nightmare of a project, and everyone who has been involved with it deserves a medal. Mine would be a very small one for serving on the joint scrutiny committee for the 2019 Act. When I was asked by the Whips to go on it, I thought that it would probably be the most boring exercise of my political life. It turned out to be anything but. I became engaged with the wider issues that the noble Lord just referred to, as did the noble Lord, Lord Gardiner. I reinforce the point that decisions have to be made and clarity has to be brought forward. We have an obligation to those who come after us to get this right.

I shall be brief because, as the noble Lord, Lord Gardiner, said, the options will be put before the two Houses and there will be the opportunity to debate. If I may say so, I feel that we in Committee this afternoon are like a fly on an elephant's bottom—we are nibbling away at the issues—but I will repeat what I have said on previous occasions, and I will keep at it until we get a solution.

[Lord Blunkett]

Throughout my political life, I have not personally dealt substantially with disability issues, although for a time I was the Secretary of State who oversaw what was then the operation of the DDA and the DRC, which we introduced under my ministerial team, but over the last four years I have got engaged on a bit of a mission. In 2019, when the scrutiny committee's report was published and the Act was taken through, I became aware of the lack of engagement with access for people with disabilities. This does not affect me; I am very fortunate—there are very few places in the Palace of Westminster that I could not get into, although I am open for the challenge at some point—but many other people have real challenges. It is not that they might not eventually get to their destination. It is the means of getting there—the indignity and difficulty, things which those who do not experience them would not put up with for a moment.

In the original Bill, there was a commitment to "access to" the Palace of Westminster. I was interested in the wording used by the noble Lord, Lord Gardiner, in highlighting the priorities that the programme board and the two options will offer us, because step-free access into the Palace of Westminster is not the major issue. The major issue, which was missed by the House of Commons and in drafting the legislation, was access within the Palace of Westminster. After great discussion and enormous help from the then Ministers, we in this House amended the legislation to take account of that rather important element. In other words, we listened to people who had challenges and we were prepared to respond to them.

In the Act of Parliament, which still remains, Section 2 concerns the parliamentary works and in its subsection (5)(e)—I am sorry to do this to noble Lords—the amendment that was carried was to ensure that

"(i) any place in which either House of Parliament is located while the Parliamentary building works are carried out, and (ii) (after completion of those works) all parts of the Palace of Westminster used by people working in it or open to people visiting it, are accessible to people with disabilities".

When we debated this, it was absolutely clear that we did not mean that people had to get into the towers and turrets at the very top—we discussed it on the Floor of the House—but when, in a recent session, I learned that we were talking about perhaps two-thirds of the Palace of Westminster being accessible, noble Lords can understand that I had a reaction.

An Act of Parliament is an Act of Parliament, and whether the wording was incorrect or not, it stated that

"all parts of the Palace of Westminster"

would be accessible, with an understanding of the trade-offs that the noble Lord has just referred to, where most people would use common sense. Where a particular element of the Palace was not used by those working in it or needed to be accessible to those visiting, we would use a bit of common sense. I say now that unless 95% of the Palace of Westminster is accessible to disabled people, we will have committed a historic mistake. This is the opportunity to put things right, to learn from *Mr Barry's War*, which is still worth reading, and to learn how not to do things as well as how to do them.

I hope the two options, even at this late stage, will acknowledge what the Act of Parliament says. I know that the Government, particularly during the Boris Johnson period, thought that Acts of Parliament were "take it or leave it" and not mandatory, but we are not in that position anymore. If Parliament does not respect its own Act, who else will?

I am putting on the table the need to try to have a bit of common sense; we need to get this right. To do so, we need one more thing. When we talk about the total amounts under the two options that will be brought forward—the total sums necessary to do the work properly—we must break it down over the total period of the works to be carried out to the completion and return of both the Commons and the Lords to the Palace. If we do not do that, we will do ourselves and the public a great injustice, because we will frighten ourselves to death. I have heard people ask, again and again over the last three or four years, "On the back of austerity, the difficulty that people are facing and the tightness of public expenditure, how can we possibly spend whatever sum in the billions you want to pick out of the air?". It does not work like that; we are talking about a very long period over which this money will be spent. I put a plea in that we get that message right.

