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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

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

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

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

House of Lords

Monday 4 March 2024

2.30 pm

Prayers—read by the Lord Bishop of Manchester.

Domestic Violence Refuges: Charities and Local Government

Question

2.36 pm

Asked by ***Baroness Donaghy***

To ask His Majesty's Government what support they give to charities and local government to provide places of safety for women subject to domestic violence.

The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con): The Government are committed to ensuring that all victims receive the support they need when they when they need it. Councils in England have a duty to provide support within safe accommodation to victims and their children under the Domestic Abuse Act 2021. Since April 2021, the Government have provided more than £507 million to councils across the country, including £129.7 million for the years 2024-25. This will enable long-term commissioning decisions and give certainty to local providers such as specialist domestic abuse refuges.

Baroness Donaghy (Lab): I thank the Minister for her Answer. Noble Lords may have read an article in the weekend's press about Kate Kniveton MP, formerly a wife of a former Minister. She has experienced domestic violence, and her words cut across a lot of the debate:

"After years of manipulation and denigration, you lose your self-worth and don't think anyone will ever believe you".

I mention that because this issue is without class: a lot of people do not have a choice about staying at home and within the danger area. Local government is financially on its knees, and the majority of charities turn away references. What will the Government do to improve this dire situation?

Baroness Scott of Bybrook (Con): My Lords, the Government are supporting local authorities on this issue and they have given the money required, as I said. Yes, it is not good enough, so we have set up a national expert steering group, which is co-chaired by my colleague, Felicity Buchan, and the Domestic Abuse Commissioner. They will closely monitor this and have agreed a protocol to support further local authorities in meeting their duty of requirement. So, we are on the case.

Lord Laming (CB): Can the Minister make sure that that steering group gives particular attention to the children who accompany these unfortunate women? For a child to be brought up in a home where there is domestic violence is a dreadful start to life. Can special thought be given to their needs?

Baroness Scott of Bybrook (Con): The noble Lord is absolutely right. I remember that, many years ago when I was in local government, children used to sit in the corner and nobody took any notice of them. Those things have changed. Of course, some victims of domestic abuse are children, in addition to the females—or males, depending on who is being abused.

Lord Porter of Spalding (Con): I draw the House's attention to my entry in the register of interests. Does my noble friend agree that local government needs not so much a duty as praise for what it does? Most councillors across the country take this issue very seriously: it is not something they need to be compelled to do, but something they choose to do. If we are really going to tackle this scourge, we need other parts of government to treat it as seriously as local government does. Such offenders should be dealt with much more heavily, not by the local government team but by people in 2 Marsham Street.

Baroness Scott of Bybrook (Con): My noble friend is absolutely right, and I thank all local authorities for everything they do. Interestingly, nearly 75% of local authorities say that they are spending more and doing much more than they did a few years ago in this regard. That is great, and I thank them for what they are doing. Yes, we should be supporting them and not always knocking them.

Baroness Burt of Solihull (LD): My Lords, four out of 10 local authorities are facing bankruptcy within the next five years and, as the noble Baroness, Lady Donaghy, said, even statutory services, including the provision of refuges, are already being cut to the bone, despite increasing demand. Women's Aid research found that 61% of applicants for accommodation-based refuge are being turned away. Does the Minister agree that this failure to meet increasing demand now will not only put women's lives at risk but leave public services with even more problems to deal with down the line?

Baroness Scott of Bybrook (Con): My Lords, in the last couple of months we have given £600 million extra to local authorities because we understand the pressures they are under. We are keeping an eye on those pressures, and we encourage all local authorities which have difficulties with their budgets to talk to us early on, so that we can work with them. Local authority budgets have been increased by 7.5% this year, and as my noble friend said, local authorities prioritise domestic abuse victims in their budgeting.

Baroness Taylor of Stevenage (Lab): My Lords, I declare my interest as a founder and patron of Survivors Against Domestic Abuse. Last Thursday, my honourable friend Jess Phillips read out in the other place—as she does every year—the names of 98 women killed as a result of violence over the last year: a heartbreaking tribute to lives broken and lost to violence. After every case of domestic homicide, we are told that lessons will be learned. Does the Minister agree that providing safe spaces to live for women who flee violence—a project we started in Stevenage, and which now provides 35 homes across Hertfordshire—is

[Baroness Taylor of Stevenage]
vital? However, it is in serious danger of being stopped because such local authority spending is discretionary. Will she meet with me to hear more about this work?

Baroness Scott of Bybrook (Con): I would be more than happy to meet the noble Baroness to learn about that, and I thank her for everything she is doing in her county. As recently as this weekend, we heard so much about violence against women. The Home Office is taking this issue extremely seriously and a large amount of money is going into extra police training, particularly on tackling domestic abuse. Some £3.3 million has been committed over the next three years to support delivery of Domestic Abuse Matters training to police officers. Let us hope that this changes things.

Baroness Armstrong of Hill Top (Lab): My Lords, as the Minister says, there is currently no sign of domestic abuse being overcome and things changing, and recent reviews of serious cases are really quite scary. This is not just about local authorities, which are doing a good job but are cash strapped, but charities. A number of seriously good and important charities in this arena have nearly or actually gone bust. Action against Violence and Abuse, a major charity that worked with women who had experienced violence and abuse, and which supported them in a range of ways, went out of business last month for no other reason than it could not raise sufficient funds. Will the Minster discuss this issue with other Ministers? The situation is now very serious: such charities cannot be funded to continue their work, and that will have serious consequences for the women involved.

Baroness Scott of Bybrook (Con): The charitable sector is a really important partner in this. That has been noted in the amount of money given to police and crime commissioners to tackle this issue, part of which is spent with charities, other stakeholders and community groups. This Government have supported charities through this very difficult crisis, in particular with energy costs. We are totally committed to supporting the charitable sector on not only this issue but others, and we will do everything we can to do so because it is an important part of delivery.

Baroness Butler-Sloss (CB): My Lords, I declare an interest as chairman of the Commission on Forced Marriage. Will the Minister please remember that forced marriage is also domestic violence in many cases?

Baroness Scott of Bybrook (Con): I absolutely accept that. We need to keep that in mind when we look at domestic violence.

Baroness Morgan of Cotes (Con): My Lords, one of the places where abusers encounter their victims is the online world. Does my noble friend agree that it is important that her department considers funding for charities offering online support to victims, including the excellent Revenge Porn Helpline?

Baroness Scott of Bybrook (Con): My Lords, we always need to consider the way in which the world is moving forward. Abuse moves with it, so we must keep considering the online world as technology and people's lives change.

Ukrainians: Visas and Further Support

Question

2.46 pm

Asked by ***Lord Kirkhope of Harrogate***

To ask His Majesty's Government what plans they have to extend visas for Ukrainians which are due to expire after 3 years, and what further support they intend to provide to Ukrainians in the United Kingdom.

The Parliamentary Under-Secretary of State, Home Office (Lord Sharpe of Epsom) (Con): My Lords, to provide future certainty, on 18 February the Government announced that existing Ukraine scheme visa holders will be able to apply for permission to remain in the UK for an additional 18 months under a new Ukraine permission extension scheme, which is set to open in early 2025 before the first Ukraine scheme visas start to expire in March 2025.

Lord Kirkhope of Harrogate (Con): My Lords, I had the honour of being a Minister involved in the Bosnian resettlement scheme in 1996. I am very grateful to my noble friend for that Answer and commend the Government on their actions to offer sanctuary to so many Ukrainians. I also pay tribute to the many families and organisations under the Homes for Ukraine scheme who have hosted and helped those displaced people, including colleagues in this House and Members of the other place. However, the visas granted envisaged a shorter conflict than the one we unfortunately have, so will my noble friend assure the House that everything will be done to make necessary renewals as straightforward and stress-free as possible for those currently in receipt of our hospitality?

Lord Sharpe of Epsom (Con): I thank my noble friend for those remarks and join him in praising the generosity of the British public over the three bespoke Ukraine schemes. The UK has welcomed or offered sanctuary to more than 280,000 Ukrainians and their families fleeing the war in Ukraine. Together with our partners and allies, the Government stand in solidarity with Ukraine and will show that those who need our help are still warmly welcomed. It is right that we continue to adapt and develop the visa routes to ensure that they keep pace with the rapidly shifting situation in Ukraine, remaining as efficient and sustainable as possible while providing stability for those welcomed to the UK who need our sanctuary. We will ensure that this is done as efficiently as possible.

Lord Addington (LD): My Lords, will the Minister assure us that all those being helped by this scheme will be assisted until it is safe to go home and that, whatever the rollout may be, a further scheme will be found? That is probably the assurance they need, and this country should give it.

Lord Sharpe of Epsom (Con): The noble Lord raises a very good point. Of course, it is not for this Government to judge the certainty of conflict situations, which are very difficult to manage. However, I have no doubt that the Government will do whatever is necessary to maintain the current sanctuary that this country proudly offers.

Lord Ponsonby of Shulbrede (Lab): My Lords, I too pay tribute to all the families who have taken Ukrainians into their homes. Under the new changes to the Ukraine family scheme, unaccompanied children will no longer be able to join their parents in Britain automatically. Does the Minister think that restricting family rights at a time when Ukrainian troops are under heavy fire in Donetsk sends the right message to the people of Ukraine about our willingness to stand by them?

Lord Sharpe of Epsom (Con): I rather regret the tone of that question if I am honest. Ultimately, of course we would like to see families reunited in a safe Ukraine. The UK's Ukraine schemes are not family reunification pathways. They are designed to provide temporary sanctuary in the UK for Ukrainians fleeing war. Ukrainian nationals who would have qualified under the Ukraine family scheme will still be able to apply under Homes for Ukraine. The Home Secretary will obviously consider any compelling and compassionate grounds that are presented on a case-by-case basis; for example, where families will be separated from young children. Plenty of routes still exist for family reunification in the UK, even though, as I said earlier, they are not reunification pathways.

Lord Stirrup (CB): My Lords, I am aware of a Ukrainian lady who is harboured here in the United Kingdom, whose husband remains in Ukraine, and who has sadly had a return of a cancer from which she was previously in remission. She is not just grateful for but indeed overwhelmed by the help and treatment that she has received here in the UK. Does the Minister agree that while there is absolutely no room for complacency, we should be very proud of what this country has done in supporting the Ukrainians?

Lord Sharpe of Epsom (Con): I completely agree with the noble and gallant Lord. Although I obviously cannot comment on individual cases, I wish the lady in question the very best, and I hope that she is reunified with her husband in due course.

UK Population Growth

Question

2.51 pm

Asked by ***Lord Moylan***

To ask His Majesty's Government what assessment they have made of the recent forecast by the Office for National Statistics that between 2021 and 2036 the UK population will grow by 9.9 per cent, to 73.7 million persons.

The Minister of State, Cabinet Office (Baroness Neville-Rolfe) (Con): My Lords, the UK population is projected to increase by 6.6 million, or 9.9%, by mid-2036. Of the total projected increase, 0.5 million is projected to result from the higher number of births than deaths, and 6.1 million from net international migration. The projections make no attempt to account for the impact of future policy on population movements or behaviours.

Lord Moylan (Con): My Lords, as my noble friend confirms, over 92% of the projected increase is expected to arise from net migration and is therefore a political choice. The answer I was rather hoping for from my noble friend was that the Government would take steps in terms of policy to ensure that that figure did not, in fact, eventuate, or at least would be permitted to do so only after the most careful consultation with public opinion, and after preparation of a robust plan for providing the infrastructure and housing necessary to sustain it. Would my noble friend like to have another go and see whether she can force words along those lines through her lips?

Baroness Neville-Rolfe (Con): The Government have made it quite clear that the most recent immigration figures are much too high, and that of course causes problems of the kind that my noble friend has suggested in areas such as housing. However, we have taken actions that are expected to lead to a significant fall in the number of dependants, and from tightening financial requirements—a fall of about 300,000 on last year's figures. Some come in in January, some in March and some in April. When they fully take effect on the ONS figures—which will not be until the end of the year, at the earliest—we can of course take another look.

Lord Dubs (Lab): My Lords, of the proposed increase, how many are going to be asylum seekers?

Baroness Neville-Rolfe (Con): The projections do not break the individual categories down in that way. They are, as the noble Lord probably knows, put together by expert panels and they are projections. They look quite a lot at the last 10 years, as well as at what else might be happening. I emphasise the point that they do not attempt to account for the impact of future policy changes.

Lord Green of Deddington (CB): My Lords, the figures show that immigration will account for 92% of our population increase in the next 15 years. That is five times the population of Birmingham, our own second-largest city. Furthermore, in the 20 years since the 2001 census, the Muslim population of England and Wales has more than doubled from 1.6 million to 3.9 million. These are very large numbers and, if that rate were to continue, it would surely have a considerable impact on social cohesion. When will the Government face up to the situation and take effective action to reduce the scale of immigration, which is having such a massive, unspoken impact on our society?

Baroness Neville-Rolfe (Con): I thank the noble Lord. As I have explained, the Government are clear that the immigration figures are too high and have taken a series of actions, including stopping care workers bringing dependants, limiting the dependants coming in as the families of non-PhD or research-based students, changing the minimum income for family visas and increasing the earnings threshold. These changes will take time to have an effect, but the noble

[Baroness Neville-Rolfe]
Lord is of course right to point to the changes that have happened over the last few years and produced an unacceptable situation.

Lord Storey (LD): My Lords, looking at the figures, we know that we are all living longer and that the number of people reaching the age of 100 has doubled since 2002 and will continue to do so. Has any analysis been done on the number of doctors, nurses, care workers and teachers who will be required to look after us?

Baroness Neville-Rolfe (Con): The analysis by the ONS does not go into that, but we have published the long-term workforce plan for the NHS, which has been accompanied by the largest ever injection into various things such as NHS scanners. Our plan is to recruit and train more doctors and nurses in Britain, which will be supported by over £2 billion over the next five years. Indeed, some of the immigration is NHS workers who have come to help the country deal with its problems.

Lord Swire (Con): My Lords, one of the reasons we are told that we are witnessing record levels of net immigration—745,000 in 2022—is that there are currently 900,000 job vacancies in this country, but UK unemployment is at an almost record historic low of 3.8%. It seems to me that the problem is that there are now 5.6 million people in this country on out-of-work benefits and an alarming 4,000 new applications for those benefits every single day. Does my noble friend the Minister agree that that is neither desirable nor sustainable?

Baroness Neville-Rolfe (Con): The figure for June 2023 was actually down to 672,000 people, but my noble friend is right to point to the problem of underemployment. The focus of the Secretary of State for Work and Pensions in changing the benefits system and helping people into work is to improve skills so that everybody in this country who can possibly do a job has one, because that is very much related to contentment and happiness—certainly in my own experience. It is a very important area of work that this Government have truly underlined.

Baroness Chapman of Darlington (Lab): My Lords, as we have heard, the UK population is increasing, but it is also ageing, with a declining proportion of the population now of working age. There were just over 600,000 live births in England and Wales in 2022, which was a 3.1% decrease from the previous year and the lowest number for 20 years. That means that the current UK fertility rate is about 1.5 children per woman, the lowest since records began in 1939. Does the Minister agree with Professor Jonathan Portes from King's College, who said that

"the impact of the housing crisis on young couples, sharp cuts to financial support for low income families, and access to childcare are all likely factors"?

Baroness Neville-Rolfe (Con): The interesting thing about the fertility figure, which the noble Baroness rightly mentioned, is that it is partly about people delaying when they have children and partly linked to the factors that she mentioned, including housing. So a priority for us is attacking housing by making more housing available for young people, which is very difficult. The fertility rates are themselves a problem, but not one that is confined to the UK; I used to work a lot in Korea, where fertility rates are horrifically low.

Lord Johnson of Marylebone (Con): Does my noble friend the Minister agree that international students make an enormous contribution to our knowledge economy and ideally should be included in our net migration statistics only when they indicate an intention to immigrate post study via the graduate route or via application to the skilled worker route, and should otherwise be thought of as temporary residents or tourists—as Canada and the US treat them—with whom they share many characteristics?

Baroness Neville-Rolfe (Con): The figures are broken down in some of the analysis that has been done by the ONS. Of course, the ONS is independent and impartial, which is an important strength. On students, it is important that the number of dependants coming into the UK should be limited, although we do understand that those who are going to stay in the UK to do PhDs and so on need to have dependants contributing to our country and our economy.

Lord Londesborough (CB): My Lords, the uncomfortable truth is that our economy appears to be incapable of growing without onboarding some 300,000 migrant workers each year. Even then, we are talking about miserly growth and, worse still, zero GDP growth per capita. Does the Minister agree that, until we tackle our abysmal productivity rates, such population growth is here to stay?

Baroness Neville-Rolfe (Con): I agree that we must tackle our abysmal productivity rates. It is something I have focused on, I have to say, since long before I came to this House. There are things that we can do with skills. I look forward to the Budget on Wednesday and hope that the word "productivity" will feature in the speech by the Chancellor.

Lord Shipley (LD): My Lords, the Minister said a little while ago that net immigration figures were much too high. She went on to say that the Government were taking action. Yet today's *Times* reports a surge in foreign candidates for teaching jobs that Britain cannot fill. Why are the Government not capable of training more UK teachers? This would suggest that the effort is not behind teacher training for UK residents.

Baroness Neville-Rolfe (Con): I saw that piece as well and I was pleased to see teachers coming in specialisms such as physics, where it is very difficult to get people to come into teaching at the sort of salaries that are on offer. Of course, the Government have made a big investment in trying to get more people into teaching. Whenever people come to me for careers advice and say that one of their alternatives is to be a teacher, I say, "Go and be a teacher and don't think about any other options".

Horizon Scandal: Psychological Support Services

Question

3.02 pm

Asked by ***Lord Dobbs***

To ask His Majesty's Government what programmes are in place or are planned to ensure the families of sub-postmasters affected by the Horizon scandal have access to appropriate psychological support services.

The Parliamentary Under-Secretary of State, Department for Business and Trade and Scotland Office (Lord Offord of Garvel) (Con): Support for postmasters and postmistresses is provided when needed as part of the compensation offer; for example, money to fund cognitive behavioural therapy. There are no programmes in place for the families of sub-postmasters affected by the Horizon scandal. Claimants can claim for the wide-ranging impacts on their lives. This can be larger due to witnessing the wider impact on their family members. We recognise that seeing family members suffer, as many of these families have done, has been traumatic.

Lord Dobbs (Con): I thank my noble friend for his Answer and pay tribute to the very hard work that he and his colleagues are putting into this issue.

Going back to the issue of family, particularly children, is my noble friend aware of the story of Millie-Jo Castleton, who wrote to the public inquiry detailing the extraordinary, terrible time that she has had during this terrible saga? She has been abused, marginalised, isolated, spat at in the street and told that she comes from a family of liars and criminals. Inevitably, her health has suffered tremendously. She was eight when this terrible saga started. She is now in her late 20s. I understand the accounting principles behind my noble friend's Answer but it is accounting principles that got us here in the first place. Is it still not possible to weave into those accounting principles some compassion and common sense, and hold out some additional psychological and emotional support to those poor people such as Millie-Jo Castleton?

Lord Offord of Garvel (Con): I thank my noble friend for highlighting the case of Lee Castleton, which was well presented in the drama and is one of the most egregious of the cases before us. Like my noble friend, I have read Millie-Jo's submission. It is harrowing and difficult to read, on any level, not just because of the personal abuse and distress for her, but because of the amount of time that this has taken and how it has completely impacted her life.

Where we are with the compensation scheme is that 78% of claims have now been met. That is 2,249 postmasters out of 2,988. We are now dealing with the most difficult and egregious cases, of which Lee Castleton's is one. They need time to put their claims together, with the help of their therapists and healthcare workers, to assess the full damage to their family. We will work through that with them, case by case.

Baroness Ritchie of Downpatrick (Lab): My Lords, sub-postmasters in Northern Ireland are, so far, not eligible for the legislation that would exonerate them. What discussions have taken place with the Northern Ireland Executive to bring forward legislation to ensure that sub-postmasters will be eligible for that exoneration legislation at a very early opportunity? I agree with the noble Lord, Lord Dobbs, that many sub-postmasters in Northern Ireland have suffered in the most egregious way. They need relief at a very early opportunity.

Lord Offord of Garvel (Con): I thank the noble Baroness for her question. Obviously, Northern Ireland has a separate legal system, as does Scotland. The legislation coming before the House is immediately pertinent to England and Wales, and covers around 770 of the 983 convictions. There are live and active discussions with the legal systems in both Northern Ireland and Scotland, which are being helped considerably by the Executive sitting again in Northern Ireland. Both those jurisdictions need to be respected and we will work at speed to get the right treatment across the United Kingdom while respecting the different legal jurisdictions.

Baroness Brinton (LD): My Lords, with the Budget this coming Wednesday, I repeat the question that I asked the Minister last week and asked the noble Earl, Lord Howe, in the debate on the Victims and Prisoners Bill. Where in the Green Book would I find details of the £1 billion compensation? Is it in the Treasury or another department? I cannot find it anywhere at all. If the Minister does not have the answer at his fingertips, please will he write to me urgently with it?

Lord Offord of Garvel (Con): I thank the noble Baroness for her question, which we have discussed in this House. It may not be in the Green Book specifically, but it is clearly in the Treasury's books. The money is there to be paid in compensation. The Government have given assurances on that; there will be no wriggling back. I am very happy to write with any further details required, but I say from the Dispatch Box that, as far as the Government are concerned, all commitments will be made to the postmistresses and postmasters.

Lord McNicol of West Kilbride (Lab): My Lords, these are the words of the department in 2022:

"While seeking evidence from relevant witnesses, the inquiry is keen that such participation should not intensify or create psychological distress".