We obviously have to get the sums right, rather than have the doubling of costs that we have seen in major schemes for many years, but let us try not to frighten ourselves to death with the amounts of money which will be crucial to getting this right for, I hope, centuries. We owe the future an obligation, which we are actually better at in this House, because we choose when we go—or the Lord chooses when we go—whereas, down the road, they are frightened stiff of what might happen and whether they will get the blame for it, and therefore whether to do a meet-and-mend job. Today, can we please take this back to the programme board: I commend the Act of Parliament, but I commend a bit of common sense as well.

5.07 pm

Lord Morse (CB): My Lords, it is an honour to speak after the noble Lord, Lord Blunkett. I will try, first, not to repeat too much of what noble Lords have already heard, if that is possible, and, secondly, take a financial view of the project, since that may be more of a minority sport than one might think.

First, in my view, the new governance structure has worked well to date. The programme board, of which Nigel Evans is chair and I am deputy chair, has worked hard over five months to identify a shortlist of options for restoration and renewal and a way forward for the programme. The programme remains on track to deliver the strategic case for both Houses before the end of this year. This will not be the final decision; it will instead seek the two Houses' endorsement of the shortlist.

The important point, as the Committee has already heard, is that in that shortlist there is one approach that involves a full decant of both Houses and another that involves only a partial decant and something described as a "continued presence"—but, as noble Lords will hear a bit later, it will not be a "continued presence" for the House of Lords. We will come to the opportunity to vote on that. Before we do, there will

be work on detailed proposals and costs over the next year, which will be brought back to the Houses for a final decision, probably in 2025.

The programme board asked me to chair a sub-board, with a particular focus on finance and cost. Over the course of the next year, the sub-board will not only look rigorously at the delivery authority's budget, which it did last year, but look more closely at the underlying cost assumptions on which the programme is to be costed. More work needs to be done on costs, including benchmarking the cost for the programme against similar restoration programmes of this scale. Achieving value for money has been a central theme running through the programme board's discussions, as has the need to ensure continued in-depth engagement with Members of both Houses about R&R.

Let me emphasise a few points that are really important to bear in mind. First, while the strategic business case will be presented in the next few months and confirm the options to be costed in detail, setting out the shape of what is proposed, the real crunch decision will be to decide on—and commit to—one fully costed option. That is most likely, as has been said, to be taken in 2025—again, most likely after the election of a new Government and Parliament. The crunch decision will be theirs to take.

In the meantime, we need to keep costs under control, commensurate with making the requisite progress, and make sure that planning and costing for the programme as a whole are realistic and hard-headed. If a new Government decide to kick the can down the road in any way, at least some of the costs being incurred now may prove abortive, depending, of course, in what direction the can travels. We need to keep ourselves on top of these costs and be ready to account for them in that context, as well as in the context of moving forward successfully. It is important for your Lordships to bear in mind that both the options being evaluated assume that the House of Lords will decant to the QEII conference centre for not less than 10 years, so when we describe this as temporary accommodation your Lordships need to think carefully about what "temporary" means.

Secondly, assuming that the crunch decision is to go ahead, and I hope that it will, there will of course be risks of time and cost slippage to be managed. With so many uncertainties inherent in a project involving such a complex historic estate, I believe some slippage is highly likely. We need to plan to keep on the pressure for value for money even if slippage occurs. That can be done but it requires considerable work.

What is avoidable is what I will describe as scope creep or special pleading, where there are constant attempts by interested parties to interfere in the plans and keep modifying them to achieve change that might improve their particular facilities. I saw this very radically in the design of the headquarters of the United Nations, which went wildly over cost as a result. Setting a point at which there will be no further modifications in the plans and defending that strongly, so that there really is a design freeze, will be most important.

Lord Tyrie (Non-Afl): I had not put my name down for this debate but I am absolutely delighted that the noble Lord is taking a financial view of all this. Does he agree that this project is taking place at a time of great financial stringency and that the other place is going to be trying to work out how, in the short to medium term, its Members are going to make it acceptable to their electorates? If that is the case, does he also agree that we may have to accept a longer period of renewal that may come with a partial decant, even if the discounted present value over the whole life of the project turns out to be higher?

Lord Morse (CB): In a way, the noble Lord is asking me to answer a hypothetical question, but if a new Government appear and the first thing they are asked for, or an early decision they have to make, is to commit to a very large sum of money on this project, it will take a certain amount of courage to go ahead with it. It would be the right thing to do but it will take a certain amount of courage. I thank him for that intervention.