Does the Minister not agree that the whole sorry fiasco has done nothing but intensify or create psychological distress, due to the complexity of the different compensation schemes; the continued obsession of Post Office Ltd with defending many of its practices; the time taken to get us here, near to quashing convictions; and the fact that no Post Office board member or senior manager has been held to account? I encourage the Minister to do everything necessary to speed up, first, the remaining compensation payments and, secondly, the legislation to quash all convictions. We stand ready to support and work with the Minister on that.

Lord Offord of Garvel (Con): I thank the noble Lord for that. As far as parliamentary business is concerned, it is planned to have the legislation go through both Houses and have it all done by the Summer Recess. That is in process, and there are more announcements to follow shortly. In relation to the claims, as I have said before, 78% of claims are now settled, and compensation has been paid to 93% of postmasters, some on an interim basis. As I said in the Chamber last week, we can go only as quickly as we receive the claims. We are at the most difficult end of the claims now. For example, with the GLO 477, we have had 58 claims, of which we have settled 41. We can go only as quickly as the claims come in, and we have guaranteed that we will work to get 90% cleared within 40 working days.

Lord Arbuthnot of Edrom (Con): My Lords, I declare my interest as a member of the Horizon Compensation Advisory Board. I am troubled by the Answer my noble friend has given, because how can a family member, as opposed to the sub-postmaster themselves, claim for compensation or psychological help? Many of these families have broken up. Does my noble friend agree that the mere fact that there may be a lot of family members entitled to help or compensation should not of itself be a reason for denying them that help or compensation?

Lord Offord of Garvel (Con): I thank my noble friend. I once again pay tribute to his continual scrutiny of this matter, and his vital role on the advisory committee. Currently, the compensation is directed to each claimant—a postmaster or postmistress—but the whole point of having the advisory committee is to have live discussions on this. I encourage him, in that capacity, to keep those discussions going.

Lord Sikka (Lab): My Lords, last week I met several wronged sub-postmasters, most of whom were earning barely the minimum wage. They have been wronged by Ministers, senior civil servants, lawyers, Post Office directors and investigators, and executives at Fujitsu. Can the Minister explain what legal advice and financial help the Government have so far given, or will give, the wronged sub-postmasters to enable them to bring the culprits to justice?

Lord Offord of Garvel (Con): I thank the noble Lord for that question. As I have said before from the Dispatch Box, there is help available as part of the compensation schemes for the claimants, to put their claims together and get access to lawyers and healthcare. As I said, 78% of claims have been settled. We are now dealing with the most difficult claims. In the meantime, there is a statutory inquiry going ahead, which will get to the bottom of this, and we will understand the full extent of how this sorry saga came about.

Lord Sahota (Lab): My Lords, I am sorry to hear the Minister say that there is no help available for mental health issues. These are the facts on the ground; I have spoken to quite a few Asian sub-postmasters, and they all said they have had some form of mental health issue—either them or their families. The reason they do not come out is because mental health has a stigma attached to it; this is why they are not talking about it. I humbly ask the Government to look into this issue, especially among Asian sub-postmasters, who do not want even to talk about it—yet they do have a problem, and quite a few of them admitted it to me.

Lord Offord of Garvel (Con): I thank the noble Lord. He has detailed knowledge of his community, who serve us all so well, and who have suffered, in some cases, some terrible racism as well. The point we have to make is a communication issue. There is absolutely no stigma to this whatever; people who have been through this trauma have undoubtedly been harmed, and we must encourage everyone in our communities, wherever they are, to come forward with a claim.

Digital Markets, Competition and Consumers Bill

Order of Consideration Motion

3.14 pm

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

That the amendments for the Report stage be marshalled and considered in the following order:

Clauses 1 to 36, Schedule 1, Clauses 37 to 57, Schedule 2, Clauses 58 to 125, Schedule 3, Clauses 126 to 128, Schedule 4, Clause 129, Schedule 5, Clause 130, Schedule 6, Clauses 131 to 137, Schedule 7, Clause 138, Schedule 8, Clauses 139 to 143, Schedules 9 to 11, Clause 144, Schedule 12, Clause 145, Schedule 13, Clauses 146 to 150, Schedules 14 to 15, Clauses 151 to 208, Schedule 16, Clauses 209 to 214, Schedule 17, Clause 215, Schedule 18, Clauses 216 to 224, Schedule 19, Clauses 225 to 250, Schedule 20, Clauses 251 to 254, Schedule 21, Clause 255, Schedule 22, Clauses 256 to 283, Schedule 23, Clauses 284 to 294, Schedule 24, Clauses 295 to 300, Schedule 25, Clauses 301 to 308, Schedule 26, Clauses 309 to 324, Schedule 27, Clauses 325 to 326, Schedule 28, Clauses 327 to 339, Title.

Motion agreed.

Safety of Rwanda (Asylum and Immigration) Bill

Report (1st Day)

Relevant documents: 2nd Report from the Joint Committee on Human Rights, 3rd Report from the Constitution Committee

3.15 pm

Clause 1: Introduction

Amendment 1

Moved by ***Baroness Chakrabarti***

1: Clause 1, page 1, line 2, after "The" insert "first"

Member's explanatory statement

This amendment is consequential to the amendment at Clause 1, page 1, line 5, in the name of Baroness Chakrabarti, to add the purpose of compliance with the rule of law to that of deterrence.

Baroness Chakrabarti (Lab): My Lords, after such a thorough Committee, which showed this House—if not the Government or their flagship policy—in the best light, I will be brief and urge others to do the same. This way, those seeking important votes will avoid self-harming delay and highlight any deliberate filibustering by others.

My amendments in this group, shared with the noble Viscount, Lord Hailsham, the noble and learned Baroness, Lady Hale of Richmond, and the right reverend Prelate the Bishop of St Edmundsbury and Ipswich, would add the purpose of compliance with the international and domestic rule of law to deterrence in Clause 1. They require actual evidence of real implementation of the Rwanda treaty before that country is presumed safe, and only that this be presented by government to Parliament. That is all. I have revised my approach after the suggestion by the noble Lord, Lord Howard of Lympne, that initial decisions be in Parliament's accountable hands, rather than those of others. While still finding the forced transportation of human cargo completely repugnant, I note my noble friend Lord Blunkett's distinction between offshoring and offloading by ensuring that those granted asylum be returned to the UK under the treaty.

These are wholly reasonable amendments, but if the Government still cannot accept them, I will urge my noble friend Lord Coaker to test the opinion of the House on his single requirement, respecting the rule of law, which is surely completely incontrovertible for those, such as the Prime Minister, who now claim to be liberal patriots. That was two minutes. I beg to move.

Viscount Hailsham (Con): My Lords, I begin by saying how much I regret the death of my noble friend Lord Cormack. He was a great friend of mine and a close colleague for more than 40 years in the House of Commons and here. He was also a very close Lincolnshire neighbour, and he rendered great service to the city and county. He was a very considerable parliamentarian, and I know that he intended to participate in these debates. He would have made a significant contribution. His is a very great loss.

I hope I will be forgiven if I remind your Lordships that, for the reasons I expressed at Second Reading and in Committee, I am a root and branch opponent of the Bill. In my view, many of its provisions are objectionable in principle. Moreover, I do not think it will achieve its intended policy objective: to deter illegal migration across the channel.

However, I recognise that the Government are determined to have this Bill, so our purpose at this stage should be to address some of its more objectionable characteristics. It is in this spirit that I address the amendments in this group and adopt the approach of the noble Baroness, Lady Chakrabarti. I can and I will support any of the substantive amendments included in this group that are moved to a Division. However, I especially commend to your Lordships Amendment 3 in the name of the noble Baroness, Lady Chakrabarti, which I have signed.

One of the Bill's great deficiencies is that it purports to describe Rwanda as presently a safe country when both the Supreme Court and this House have decided otherwise. The Government rely on the treaty as being sufficient evidence of present safety. In my view, that is clearly not a sustainable position. It is possible that Rwanda will become a safe country—that is, when the treaty is ratified, when its provisions have been implemented, when the infrastructure is in place and working, and if the country's culture has changed. That may all happen in the future; it has not happened yet. On any view, it will require assessment.

Proposed new subsections (1B) and (1C) in the noble Baroness's Amendment 3 are designed to provide a mechanism for such an assessment. The amendment provides that the initiative lies with the Secretary of State. That takes account of the observations my noble friend Lord Howard of Lympne made at Second Reading, when he stressed the importance of proper democratic accountability. The amendment ensures just that. I commend Amendment 3 to the House. However, if others in this group are the subject of Divisions, I shall support them.

Baroness D'Souza (CB): My Lords, I will speak to my Amendments 10 and 43 in this group. I remain concerned about the potential constitutional fallout from this Bill, despite what my noble friend Lord Hannay has referred to as a "sterile" issue. There must be a reference to its remarkable impact on vital constitutional elements, such as the rule of law, the separation of powers and parliamentary sovereignty. Although these are probing amendments, such is the gravity of these possible consequences that they surely deserve to be noted, if not in the Bill then at least in the record of its passage.

The Supreme Court has stated unequivocally in a former judgment:

> "The courts will treat with particular suspicion … any attempt to subvert the rule of law by removing governmental action affecting the rights of the individual from all judicial scrutiny".

In this Bill, the Government are doing just this by writing into law a demonstrably false statement—that Rwanda is a safe country to receive asylum seekers—thereby forcing all courts to treat Rwanda as a safe country despite clear findings of fact.

It is clear that the Bill subverts the rule of law, the key elements of which are abiding by international law, equality before the law, respect for fundamental human rights and guaranteeing access to the courts. These rights are negated by this Bill, and as such it is a legal fiction. The longer-term impacts might be considerable—for example, could the Supreme Court in future rule, with any authority, a Prorogation unlawful?

The Bill in its present form enjoins all relevant courts and officials to deem Rwanda a safe country and specifically disallows any rational challenge by the courts. In Committee the noble Lord, Lord Clarke of Nottingham, expressed the hope that there will be a challenge, thereby enabling the Supreme Court to strike the Bill down as unconstitutional. Should this happen, a review of the Bill's impact on the rule of law in the UK would prove invaluable evidence.

The Lord Bishop of St Edmundsbury and Ipswich: My Lords, I shall speak in favour of Amendments 1, 3 and 5 tabled by the noble Baroness, Lady Chakrabarti, to which I have added my name. I do not believe that

[The Lord Bishop of St Edmundsbury and Ipswich] we can enshrine in law a statement of fact without seeing and understanding the evidence that shows such a statement to be true, in particular when such a statement of fact is so contentious and for which the evidence may change. Ignoring for a second the strange absurdity of such declarations, we must also consider the real impact that this could have on the potentially vulnerable people whom the Government intend to send to Rwanda. As my most reverend friend the Archbishop of Canterbury, who is in his place, said at Second Reading,

"in almost every tradition of global faith and humanism around the world, the dignity of the individual is at the heart of what is believed".—[*Official Report,* 29/1/24, col. 1014.]

Sending those who seek refuge in the UK to a country of questionable safety does not respect this dignity, so I support amendments that require further evidence of the safety of Rwanda before anyone is sent there.

Lord German (LD): My Lords, we support all the amendments in this group. It is absolutely critical that domestic and international law is complied with. This should not be up for debate. It is who we are. It is what we stand for. If we seek to deviate from our domestic and international legal obligations, our role on the world stage and our ability to have influence globally is significantly diminished. We cannot shy away from the consequential impact this will have on other countries choosing to follow suit. As the United Nations Human Rights Council put it last Friday,

"international standards on the independence of the judiciary are closely linked to the rule of law and the separation of powers. 'Provisions of the Rwanda Bill could undermine the principles of the separation of powers and the rule of law in the United Kingdom'".

That is sufficient for us to support all these amendments.

Lord Howard of Lympne (Con): My Lords, I begin by associating myself with the remarks of my noble friend Lord Hailsham about the late Lord Cormack. I cannot add anything to what my noble friend said, but it is entirely true that Lord Cormack is a great loss and we shall all miss him tremendously.

I am grateful to the noble Baroness, Lady Chakrabarti, and my noble friend for their references to my earlier intervention in these debates. I am not sure that the further interpretation that they place on my intervention is entirely justified or that I would entirely go along with it, but that is perhaps a matter for debate at a later stage.

The amendments in this group are all based on respect for the rule of law. A critical part of respect for the rule of law is the separation of powers, something much referred to in our earlier debates, and it is to that subject that I propose to address these remarks. As Anthony Speaight KC reminds us in his recent Politeia pamphlet, there is no such thing as the absolute separation of legislature, executive and judicial powers in our constitutional arrangements. Our Executive are rooted in our legislature and in any event, as Mr Speaight and others have pointed out, there are precedents for this legislation—for the proposition that Parliament can deem certain countries to be safe—including the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, passed under the Blair Government. The principle in that legislation was challenged in the case of Nasseri but was upheld by the Court of Appeal and the House of Lords. That, of course, is essentially what this Bill does: it deems Rwanda to be a safe country.

However, there is an even broader principle that is relevant here and is at the root of why this legislation is necessary. We have traditionally recognised the separation of powers between the Executive and the judiciary. That principle can be expressed in the proposition that decision-making is the responsibility of the Executive, but that the courts have the responsibility to review the lawfulness of those decisions.

That responsibility of the courts is what we know as judicial review. Its scope has been expanded greatly in recent years in ways which have not found universal approval but its principle is accepted as an important part of our constitutional arrangements. However, judicial review does not involve the courts substituting their own decisions for those of the Executive. It involves, in essence, an assessment of whether it was reasonable for the Executive to make the decision in question.

3.30 pm

That was the approach that the Divisional Court took in the case that gave rise to the Bill. The Divisional Court held that the Government's decision was lawful and I imagine that, if things had rested there, the Government would not have asked Parliament to consider the Bill; but, as we know, things did not rest there.

The Court of Appeal, by a majority, and the Supreme Court held that the Divisional Court had applied the wrong test. The correct test, said the Supreme Court at paragraph 34 of its judgment, requires the court to decide the issue for itself—to substitute its own decision for that of the Executive—and that is exactly what the Supreme Court did. It took that approach because it was following a decision of the European Court of Human Rights in a case called Soering; but as the Supreme Court itself recognised at paragraph 28 of its judgment, while the Human Rights Act requires it to take into account decisions of the European court, as is now well established, it does not require it to follow them.

I suggest to your Lordships that, in resolving to decide this issue for itself, the Supreme Court was trespassing on the province of the Executive. If there is any breach of the principle of separation of powers in this matter, it is not the Government who are guilty but the Supreme Court. All the Government are doing in the Bill is to reassert their responsibility, as traditionally understood by the principle of the separation of powers, for executive decision-making. There is a reason why it is the Government and not the courts who have that responsibility: because it is the Government and not the courts who are accountable. The courts are accountable to no one—they pride themselves on that—but accountability is at the heart of democracy. That is why the Government are fully entitled to bring forward the Bill and why much of the criticism directed at them for doing so is, for the reasons I have given, fundamentally misconceived. That is why I oppose these amendments.

Baroness Jones of Moulsecoomb (GP): My Lords, that is a very interesting speech but what we are being asked to do here is to vote on an opinion. The noble Lord knows that most of us do not agree with that

opinion. I will speak on the Bill only once today. I am deeply offended that it was ever brought to us. It is a mess of a Bill; it is illegal and nonsensical.

We in your Lordships' House are being asked to indulge in pointless chatter for the whole day, and for another day. It is pointless chatter because, whatever we say, the Government will not listen to us. This is partly fuelled by the Labour Front Bench, which seems to be rewriting the Salisbury convention that we do not try to stop anything in the Government's manifesto. In fact, the Labour Front Bench is now suggesting—it has been articulated on numerous occasions—that the Lords must not interfere with any legislation or decision by the Government or the Commons because they are elected and we are not. Then what is the point of your Lordships' House?

The point is that we have centuries, possibly millennia, of experience and knowledge. We had the opportunity to stop this foolish Bill, but the Labour Front Bench decided that we would not and whipped its members to abstain. That is an abnegation of their responsibility, and I am horrified by it. It grieves me that they might win the election and then behave in the same way. I think they are hoping that the current Government are going to respond in kind and not block any Bills, but that is a false hope.

We Greens will vote for any amendments that come up today, but, quite honestly, we are wasting our time.

Lord Green of Deddington (CB): My Lords, I shall be extremely brief. Some important points have been made, but I want to focus on the exact drafting of Amendment 3, which is clearly central and what the vote will be about. The puzzling aspect is that new subsection (1B) makes the condition that

"the Secretary of State has considered all relevant evidence … and is satisfied that the Republic of Rwanda is a safe country for the processing of asylum and humanitarian protection claims".

Fine, no problem, but then it goes on to say:

"before successful claimants are returned to the United Kingdom by request of the Secretary of State under Article 11(1) of the Rwanda Treaty".

I have looked at Article 11(1), and it does not say that. It says:

"The United Kingdom may make a request for the return of a Relocated Individual".

Paragraph 12(c) of the Explanatory Notes describes that as a response

"to the Supreme Court judgment by … Creating a mechanism for the UK to require the return of a Relocated Individual".

Which is it? Does this provide for the Secretary of State to bring people back or, as the noble Baroness implied, is that the outcome that is the purpose of the whole thing? I think that is the case, but the language needs to be cleaned up, or perhaps the noble Baroness would confirm it so that we know what we are voting for.

Lord Clarke of Nottingham (Con): My Lords, I begin by paying tribute to my old friend Lord Cormack, whom I knew for 60 years. I first met him when I was fighting the then ultrasafe Labour seat of Mansfield and he was fighting the ultrasafe Labour seat of Bassetlaw next door in the 1964 election. From that time, he was a very good personal friend of mine for well over 50 years in Parliament, when we both got there on a rather better basis for our political careers. He was an extremely good man. It has to be admitted that he was always regarded as speaking too much in the Commons and the Lords, as he was always forthright in his views, but that rather ignores the fact that overwhelmingly he spoke very sensibly and extremely well, and the principles that guided him throughout his political career were extremely sound. We will all miss him.

I will not repeat the arguments that I have made previously. I just acknowledge that my noble friend Lord Hailsham has made a speech every word of which I agree with. The Government are in an impossible position. Another good personal friend, my noble friend Lord Howard, made a brilliant attempt to defend that position and to try to demonstrate that the Bill is compatible with the things that he holds as dear as I do—the rule of law and the separation of powers—but I fear that he fails. His arguments might apply if we were talking here about a matter of political judgment on a given set of facts that the Government were making a policy decision about. However, the Bill is solely about asserting a fact as a fact regardless of any evidence, and regardless of the fact that five Supreme Court judges unanimously considered that evidence and came to the conclusion, which is not too surprising, that Rwanda is not a safe country.

I cannot recall a precedent in my time where a Government of any complexion have produced a Bill which asserts a matter of fact—facts to be fact. It then goes on to say that it should be regarded legally as a fact interminably, until and unless the Bill is changed, and that no court should even consider any question of the facts being otherwise. It is no good blaming the Human Rights Act; I do not believe that it was in any way probable that the British courts were going to come to any other conclusion. If the Labour Party allows this Bill to go through, I very much hope there will be a legal challenge. The Supreme Court will consider it objectively again, obviously, but it is likely that it will strike it down again as incompatible with the constitutional arrangements which we prize so much in this country. I too will be supporting any of the amendments in this group as introduced. It is a very important principle that we are seeking to restore.

Lord Alton of Liverpool (CB): My Lords, I will be brief, but I would like to associate myself with the remarks of the noble Lords, Lord Clarke of Nottingham and Lord Howard of Lympne, and the noble Viscount, Lord Hailsham, concerning Patrick Cormack, who was a dear friend of many of us. He was kindness itself to me when I became a Member of another place in 1979 and there were many issues on which we worked with one another, not least those around Northern Ireland. He did great service in uniting people around a complex and very difficult question during the years that really mattered. We were in touch with one another in writing just two weeks before his death. He had gone back to Lincoln to care for his wife Mary; he was deeply troubled about how ill she was, but he hoped soon to be back in his place. We will all miss him not being in his place and contributing to your Lordships' House.

[Lord Alton of Liverpool]

I would like to put just two points to the noble Lord, Lord Sharpe of Epsom, or to his noble and learned friend Lord Stewart, whoever will reply on behalf of the Government. I put a question during Committee concerning the report of the Joint Committee on Human Rights, on which I serve. I asked the noble Lord, Lord Sharpe, at that stage whether, before we considered this Bill on Report, we would have a proper reply from the Government to that Select Committee report. It is deeply troubling that there has been no reply and deeply troubling that Select Committees, not least one that is a Joint Committee of both Houses, can give a view about this Bill, specifically around the question of safety, and in a majority report say that it does not believe it right to say that Rwanda is a safe place to repatriate refugees to, yet not to have a response to those findings before your Lordships are asked to vote on amendments on Report. That is my first point.

My second point also concerns safety—the safety of our reputation as well. I was troubled to read in reports over the weekend that £1.8 million will be spent for each and every asylum seeker for the first 300 who are to be deported. That was described by the chair of the Home Affairs Select Committee in another place as a staggering figure. The Home Office declined to give information about it because of what it said was commercial confidentiality. I cannot believe that such a lame reply would be given, and I do not expect the Ministers to use that excuse when they come to reply today. It is not right for Parliament to be asked to take awesome decisions that will affect the lives of ordinary people, and to do so without giving all the facts being given to Parliament first.

I simply say that I have been reading the magnificent book *East West Street* by Philippe Sands KC. When we consider the way in which this country responded at that time to people such as Philippe Sands' family, who had fled from Lviv, in what is now Ukraine, and when we consider the generosity of spirit and the response from people in both Houses of Parliament and all political traditions, that seems to contrast sadly—dismally—with how we are responding at this time through the Bill. I hope the Ministers will be able to reply to my points.

3.45 pm

Lord Lilley (Con): My Lords, I have listened to and read the debates so far with great respect. They have been dominated by distinguished noble Lords who are lawyers, and I am not. I want to raise two questions of fact and ask those noble lawyers, and indeed the distinguished prelates, why they have not mentioned them until now.