To sum up, my comment is "Good progress so far". I do not say that lightly. I genuinely think that the client board, the programme board and the delivery authority have all performed well so far, but it has to be said that the big risks, including the risk to public value and the challenges, are in the future of this programme. We have done well but we have not started climbing the steeper mountains yet, so I wish to record my support for the progress report.

5.15 pm

Lord Addington (LD): My Lords, when I put my name down to speak in this debate the general reaction was "Why? It has all been said before and it's going nowhere fast". I do not think that is fair for the project we have in front of us. We are on the cusp of getting to the point where we make a decision. However, the problems that have already been referred to in this debate are the facts that not everybody will agree with that decision, nobody wants it on their watch, as was referred to in the last exchange, nobody wants to take on that degree of expenditure, nobody wants to be the one who actually takes that risk, and nobody wants to be the one who says, "Oh, you can't have your guests to tea within the Palace of Westminster". At certain times it does go on at that petty level. However, we have to make that decision soon.

Purely by chance, the director of facilities was talking to my political group earlier today. I asked him, because I was speaking in this debate, what I should say. He said, "Oh well, don't worry about it. We've been told we've got to keep the place going until 2029". So we have 10 years' delay. I have been here an awfully long time—getting on for 40 years. When I first got here I was told about how difficult it was to maintain the place because it was in constant use, you never had enough time, there were always problems going on, and work was never finished. This has been true. It has merely morphed into the fact that we now effectively need a total refit.

Certain documents put why we should do it in context. The first paragraph of the summary of the Commons Public Accounts Committee's report *Restoration & Renewal of the Palace of Westminster – 2023 Recall* finishes

"there is a real and rising risk that a catastrophic event will destroy the Palace before it is ever repaired and restored".

[Lord Addington]
That is accompanied by a risk to everybody who is anywhere near the Palace. The risk that we are taking because of finance puts people and their historic building at risk. Whatever is said about the construction of this Palace, it is a Victorian building that is seen as being the centre of London. Consider what it is competing with. It is competing with the Tower of London and the great gothic cathedrals. This building and Big Ben are the outline that defines the centre of London. If we allow it to be at risk or to be destroyed, we are taking a huge risk to the presence of this nation. We cannot do it.

There is also the fact that there are people in the Palace. If we do not do something soon we will build up that risk and effectively guarantee that something bad happens. We just are. It is just a matter of how bad and when. It costs £2 million a week to do nothing. Try to sell that on the doorstep. It costs £2 million a week, there are people in the Palace and it is dangerous. If we cannot do something with that and if the political courage is not there, we should give up and go home.

There are other objections, such as, "Would it not be dreadful if you made a speech on something in a Parliament that was not in the Palace of Westminster?" You are affecting laws—the noble Lord, Lord Blunkett, just pointed out how important they are, or should be—that will be there for the foreseeable future and change the way people live. If you think it matters whether you make them here or 300 yards away, give up. You do not understand what your job is, in my opinion.

All I would say to everyone in this Committee is: make that decision. Get on with it. It will not be quick. It will be a difficult argument, but you have a counter. This is something we have put off for far too long. We are putting people's lives in danger and risking the building. Ultimately, and probably most importantly to many politicians, you are making yourselves look absurd.

5.19 pm

Lord Davies of Brixton (Lab): My Lords, I have come today mainly to listen and learn, but I think one particular issue that was referred to needs to be given more consideration. There is a physical timetable for when the plan will be done and when the work will start, but there is a parallel timetable of politics, and how the two fit together will be crucial in determining the success or otherwise of this process.

We should thank the board for its work: it is taking things forward, and we will make a decision. The report goes only as far as 2024, but we have been told today that a decision will be made in 2025. Of course, that will be the new Parliament. The big scary numbers will become known at the end of this year or the beginning of next year, so they are bound to be issues within the next general election campaign. People will be aware of these big scary numbers. I was at a bicameral meeting of the Commons Finance Committee yesterday, and we discussed these issues and heard figures, which are big and scary, whatever happens. So they will be part of the debate in the run-up to the election.

As I understand it, the new Parliament will have to take a decision about which option to go for, but we were told yesterday that, for planning purposes, it is assumed that nothing fundamental will happen with the project until 2029. Preparation work will be done and it may be that a lot more investigation is required, but it will not actually start until then, which—by coincidence—will be just after the following election. I am making the working assumption that Labour will be elected to government with a substantial majority and will be seeking re-election in 2029, just at the time when the project will be fully manifest. If you are saying that it will then have sufficient momentum that no one will dare to stop it, I point to HS2, which was cancelled despite having momentum, legislation and substantial support, as quoted by the Government.