The first point has just been mentioned by my noble friend Lord Howard. Contrary to what has been asserted many times—that Parliament cannot by law state whether or not a country is safe—in 2004 the Blair Government did just that. They introduced legislation which created an irrebuttable presumption that a number of listed countries were safe. It was subsequently tested in the courts and upheld. Why have none of the noble Lords who have asserted that we cannot do that mentioned and dealt with the fact that we have done it in the past?

The second factual point was raised by the noble Lord who spoke from the Lib Dem Benches. He said that, if we do this sort of thing in the Bill, which gives us the right to override international law and not necessarily to respond to decisions and demands of the European court, we will forfeit our respect and ability to influence people in the international arena. Why does he, and others who have made similar points, not mention the fact that the French Government have done just that? They have returned an asylum seeker to Uzbekistan despite the order of the European court that they should not, and despite even a ruling of the Conseil d'État that they should bring him back. Have they lost all respect in international fora? Have they lost any ability to influence public opinion internationally? Why does that not get mentioned in this place?

Lord Clarke of Nottingham (Con): I cannot claim to remember this clearly, but did anybody challenge with evidence the earlier cases that my noble friend tries to cite as a precedent? If anybody had had evidence showing facts to be contrary to what was then laid down in statute, does my noble friend think it would have survived a challenge in today's Supreme Court?

Lord Lilley (Con): I cannot say what today's Supreme Court would do, but the supreme courts of our country in those days did entertain a challenge. Greece, in particular, was not thought to be safe, and presumably they would not think now that France is safe. They upheld the right of the Executive to make those decisions and did not try to supersede them or consider evidence as to whether the accusations were correct.

Viscount Hailsham (Con): This is a different situation. Here we have the expression of opinion by the Supreme Court being displaced by the Government through legislation.

Baroness Meacher (CB): My Lords, I do not think it is relevant to cite France. The fact is that this country has a great reputation for upholding the rule of law and international law, and we play a great part across the world. This Bill is threatening that reputation and that role. France does not have that reputation or role, in my opinion.

Lord Lilley (Con): I am not sure what the noble Baroness's question to me is, but, as a great Francophile, I am sorry to hear her abuse the French nation in that way.

My noble friend said that this was different because the Supreme Court has expressed an opinion. Amendment 5 says that a purpose of the Bill should be to uphold the rule of law. As I understand it, the rule of law in this country for 1,000 years has meant that laws made and approved by our elected representatives are partially implemented by the courts, and all of us—citizens, public officials, Ministers and police, and even lawyers and bishops—are subject to those laws. If we do not like the law, we can try to persuade our elected representatives to change it. If Parliament feels that the courts have interpreted laws in a way that Parliament did not intend or that is out of line with the values and interests of the public who elect it,

Parliament can change the law. That is what we are doing. We have a perfect right to do so as long as Parliament remains sovereign.

Lord Murray of Blidworth (Con): As a member of the Joint Committee on Human Rights, I was in Rwanda last Thursday. More particularly, I was in the Rwandan Parliament. I can confirm to your Lordships' House that, on Wednesday last week, the Rwandan Chamber of Deputies ratified the treaty by 64 votes to two. Rwanda is a monist country, unlike this country, which is dualist. That means that the international obligations of Rwanda are enforceable in domestic courts. Once ratified by the Senate of Rwanda, the treaty will have effect legally within Rwanda.

Noble Lords will recall that the basis upon which the Supreme Court found Rwanda to be unsafe was particularly set out in the judgment. Each and every paragraph of the treaty obtained by the United Kingdom Government with the Government of Rwanda was targeted at the decision of the Supreme Court. Noble Lords will notice that, with the approval and ratification of the treaty in Rwanda, there is simply no basis upon which it can be said Rwanda is unsafe. These amendments are unnecessary.

Lord Dubs (Lab): If that is so, why or how is it that a number of refugees from Rwanda have been given asylum protection in this country?

Lord Murray of Blidworth (Con): As the noble Lord will be well aware, the treaty is directly reflective of all the Supreme Court's concerns about the safety of Rwanda. The fact that there are refugees from a certain country does not mean that that country is of itself always and everywhere unsafe.

The Archbishop of Canterbury: My Lords, at this stage of the debate on this group, we are looking at two distinct things. One is the question of whether Rwanda is safe. If, as the noble Lord just said, it is unquestionably safe, it seems to me that these amendments are not a problem because, at that point, the Secretary of State can easily say, "It's safe", and they will have evidence of that, for this and future Governments.

However, the object of this group is the rule of law, which is the main subject we are looking at. Going back to the development of international human rights law, particularly in the period after 1945, there is a difficulty in totally separating domestic and international law. The rise in international human rights law grew out of the horrors of the 1940s. In 1933, the German Government were legally and properly elected, and passed horrific laws that did terrible things, starting from within a few weeks of the election of Adolf Hitler. That continued, and most historians agree that the first two elections gave the Nazi Party a legitimate majority.

Winston Churchill's advocacy of the European Court of Human Rights after the Second World War grew up in order to give a fallback where domestic law was not doing the right thing, by linking it to international law and ensuring that there was a stop that said, "You can do this perfectly legitimately domestically, but that doesn't mean it's always right and always the right thing to do". Let us be clear: we are not in a situation remotely like that. The Government are not doing something on the scale of what we saw at that stage. But they are challenging the right of international law to constrain our actions.

The point of international law is to stop Governments going ahead with things that are wrong. The noble Lord, Lord Lilley, made two very good points, particularly in his questions. But one thing I was brought up believing and even, believe it or not, something I was told when I was trained as a clergyman—we do get trained, although that may sound surprising from time to time—was that it is a basic rule of ethics and morality that two wrongs do not make a right. So the fact that we have done the wrong thing in the past does not automatically make it right today.

Lord Tugendhat (Con): My Lords, it is a privilege to follow the most reverend Primate. I begin by saying how much I agree with every word that my noble friends Lord Clarke and Lord Hailsham said about my old friend Patrick Cormack. He was a good man and will be very much missed. I cannot add to what they said, but I say this humbly and with great warmth.

At this stage of the proceedings, our task is to try to persuade the House of Commons to improve the Bill. Failing that, it is to draw attention to the implications of leaving the Bill as it is. I support this amendment, and others that will follow, because I believe that the failure to amend the Bill will have profound implications. The Government will, in fact, be behaving like the ruling party in George Orwell's *Nineteen Eighty-Four*. Normally, *Nineteen Eighty-Four* is invoked in relation to government behaviour, laws, events and so forth in tyrannies and dictatorships. This country is no dictatorship—it is a democracy. Nevertheless, in this Bill the Government are seeking to achieve by Act of Parliament what in *Nineteen Eighty-Four* the ruling party and its apparatchiks sought to achieve by torture.

Many noble Lords will remember the scene towards the end of the book in which Winston is being interrogated by O'Brien and is forced to say that Oceania is and always has been at war with Eastasia, although he knows for a fact that it was until recently at war with Eurasia. When O'Brien holds up four fingers, Winston is obliged to say that he sees five, as an act of obedience to the party. However many fingers O'Brien holds up, the answer is always the same—just as, whatever the evidence to the contrary, Oceania has always been at war with Eastasia. Likewise, with the Bill as it stands, it does not matter what the Supreme Court has said about the present or how conditions in Rwanda might evolve in future—the answer is always the same: Rwanda is a safe country. If the Bill goes on to the statute book in its present form, Rwanda will be a safe country, regardless of reality, until the statute is repealed.

Rather than going down that route, we should take our cue from what Margaret Thatcher told the House of Commons on 17 July 1984—as it happens—when a judge had held that a decision her Government had taken in connection with GCHQ was illegal. She said that

"I, rightly, cannot overturn the decision of a court, and I would not wish to do so … at the end of the judicial process Governments, of course, accept the courts' final ruling. That is what the rule of law is all about".—[*Official Report*, Commons, 17/7/1984; cols. 173-74.]

Baroness Lawrence of Clarendon (Lab): My Lords, I too was in Rwanda last week, and the noble Lord, Lord Murray, seems to have left out what was said in our last meeting with the UNHCR, which talked about international rule of law. On Rwanda not being safe, it said that there is a certain process that Rwanda needs to put in place before it can be seen as a safe place. So the noble Lord gave noble Lords only one part of what was said.

Everywhere we went, everybody said that Rwanda was safe, but it already has so many refugees in different camps. At the moment they are not facilitated within the country but are in camps. The UK is building a vast area of accommodation, and my question to a lot of people was: what will be the impact on the local community when we send more than 300,000 people to Rwanda? Nobody can answer that at the moment. There is still a lot of work to be done by the Rwandan Government for the UNHCR to say that it is a safe place; until that happens, it is not safe.

4 pm

Lord Cromwell (CB): My Lords, I have two brief points. First, on Patrick Cormack, yes, he did speak often and, yes, that was sometimes frustrating, but doubly frustrating was that he was brilliant at synthesising views across the House and lobbing them forward to his Front Bench as quite difficult questions, something I learned to appreciate over time.

Secondly, in his speech just now—all of which I agreed with—the noble Lord, Lord Clarke, was searching for an international precedent for the Bill, as have others. I simply direct him to one also from central Africa, where the president of the country at that time declared by legal presidential decree that there was no AIDS in his country. It made him an international laughing stock, and I cannot help thinking that this Bill feels rather the same.

Lord Coaker (Lab): My Lords, it is a pleasure to wind up this group of amendments for His Majesty's Opposition. We have become used to the quality of the debate on the Rwanda Bill, but I start by associating myself with all the remarks made about Lord Cormack and add my recognition that he was a marvellous individual. In marking his passing, I also mark the passing of my noble friend Lady Henig in recent days. I am sure that fuller tributes will be made to her; we have lost a valued colleague.

The noble Baroness, Lady Jones, presented a challenge to me. If we were to win the next election, we would have the big advantage of being in power and would repeal the Bill. That is the point I make to the noble Baroness.

It is our view, whether or not it is held universally, that it is important for us to respect what we see as the constitutional traditions of the House. We would expect them to be followed were we to be in power, and that is why we take the position we do. I say to the Government, as I have on a number of occasions, that constitutional convention also requires the Government to listen to what the House of Lords says, to respect what it says and to listen to its views and not just dismiss them before they have even been discussed. We have made that point continually throughout this debate.

The Government may disagree with all the amendments, but to dismiss them as the Government have, before this House has even debated many of them, undermines the constitutional proprieties of the way this country operates. As much as the Government say to us that we should respect those, the Government should respect the amendments your Lordships consider and, on occasion, pass.

I thank my noble friend Lady Chakrabarti for her amendments and for the way she put them. She will see that my Amendment 2 seeks to say that the Act, as it will be, should comply with domestic and international law. I want to focus particularly on the international law aspects but, with respect to the debate we have had on domestic law, I refer noble Lords to the report from the Constitution Committee. The report made a number of challenges to the Government about how simply saying something was a fact in legislation accorded with the separation of powers.

Clause 1(2)(b) says that

"this Act gives effect to the judgement of Parliament that the Republic of Rwanda is a safe country".

Paragraph 11 of the Select Committee report says:

"Clause 1(2)(b) could be interpreted as a breach of the separation of powers between Parliament and the courts. It is the role of Parliament to enact legislation. It is the role of the courts to apply legislation to the facts".

The Bill says that the facts are not convenient so we will change them by legislation, saying that Rwanda is safe by an Act of law rather than by application of that legislation to the facts as they are within the country.

International law is also extremely important. In Committee, the noble Viscount, Lord Hailsham, helpfully pointed out that Clause 1(4)(b) says:

"It is recognised that … the validity of an Act is unaffected by international law".

That is quite astonishing. The Bill later lists all the various laws and conventions which will not apply. As a country, is that really where we want our legislation to be? My noble friend Lady Lawrence referred to the UNHCR's view that the Bill is incompatible. Do we simply dismiss that with a wave of the hand and pass legislation to say that it does not matter? Do we say that disapplying the Council of Europe from this legislation does not matter, despite the fact that it was mainly Conservative politicians, not least Churchill and Maxwell Fyfe, who moved forward the legislation on it? All sorts of other conventions are dismissed with a wave of the hand as though they do not matter.

Yet, time after time from the Dispatch Box, both here and in the other place, respect for international law is used as a justification for this country's actions. The international law of the sea is used, rightly, as a justification for our actions against the Houthis in the Red Sea. When we say that Russia's invasion of Ukraine is illegal, it is because it breaks international law. We often talk about "foreign courts" as a disparaging term for international courts that we have agreed to join, but where do we wish to take Putin for what he has done in Ukraine? It is to an international court to be held to account by international law. In all these examples, we expect international law to apply to the actions of an individual or a Government.

My amendment says that it matters what this country does, with respect to both domestic and international law, because in all the international institutions of which we are a member we often stand up and say that international law is important and should be applied and adhered to. We do so because we recognise that if it is not, that will be the road to chaos, confusion and the problems across our world getting not better but worse.

The Bill is dealing with a difficult problem that we all wish to see solved. This is not between those who wish to see it solved and those who do not, but about the differences in how we would do it. There is a need to deal with the challenges of the small boats, immigration, migration, refugees and asylum seekers in this country, but let us do it in a way that is consistent with our proud tradition of respect for law—both our domestic law and the separation of powers, and the international law based on treaties that we signed as a free, independent country.

The Advocate-General for Scotland (Lord Stewart of Dirleton) (Con): My Lords, on behalf of the Government Front Bench, I will first speak about noble Lords who have recently passed out of this Chamber and out of this life. I echo everything said about my noble friend Lord Cormack. I did not know Baroness Henig as well as her colleague, the noble Lord, Lord Coaker, did, but I mourn her loss and those better able to speak about her will do so in due course.

As to Lord Cormack, I can say something. If the welcome which he extended to the noble Lord, Lord Alton of Liverpool, on his entering the other place was as kind, heartening, pleasant and wise as the one which he extended to me on my coming among your Lordships a scant few years ago, I would not be very surprised. The House will miss his contribution to our deliberations.

As the noble Baroness, Lady Chakrabarti, set out, Amendments 1, 3 and 5 add the purpose of compliance with the rule of law to that of deterrence in Clause 1, requiring the Secretary of State to consider all relevant evidence and lay a statement before Parliament that Rwanda is currently a safe country. Amendment 10, tabled by the noble Baroness, Lady D'Souza, would mean that decision-makers cannot conclusively treat Rwanda as safe if the Supreme Court rules otherwise, even if Parliament had declared it safe.

The overarching purpose of the Bill is to deter dangerous and illegal journeys to the United Kingdom, which are putting people's lives at risk, and to disrupt the business model of people smugglers who are exploiting vulnerable people. Picking up a point that my noble friend Lord Hailsham made, we know that deterrence can work. We have seen this through our Albania partnership, where we have removed more than 5,700 people, and the number of small boat arrivals has dropped by 93%. The number of migrants crossing the channel has fallen year on year for the first time since current records began, with the total arrivals in 2023 down more than a third on 2022. We know that this is not a Europe-wide trend—there has been a 16% increase in detected irregular arrivals to Europe.

This Government's joint work with France prevented more than 26,000 individual crossings by small boat to the United Kingdom in 2023. Since July 2020, the joint intelligence cell and French law enforcement partners have dismantled 82 organised criminal gangs responsible for people smuggling of migrants via small boat crossings. However, as we know, the small boats problem is part of a larger global migration crisis—one that this Government are committed to tackling, along with our international partners.

The migration and economic development partnership—MEDP—with the Government of Rwanda is one part of our wider programme to stop the boats. This partnership will not only act as a strong deterrent but demonstrate that it is not necessary to take dangerous and unnecessary journeys to find safety, as promoted by the smugglers. This partnership with the Government of Rwanda has now been set out in a new treaty, binding in international law. As your Lordships' House heard from my noble friend Lord Murray of Blidworth a moment ago, it has been ratified by the lower house of the Rwandan Parliament and is moving on to its upper house. This treaty has been agreed by the Governments of the United Kingdom and Rwanda and was worked on by both parties with close care and attention.

As was set out repeatedly in earlier debates, the Government respect the decision of the Supreme Court in the case of AAA v the Secretary of State for the Home Department. However, I remind noble Lords that the Supreme Court's conclusions were based on evidence submitted prior to the High Court hearing in September 2022 and did not consider the subsequent, ongoing work that has been undertaken between the United Kingdom and the Government of Rwanda since the partnership was announced, to prepare for the operationalisation of the partnership and, later, to address the findings of the Court of Appeal.

Indeed, the Supreme Court recognised that changes may be delivered in future which could address the conclusions they reached, and as I have just set out, we have done this through the treaty. I repeat: the Bill and the treaty do not overturn or disregard the Supreme Court's decision; they act on it.

Article 10 of the treaty ensures that people relocated to Rwanda are not at risk of being returned to a country where their life or freedom would be threatened. It ensures that people relocated to Rwanda who are not granted asylum will receive the same treatment as those recognised as refugees, including permanent residence. It strengthens Rwanda's asylum system, including through the constitution of a new appeal body composed of judges, from Rwanda and other countries, with asylum and humanitarian protection expertise to hear individual appeals. It clarifies the availability of free legal representation for all stages of the process and availability of free legal representation for court appeals, and it enhances the functions of the independent monitoring committee.

4.15 pm

The United Kingdom and Rwanda have been working together to improve systems and to develop the partnership. That work and the assurances we have negotiated in our legally binding treaty with Rwanda address the findings of the Supreme Court and make detailed provision for the treatment of relocated individuals in Rwanda, ensuring that they will be offered safety

[Lord Stewart of Dirleton]
and protection with no risk of refoulement. The implementation of those provisions in practice will be kept under review by the independent monitoring committee, the role of which, as I just set out, was enhanced by the treaty and which will ensure that the obligations under the treaty are complied with in practice. The amendments tabled by the noble Baronesses, Lady Chakrabarti and Lady D'Souza, are therefore not necessary. Although, as the noble Baroness, Lady Chakrabarti, set out, the amendments in her name take into consideration the views expressed by noble Lords in our debates, they would delay the operationalisation of the partnership.

I repeat: the treaty does not override the judgment. It is precisely to address the concerns of the Supreme Court that the Government have concluded this international treaty with the Republic of Rwanda with additional safeguards and guarantees, as well as publishing an evidence pack on what has changed. The changes, along with our wider evidence pack, address the findings of the Supreme Court.

Furthermore, Amendment 3 appears to be intended—here, I follow the reasoning of the noble Lord, Lord Green of Deddington, in his earlier contribution—to require persons whose claims are successful in Rwanda to be returned to the United Kingdom. That goes against the spirit and intention of the treaty. Those relocated to Rwanda will not be returned to the United Kingdom, except in limited circumstances; they will be given safety and support in Rwanda.

As previously set out, it is our view that Parliament and the Government are better suited to address the sensitive policy issues involved in the legislation and the matters with which it deals, and, ultimately, to tackle the major global challenge we face of illegal migration. The Government's published legal position makes it clear that Parliament is able, with clear and express words, to limit access to the domestic courts. While previous attempts have not always prevailed, Parliament has done that in ways that have been upheld in the courts in the recent past. Those recent successes have been clauses which, while they ousted most claims, did not oust all claims. As the recent judgment in the case of LA (Albania) v Upper Tribunal made clear, the fact that an ouster provision was not a total ouster was an important consideration for the court to give effect to that ouster. The court decided that the ouster did not offend the rule of law and gave effect to it.

The Bill allows Parliament to confirm that it considers that it has sufficient material before it to judge that Rwanda is safe in general, and that that finding should not be disturbed by the courts. The Bill also allows for an exceptionally narrow route to individual challenge to ensure that the courts interpret the relevant provisions in accordance with the will of Parliament, recognising that it is not, however, possible for Parliament reasonably to conclude that Rwanda will always be safe for every potential individual liable to removal at any point in the future irrespective of their specific personal circumstances.

Completely blocking any court challenges would be a breach of international law and alien to the United Kingdom's constitutional traditions of liberty and justice. The Bill limits unnecessary challenges while maintaining the principle of access to the courts where an individual may be at a real risk of serious and irreversible harm. Taken as a whole, the limited availability of domestic remedies maintains the constitutional balance between Parliament being able to legislate as it sees necessary and the powers of our courts to hold the Government to account.

Regarding Amendments 1, 3, 5, 10 and 43, tabled by the noble Baronesses, Lady Chakrabarti and—

Lord Clarke of Nottingham (Con): My Lords, my noble friend asserts that the Government are complying with the rule of law and respect the position of the courts and so on. Why does the Bill expressly rule out any court in future considering any evidence that Rwanda perhaps is not complying with the treaty that he has described, and why does the Bill expressly rule out the provision of various features of international law when it comes to consider future behaviour by the Government of Rwanda? The terms of the Bill seem to contradict the complete confidence with which my noble friend is putting forward this ideal situation that is likely to prevail for all time on the ground in east Africa.

Lord Stewart of Dirleton (Con): My Lords, the point of the Bill is to move the matter into the diplomatic and political sphere. The Bill and the treaty make the point that the matters are better considered there than they are in the court. That is my answer to the point which my noble friend makes.

Regarding Amendment 2, tabled by the noble Lord, Lord Coaker, I cannot accept that the provisions of this Bill undermine the rule of law. Amendment 2, implying that this legislation is not compliant with the rule of law, is simply not right. The Bill is predicated on Rwanda's and the United Kingdom's compliance with international law in the form of the treaty, which itself reflects the international legal obligations of the United Kingdom and Rwanda, as my noble friend Lord Murray of Blidworth pointed out following his recent visit.