So there is a political timetable happening at the same time, and it and the building timetable have to be synchronised. As I say, the numbers are scary and will be a political issue, so we have to build that into the timetable that we follow.

5.23 pm

Lord Inglewood (Non-Afl): My Lords, I declare an interest: I am the president of Historic Buildings & Places, which was known as the Ancient Monuments Society for the previous 100 years. It is one of the five statutory heritage bodies that it is mandatory to consult. In a personal capacity, I am the owner of a grade 1 listed building and, as a trustee, the owner of several others.

I will stand back and make two comments. Like the noble Lord, Lord Addington, I came here rather a long time ago, at a time when HS2 was a twinkle in some engineers' eyes. Then, the state of the building and the issues it threw up were significant matters for us to think about.

What has happened since then? We have had reports, committees, consultations, debates, resolutions, strategies, consultants and plans. At the end of the day, I am reminded of a meeting I had with the NP11, on which I sit, discussing an aspect of levelling up, when one of my fellow members said, "And then, of course, the politicians will do what they do best: talk". We are still where we were when the noble Lord and I came into this House all those years ago—except that the building is more dangerous and it is more expensive to put it right.

We know that the Houses of Parliament burned down in 1834, but we cannot rely on the principle that lightning does not strike twice in the same place. We are looking at a potential Notre-Dame or something worse and what is needed now, as I think everybody agrees in theory, is action and not more talking. Speaking for myself, I have got to the stage where, although I have some strong views about what should or should not be done, I am not sure I care any more; it is more important to do something.

Secondly, as I alluded to, I am involved with listed buildings, of which there are many thousands in this country. The owners of those buildings have a legal obligation to look after them properly. That is quite right, but I also point out to your Lordships that it is expensive. Let us be clear: in comparison with most people—certainly many people—we in Parliament have access to almost inconceivably large sums of money to deal with our legal obligations. If we compare our

predicament with those facing many other owners of listed buildings, they have much less and many of them get taxed on it.

What signal does all this delay and obfuscation send out? What sort of lead are we giving to the rest of the country in respect of this aspect of our heritage? It is worth remembering that, as I understand it, the public's principal response to partygate was disgust that those who made the rules did not follow them themselves. I think it was the noble Lord, Lord Blunkett, who said that there is no place here for parliamentary or parliamentarians' exceptionalism. If the Parliament of this country cannot even sort out the problems of its own workplace, what capacity and moral authority do we have to lead and try to sort out all the other multifarious problems that we face?

I think to most outsiders we look, if I might be allowed to use the phrase, like terrible plonkers. Quite simply, we need to get on with it, not defer things, resolve problems when we have them and not try to ignore them, cut the Gordian knot if necessary and get on with doing the work. So let us stop talking—I sense that there is a real wish to do that—and do what is required. In that way, we will properly look after one of the most significant buildings in the whole world.

5.28 pm

Lord Collins of Highbury (Lab): My Lords, I am not going to repeat what is in the report, but it is worth stressing, especially after the previous contribution, that we have been working hard and have achieved quite a lot. One of the frustrations is over why we cannot reach a final decision. Part of the problem is that people were not satisfied with the sort of decision that we were going to make, whether on the construction process or on the final outcome. I will address that.

Having been on the Finance Committee of the House of Lords for some period and having experienced how things have got out of hand, particularly on construction cases, I know that the biggest issue for us has been the famous terms that have been used in the past: "known knowns" and "known unknowns", particularly when you start off and then suddenly realise something. Westminster Hall is a classic case; it is the most historic building in the world. Look at its age and how important it is to our heritage.

The other thing that I want to stress is that we have moved on from the debate that this building, as I think the noble Lord, Lord McLoughlin, said in the Chamber last week or the week before—before recess, anyway—is not simply a building about facilities for MPs, staff and Lords. This building represents something; it represents our values. If you show a picture of this building to anyone throughout the world, they will see not just the physical building but the values that it represents. Bearing in mind the sort of situation that we are now in in the world, that is really important.