As has been stated in the debates on this Bill, the Government take their international obligations, including under the European Convention on Human Rights, seriously. There is nothing in this Bill that requires any act or omission that conflicts with the United Kingdom's international obligations. Along with other countries with similar constitutional arrangements to the United Kingdom, and again echoing points made by my noble friend Lord Murray, we have a dualist approach, where international law is treated as separate from domestic law and incorporated into domestic law by Parliament through legislation. This Bill invites Parliament to agree with its assessment that the Supreme Court's concerns have been properly addressed and to enact the measures in the Bill accordingly. The Bill reflects the fact—going back to my noble friend Lord Howard of Lympne's opening points—that Parliament is sovereign and can change domestic law as it sees fit, including, if it be Parliament's judgment, requiring a state of affairs or facts to be recognised.

The principle of recognising that certain countries are safe for immigration purposes, as your Lordships heard from my noble friend Lord Lilley, is a long-standing

one that is shared by many other countries as part of their respective systems. The European Union states are not the only countries that may be safe for these purposes. Therefore, to act as the Government are proposing in terms of the Bill would not an unusual thing for Parliament to do. There is other immigration legislation in which Parliament recognises that states are generally safe. It is not akin to Parliament stating something to be the case contrary to the actual position. The Bill reflects the strength of the Government of Rwanda's protections and commitments, given in the treaty, to people transferred to Rwanda in accordance with it. The treaty, alongside the evidence of changes in Rwanda since the summer of 2022, enables Parliament properly to conclude that Rwanda is safe.

In addressing other points raised on this matter, and echoing what I said in response to my noble friend Lord Clarke, my noble friend Lord Tugendhat moved the sphere of literary references governing discussion of the Bill in your Lordships' House from *Alice in Wonderland* to George Orwell's *Nineteen Eighty-Four*. The point is not that the Government are proposing that Parliament should legislate contrary to the Supreme Court's findings, but that Parliament should pass a Bill reflecting those decisions and acting on them. We are acting on the court's decision, not overturning it.

I respectfully echo my noble friend Lord Howard of Lympne's point, which again echoed his important speech at an earlier stage, that the theme of this matter is accountability—the accountability of Parliament and the Government to face the consequences of their actions and decisions before the electorate.

The importance of Parliament's judgment is the central feature of the Bill and many of its other provisions are designed to ensure that Parliament's conclusion on the safety of Rwanda is accepted by the domestic court. The treaty sets out the international legal commitments that the United Kingdom and the Rwandan Governments have made, consistent with their shared standards associated with asylum and refugee protection. It also commits both Governments to deliver against key legal assurances, in response to the conclusions of the UK Supreme Court. We are clear that we assess Rwanda to be a safe country and we are confident in the Government of Rwanda's commitment to operationalising the partnership successfully in order to offer safety and security to those in need.

In answer to a point made by the most reverend Primate the Archbishop of Canterbury, while Sir Winston Churchill was instrumental in drawing up the body or making possible the creation of the European convention, he did not say anything to alter the constitutional principle of the supremacy of Parliament, to which I have made reference.

I return to matters raised in the submission of the noble Lord, Lord Alton of Liverpool. He posed two questions, the first on the receipt of an answer to points made by committees of your Lordships' House. I have checked that and it is anticipated that answers to the Joint Committee on Human Rights and the Constitution Committee will be issued by Wednesday.

The noble Lord also raised costs. The point is not that doing nothing does not have costs. We will doubtless return, later at this stage of the Bill, to the enormous expense inflicted on British taxpayers—running to billions of pounds a year—by maintaining the status quo. It is that status quo that we seek to interrupt.

Lord Alton of Liverpool (CB): My point on the question of costs was not so much the £0.5 billion, but that the chair of the Home Affairs Select Committee in another place said that this was a staggering amount of money and that it was being veiled by so-called commercial confidentiality. When the Minister publishes his response to the Joint Committee on Human Rights and the Constitution Committee "by Wednesday", will he undertake to provide further details unpacking the so-called "confidentiality" of this £0.5 billion?

Lord Stewart of Dirleton (Con): If the noble Lord will permit, I will defer answering that question until later.

So it is in order to prevent the current expenditure—the cost of housing asylum seekers is set to reach £11 billion per year by 2026—that the Government propose to act. As I have said, we assess Rwanda to be a safe country and we are confident in the Government of Rwanda's commitment in that regard. I therefore invite the noble Lord, Lord Coaker, not to press his Amendment 2, and I also invite the noble Baroness, Lady Chakrabarti, to withdraw her amendment. If the amendments are pressed, I will have no hesitation in inviting the House to reject them.

4.30 pm

Baroness Chakrabarti (Lab): My Lords, I did not succeed in my urging of brevity, but never mind. I am grateful to all noble Lords none the less, particularly for the very worthy tributes to the noble Lord, Lord Cormack, and my noble friend Lady Henig. They were liberal patriots indeed.

I remind your Lordships' House that the Prime Minister invoked the rule of law in his Downing Street address on Friday, but I am grateful to the most reverend Primate for reminding us that, in the post-war age, the international rule of law is part of that.

I will not be tempted down the rabbit hole of the slightly unorthodox and creative version of the rule of law presented by the noble Lord, Lord Howard, save to say that he and his noble and learned friend the Minister effectively gaslit the Supreme Court. But they should have compared notes first, because one accused the Supreme Court of trespassing on the province of the Executive, while the other, in his usual soft and seductive tones, said how much he respected our highest court. I guess one of them must be telling us the truth, but I think it was the noble Lord, Lord Tugendhat, who gave the best response to both of them: this is post-truth legislation indeed.

I am shocked if not surprised by the response of the Government and, for fear of some of the specious and nitpicking excuses around my slightly longer amendment, I urge my noble friend Lord Coaker to press his very short, very simple, and incontrovertible amendment requiring compliance with the rule of law. I beg leave to withdraw my amendment.

Amendment 1 withdrawn.

Amendment 2

Moved by ***Lord Coaker***

2: Clause 1, page 1, line 5, at end insert "while maintaining full compliance with domestic and international law."

Member's explanatory statement

This amendment seeks to ensure that the eventual Act is fully compliant with the rule of law.

Lord Coaker (Lab): My Lords, I wish to test the opinion of the House.

4.32 pm

Division on Amendment 2

Contents 274; Not-Contents 172.

Amendment 2 agreed.

Division No. 1

CONTENTS

Aberdare, L.
Addington, L.
Alderdice, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Anderson of Ipswich, L.
Anderson of Stoke-on-Trent, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashton of Upholland, B.
Bach, L.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley of Knighton, L.
Best, L.
Birt, L.
Blackstone, B.
Blower, B.
Blunkett, L.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Boycott, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brinton, B.
Brooke of Alverthorpe, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Bull, B.
Burnett, L.
Burns, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Butler-Sloss, B.
Cameron of Dillington, L.
Campbell of Surbiton, B.
Campbell-Savours, L.
Canterbury, Abp.
Carlile of Berriew, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chapman of Darlington, B.
Clancarty, E.
Clark of Calton, B.
Clark of Windermere, L.
Clarke of Nottingham, L.
Clement-Jones, L.
Coaker, L.
Collins of Highbury, L.
Coussins, B.
Craig of Radley, L.
Craigavon, V.
Crawley, B.
Cromwell, L.
Cunningham of Felling, L.
Davidson of Glen Clova, L.
Davies of Brixton, L.
Dear, L.
Deben, L.
Desai, L.
Dholakia, L.
Donaghy, B.
Doocey, B.
Drake, B.
Drayson, L.
D'Souza, B.
Dubs, L.
Eatwell, L.
Etherton, L.
Fairhead, B.
Falconer of Thoroton, L.
Faulkner of Worcester, L.
Featherstone, B.
Finlay of Llandaff, B.
Foster of Bath, L.
Fox, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasman, L.
Goddard of Stockport, L.
Goudie, B.
Green of Hurstpierpoint, L.
Griffiths of Burry Port, L.
Grocott, L.
Hacking, L.
Hailsham, V.
Hain, L.
Hale of Richmond, B.
Hampton, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harris of Haringey, L.
Harris of Richmond, B.
Haskel, L.
Hayman of Ullock, B.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Hollick, L.
Hollins, B.
Hope of Craighead, L.
Howarth of Newport, L.
Hughes of Stretford, B.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Inglewood, L.
Janke, B.
Jay of Ewelme, L.
Jay of Paddington, B.
Jolly, B.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Jordan, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L. [Teller]
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Khan of Burnley, L.
Kidron, B.
Kingsmill, B.
Kinnock, L.
Knight of Weymouth, L.
Kramer, B.
Krebs, L.
Laming, L.
Lawrence of Clarendon, B.
Layard, L.
Lee of Trafford, L.
Lennie, L.
Leong, L.
Levy, L.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Lisvane, L.
Livermore, L.
Londesborough, L.
London, Bp.
Loomba, L.
Ludford, B.
Lytton, E.
Macdonald of River Glaven, L.
Mackenzie of Framwellgate, L.
Macpherson of Earl's Court, L.
Mair, L.
Manchester, Bp.
Mandelson, L.
Mann, L.
Marks of Henley-on-Thames, L.
Maxton, L.
McDonald of Salford, L.
McIntosh of Hudnall, B.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Mendelsohn, L.
Merron, B.
Miller of Chilthorne Domer, B.
Mitchell, L.
Monks, L.
Morgan, L.
Morris of Yardley, B.
Murphy of Torfaen, L.
Neuberger, B.
Newby, L.
Northover, B.
Nye, B.
Oates, L.
O'Donnell, L.
O'Grady of Upper Holloway, B.
O'Loan, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Patel of Bradford, L.
Patel, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Prentis of Leeds, L.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Ricketts, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Robertson of Port Ellen, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Russell, E.
Sahota, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Sikka, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Newnham, B.
St Edmundsbury and Ipswich, Bp.
Stansgate, V.
Stephen, L.
Stevenson of Balmacara, L.
Stirrup, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.
Taylor of Stevenage, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurso, V.
Touhig, L.
Triesman, L.