Our ability to protect this building will be incredibly important, too. It seems like we have been going through a painful process, but we have had a complex matrix. What are the options in terms of construction, are there a range of options—moving out and staying in—and how do we evaluate them? Of course, as my noble friend Lord Blunkett said, there are also the options around what people want to end up with. The programme board has considered that matrix in a lot of detail. When we talk about the strategic case, again it seems like, "Well, why aren't we just getting on with it?" The reason is that, when we ask people to make a decision, it will be based on fully costed options. People are making a decision at the end of the year on the strategic case, but that is not the final decision. The strategic case narrows things down so that more detailed work can go on on the costing of any final decision, so that, when we make that decision, we are very clear about those costs. The noble Lord, Lord Morse, is absolutely right: we are evaluating that at every stage of the process, and evaluating what we spend now.

It is also worth pointing out—and I have raised it in the programme board—that it costs nearly £1.5 million a week to maintain the Palace. Of course, we are doing a lot of restoration work now. One thing that I am really pleased about, and which the programme board has focused on, is how the in-house team has been working with the delivery authority to ensure that whatever we do fits so that we do not spend £200 million restoring something only to tear it down when we start the final programme. We are working collaboratively as a team, and that is really important. We are not standing still; we are not not doing anything; we are actually working quite hard. It is in the annual report, and we need to stress this to our colleagues, but thousands of hours of work have gone into the intrusive surveys, so that when we get these final costed options we will reduce the number of unknown unknowns, and we will be very clear about the work that we want to do.

The point on which I want to conclude is the temporary accommodation and the question that my noble friend Lord Blunkett raised about accessibility. I agree with him that the best people to ask about accessibility are those most affected. We should have much more survey work and include people in those discussions. However, accessibility is not just a question of the physical building. It is also about how we manage and run this building, so that we see accessibility in terms of whether we have a proper needs assessment and fully understand the range of physical capabilities that people are impacted by. Disability is not just restricted to physical capability, there are other issues. Of course, those things are not a set given over a period of time: people's needs change, and that is something else we should build into this exercise.

I will conclude on the other point that the annual report has focused on: how we engage. I have heard so many people say that they were not consulted and I share some of the frustration, but there is a difference between consultation and engagement. We have a job of work to do, and we will ensure that people fully understand the scope of that work so that there is no shock to them when it starts. We have to move away from the idea that we are somehow in a special position to know exactly what needs to be done. I have heard MPs say that they fully understand the construction needs and stuff like that, but they do not. What we need is to have a proper system of ensuring that the full information is available.

I praise all the staff who have been involved in engagement. We need to do more about how we engage, and the responsibility falls not on them but on

[Lord Collins of Highbury]
us. Whatever group we are a member of, whether Labour, Conservative or Lib Dem, we should express our opinions on the work we have been doing. We should not leave it until it is too late. We should certainly involve them and not be so focused on the formal consultation. We need to keep reporting back to our own groups on the work we have been doing. We have a good report and a good process, and we are getting on with the work. I know it will take a long time. As my noble friend said, the costs involved, because of the Act of Parliament, may seem horrendous, but we are talking about a 20-year period to restore this building. That is the vital thing that we need to say to other Members of the House.

5.37 pm

The Senior Deputy Speaker (Lord Gardiner of Kimble): My Lords, I have written down "energy, passion and zest". It seemed to me, from noble Lords' contributions, that this is an issue which commands very considerable attention from those who have spoken. I sense that is something that so many of us feel, and not only in Parliament. I recall reading some years ago that the British people, when surveyed, said that they want this building kept and restored; they want it for future generations. We must be careful that, with the eye-watering numbers, we do not lose focus of the fact that this building means so much, as was said by the noble Lords, Lord McLoughlin and Lord Collins of Highbury, and that it resonates with people around the world. In these very ghastly times, the democratic values encapsulated in this building take us a long way to saying that we must do our part to get the decisions made.

I am conscious that, following my mild word of "frustration", the noble Lord, Lord Addington, spoke about a decision and the noble Lord, Lord Inglewood, mentioned early work and action rather than talking. We all share the sentiment of those descriptions, but what I take from the hugely valuable contributions made by Members of this House on the programme board is that they should give better confidence to us who are not on the board. We have heard from those noble Lords an identification, even with surprise—the noble Lord, Lord Sherbourne, spoke about an element of surprise—that progress is undoubtedly being made and that we are in a much better position to take all these steps forward in a timely and very considered fashion, given the value-for-money aspects that have been highlighted.

I say to the noble Lord, Lord Morse, in particular that I think we would all agree that we must keep a focus on value for money. In doing this huge project, we need to retain the confidence of people outside this building that it provides value for money. Benchmarking along the way is important, with the continuing scrutiny of the programme board and the other elements of scrutiny: the client board and external experts, who will be important.

I also wanted to put on record our thanks to all engaged as officials on the programme board and across the piece for R&R, as highlighted by noble Lords. It is important that we work collaboratively together. I say to the noble Lord, Lord Sherbourne, that I am sorry, again, that I was mild. My view of the basement is that anyone who is lukewarm about doing this exercise should be dragged there and then come to a considered view.

The noble Lord, Lord Blunkett, made some important points. I respond by saying that the requirements set out in Section 2 of the Parliamentary Buildings (Restoration and Renewal) Act 2019—that regard must be given to ensuring that temporary accommodation and the restored Palace of Westminster are

"accessible to people with disabilities"—

remain in force and will remain a key consideration in design work both for temporary accommodation while we are away from the Palace and for the restored Palace itself.

On engagement, if the strategic case is agreed at the end of this year, the client team intends to undertake targeted engagement with members with accessibility requirements from early 2024, as raised by the noble Lord, Lord Collins of Highbury, to facilitate forthcoming design work on temporary accommodation and the future Palace. It is absolutely essential that this work is very much at the heart of our consideration.

The noble Lord, Lord Blunkett, raised annualised costings. The forthcoming strategic case will present indicative costings for the two shortlisted options, including annualised costings.

I entirely agree with noble Lord, Lord Addington, in his reference to people giving reasons not to do this. The reasons why we must do it are absolutely clear. However, the building is currently safe for all those in it: as corporate officers, the clerks of both Houses are satisfied that the parliamentary community continues to be safe. But the noble Lord is absolutely correct that we need to act to ensure that the safety of people and the building continues. There has been quite a lot of investment in compartmentalisation for fire. This will not necessarily help the building, but it is all part of ensuring that people are safe—we clearly need to factor that in, and it was one of the key factors raised at the beginning of this debate. The noble Lord is absolutely correct that the cost of £1.45 million per week to do nothing is simply not sustainable; we have to do something.

The noble Lord, Lord Davies of Brixton, raised the parliamentary cycle and the possibilities of elections. I hope that Members of Parliament in both Houses will have courage—and by that I mean the courage to do the right thing, and the courage to know that this building encapsulates the very essence of why the elected House comes here and why we undertake our scrutiny and improvement of legislation. Again, I believe that this is why both Houses intrinsically work together.

But it is clear that the forthcoming strategic case will present indicative costings. I say to the noble Lord, Lord Collins of Highbury, that this project will be over a considerable period, and my guess is that its cycles may take in a number of general elections. But the point is that mission creep, scope creep and hesitation will all cost money and, in the end, my view is that the electorate will be far more concerned about not wasting money and not prevaricating when we have a task of responsibility before us.

I turn to the issue of heritage. Again, the noble Lord, Lord Inglewood, raised something that is the essence of part of one of the specifications: why are

we so concerned about this building? It started in 1099 with the floor space; in 1399 it got the roof, and in 1521 it got the cloisters. This Palace is all about extraordinary and exceptional heritage, some of which is entirely unique. That is why engagement and dialogue with heritage organisations is so important, as are the lessons learned from what has been undertaken at Buckingham Palace and Manchester Town Hall. This is all about learning, not only here but from some of the work on other parliament buildings, such as what the Dutch and the Canadians have done. Again, I do not in any way suggest that we should be doing anything other than looking at how we best conserve and protect our heritage, but it is also important that, when we move, the heritage that will be in storage is looked after very well for our return.

So many issues have been raised about different aspects, but the most important thing we should all take away is that this is an annual progress report that should encourage us that we are on the right path. There is more work to be done by gallant members of the programme board—I use the word "gallant" despite them not being military, because they add real quality to the consideration of the programme board, which is immensely valuable to the client board. One of the reasons why the decisions Parliament made were of great value and an advantage was that this has drawn us into greater responsibility: we as parliamentarians are more responsible under this new governance and we should all be looking to make our own contributions.

Noble Lords have spoken with both passion and frustration, but we are all working to the same end, and I thank them for their contributions. I hope we might have a few more noble Lords for the strategic case consideration, but this has been an important part of a fairly long-going process.

Motion agreed.

Committee adjourned at 5.48 pm.