Truscott, L.
Tugendhat, L.
Tunnicliffe, L.
Turnberg, L.
Turnbull, L.
Tyler of Enfield, B.
Uddin, B.
Vaux of Harrowden, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warner, L.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watson of Wyre Forest, L.
Watts, L.
Wellington, D.
West of Spithead, L.
Wheeler, B. [Teller]
Whitaker, B.
Whitty, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wilson of Dinton, L.
Winston, L.
Wood of Anfield, L.
Woodley, L.
Woolley of Woodford, L.
Wrigglesworth, L.
Young of Old Scone, B.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altrincham, L.
Anelay of St Johns, B.
Ashcombe, L.
Ashton of Hyde, L.
Attlee, E.
Bailey of Paddington, L.
Balfe, L.
Barran, B.
Bellamy, L.
Benyon, L.
Bertin, B.
Bethell, L.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Brady, B.
Bray of Coln, B.
Bridgeman, V.
Bridges of Headley, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Callanan, L.
Cameron of Chipping Norton, L.
Camoys, L.
Camrose, V.
Carrington of Fulham, L.
Carrington, L.
Cathcart, E.
Choudrey, L.
Colgrain, L.
Courtown, E. [Teller]
Crathorne, L.
Cruddas, L.
Davies of Gower, L.
De Mauley, L.
Dobbs, L.
Douglas-Miller, L.
Dunlop, L.
Eaton, B.
Effingham, E.
Elliott of Mickle Fell, L.
Empey, L.
Evans of Bowes Park, B.
Evans of Rainow, L.
Fairfax of Cameron, L.
Farmer, L.
Faulks, L.
Fleet, B.
Fookes, B.
Foster of Oxton, B.
Frost, L.
Gascoigne, L.
Gilbert of Panteg, L.
Godson, L.
Gold, L.
Goldie, B.
Goschen, V.
Grade of Yarmouth, L.
Green of Deddington, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hamilton of Epsom, L.
Hannan of Kingsclere, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Hayward, L.
Henley, L.
Herbert of South Downs, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Houchen of High Leven, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jackson of Peterborough, L.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Kempsell, L.
Lamont of Lerwick, L.
Lansley, L.
Lawlor, B.
Lea of Lymm, B.
Leigh of Hurley, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lucas, L.
Lupton, L.
Magan of Castletown, L.
Markham, L.
Marland, L.
Marlesford, L.
McColl of Dulwich, L.
McInnes of Kilwinning, L.
McLoughlin, L.
Mendoza, L.
Meyer, B.
Minto, E.
Montrose, D.
Moore of Etchingham, L.
Morgan of Cotes, B.
Mott, L.
Moylan, L.
Moynihan of Chelsea, L.
Murray of Blidworth, L.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Noakes, B.
Norton of Louth, L.
Offord of Garvel, L.
Owen of Alderley Edge, B.
Parkinson of Whitley Bay, L.
Patten, L.
Pidding, B.
Porter of Spalding, L.
Powell of Bayswater, L.
Ranger of Northwood, L.
Reay, L.
Redfern, B.
Risby, L.
Robathan, L.
Roborough, L.
Rock, B.
Rogan, L.
Sanderson of Welton, B.
Sandhurst, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, 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.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Strathclyde, L.
Stroud, B.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Thurlow, L.
Trenchard, V.
True, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Waverley, V.
Wei, L.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B. [Teller]
Wrottesley, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

4.45 pm

Amendment 3 not moved.

Amendment 4

Moved by ***Lord Hope of Craighead***

4: Clause 1, page 1, line 12, leave out "is a safe country" and insert "will be a safe country when, and so long as, the arrangements provided for in the Rwanda Treaty have been fully implemented and are being adhered to in practice."

Member's explanatory statement

This amendment, read with new sections 1(7) and 1(8), seeks to give effect to the proposition that Parliament cannot judge Rwanda to be a safe country until the Rwanda Treaty has been, and continues to be, fully implemented.

Lord Hope of Craighead (CB): My Lords, there are four amendments in this group, all of which are in my name and to which the noble Lords, Lord Anderson of Ipswich and Lord German, and the noble Baroness, Lady D'Souza, very kindly added their names. They are part of a single package designed to address a serious flaw in the working of Clause 1(2)(b), which states:

"this Act gives effect to the judgement of Parliament"—

I emphasise "the judgement of Parliament"—

"that the Republic of Rwanda is a safe country".

The word I am concerned with is "is".

As we were reminded on the previous group, the Supreme Court expressed a view about this in November last year. It said that there were substantial grounds for believing that the removal of claimants to Rwanda would expose them to a real risk of ill treatment by reason of refoulement. Your Lordships have been asked to reach a different judgment. In other words, your Lordships are being asked to declare that Rwanda is a country to which persons may be removed from the United Kingdom in compliance with all its obligations

[Lord Hope of Craighead]
under international law, and is a country from which a person will not be removed or sent to another country in contravention of international law.

It is not my purpose, for the purpose of these amendments, to question the right of Parliament to look at the facts again. The facts have changed since November 2022, which was when the facts were found on which the Supreme Court based its view. If Parliament is to make a judgment on a matter of fact of such importance, great care must be taken in the use of language. By its use of the present tense in Clause 1(2)(b), Parliament is asserting that from the date of commencement that is the position now, and it is asserting furthermore that it will be the basis on which every decision-maker will have to act in future. That will be so each and every time a decision has to be taken for ever, whatever happens in Rwanda, so long as the provision remains on the statute book. As the noble Lord, Lord Tugendhat, said, the answer will for ever be the same. That is the point to which I draw your Lordships' attention in these amendments. Article 23 of the treaty provides that the agreement will last until 13 April 2027 but that it can be renewed by written agreement, so it may well last a good deal longer and there is no sunset clause in the Bill. That is the background against which I say that a great deal hangs on the use of "is".

The judgment that your Lordships are being asked to make is crucial to the safety and well-being of everyone, wherever they come from, who is at risk of being removed to Rwanda. Given what refoulement would mean if it were to happen to them, this could be for some a life-or-death issue. The question is whether we have enough information to enable us to judge that Rwanda is safe now and that it will be whatever may happen in future. I do not think so. I do not think I can make that judgment. That is why I have introduced this amendment and its counterpart, Amendment 7.

Amendment 4 seeks to remove "is" from that clause and replace it with "will be" and "so long as"—in other words, Rwanda will be a safe country when and so long as the arrangements provided for in the treaty will have been fully implemented and are adhered to in practice. That would be a more accurate way of expressing the judgment that your Lordships are being asked to make. The point it makes is that full implementation of the treaty is a pre-requisite. The treaty itself is not enough; it has to be implemented. That is what I am drawing attention to. Without that—without the implementation that the treaty provides for—Rwanda cannot be considered a safe country; in my submission, the Bill should say so.

Of course, there must be means of determining whether full implementation has been achieved and is being maintained. That is provided for in my Amendment 7. I have based that amendment on the method that the treaty itself provides: a monitoring committee, the members of which are independent of either Government. We have been told that that committee already exists and is in action, so what I propose should not delay the Bill, and it is not my purpose to do so. I simply seek the security of the view of the monitoring committee. The treaty tells us:

"The key function of the Monitoring Committee shall be to advise on all steps they consider appropriate to be taken to effectively ensure that the provisions of this Agreement are adhered to in practice".

The Government's policy statement in paragraph 102 says of the committee:

"Its role is to provide an independent quality control assessment of conditions against the assurances set out in the treaty".

The Government themselves, then, accept that entering into the treaty is not in itself enough. That is why they had asked for a monitoring committee to be set up, and precisely why my amendments are so important. The treaty must be fully implemented if Rwanda is to be a safe country. The point is as simple as that.

My Amendment 7 says:

"The Rwanda Treaty will have been fully implemented for the purposes of this Act when the Secretary of State has … laid before Parliament a statement from the … Monitoring Committee … that the objectives … of the Treaty have been secured by the creation of the mechanisms"

that it sets out. If the Ministers say that Rwanda is already a safe country, it should be a formality to obtain the view of the monitoring committee and it should not detain the Government for very long. All I ask is that we should have the security of the view of that Committee to make it absolutely plain before we can make the judgment that Rwanda is, and will continue to be, a safe country. My amendment would then require the Secretary of State to

"consult the Monitoring Committee every three months"

while the treaty remains in force, and to make a statement to Parliament if its advice is

"that the provisions of the Treaty are not being adhered to in practice".

If that is so, the treaty can no longer be treated as fully implemented for the purposes of the Act until the Secretary of State has laid before Parliament subsequent advice that the provisions of the treaty are being adhered to in practice. All that is built around what the Government have provided before in their own treaty: the work of the monitoring committee, on whose judgment I suggest we can properly rely.

Finally, and very briefly, I say that my Amendments 8 and 13 would make the directions to the decision-makers in Clause 2 conditional on full implementation of the treaty.

I should make it clear that I intend to test the opinion of the House on my Amendment 4—and, if necessary, Amendment 7 as well—if I am not given sufficient assurances by the Minister. I will not move my Amendment 8. That is because I do not wish to pre-empt the alternative qualification of Clause 2 proposed by my noble friend Lord Anderson of Ipswich. His Amendment 12, if moved, will in turn pre-empt my Amendment 13. I beg to move.

Lord Hodgson of Astley Abbotts (Con): My Lords, I add my tribute to those already paid to Lord Cormack. My particular knowledge of him is that, when I was briefly a Member of the other place, my constituency abutted his and we shared an agent, a Mr Clive Hatton. I learned from the assiduousness with which Lord Cormack worked in his constituency and the importance that he ascribed to it. There was no cause too small nor person too irrelevant that Patrick Cormack was not interested in looking after them and considering them. I learned a lot from him.

I turn to the matter at hand. I shall comment on this group of amendments and, in doing so, pick up on some of the remarks I made in our debate on the Motion from the noble and learned Lord, Lord Goldsmith, on 22 January. I have two points. First, I have listened carefully to the noble and learned Lord, Lord Hope of Craighead, who, as an extremely eminent lawyer, I have to be respectful of. However, I hope he will forgive me if I have the impression that these amendments, taken together, collectively have the aim of rendering the Bill if not unworkable then inoperable. They are like a line of barbed-wire fences: each time you get through one barbed-wire fence, there is another set of obstacles or objectives to be fulfilled.

I recognise that a number of Members of your Lordships' House do not like the Bill and do not think its approach is appropriate in any way. I think they are wrong, but obviously I respect that view. Why then are greater efforts not being made to kill the Bill? Because they know such an effort would fail. I do not want to get in the middle of the spat between the noble Baroness, Lady Jones of Moulsecoomb, and the noble Lord, Lord Coaker, but such efforts would fail because His Majesty's loyal Opposition would not support such a move. To wound is fine, but to kill would not be acceptable.

Why, in turn, is that? Because away from the Westminster bubble an overwhelming majority of the British people are appalled by the loss of life in the channel and want it stopped—witness the child of 14 drowning last week—are disgusted by the activities of the people smugglers, and are exasperated, furious or both at what are in large measure economic migrants seeking to jump the legitimate queue. The Bill is currently the only game in town, and to do away with it would be immensely unpopular.

Secondly, I disagree with the continued assertion underlying this group of amendments that somehow Rwanda as a country is untrustworthy unless every single "t" is crossed and every "i" is dotted. In this connection, noble Lords might like to read paragraphs 54 and 57 of the Government's report on Rwanda dated 12 December 2023. The Ibrahim Index of African Governance, an independent organisation, rates Rwanda 12th out of 54 African countries. The World Economic Forum *Global Gender Gap Report* makes Rwanda 12th—the UK, by the way, is 19th. The World Bank scored Rwanda at 16 out of a maximum score of 18 on the quality of its judicial processes. Lastly, the World Justice Project index on the rule of law ranked Rwanda first out of 34 sub-Saharan African countries. Those are points that tend to get overlooked in the debate that we are having, which tends to focus on our domestic arrangements.

That takes me to my conclusion. The concept of the rule of law has featured prominently in our debate on the Bill and no doubt will do so in future. I am not a lawyer, as many Members of the House know, but nevertheless I strongly support the concept as an essential part of the freedoms that we take for granted. As I have said in the past, the rule of law depends on the informed consent of the British people. Without that informed consent, the concept of the rule of law becomes devalued. So if the House divides at the end of this debate, I respectfully say to Members that we need to be careful not to conflate the fundamental importance of the rule of law with what I fear I see in these amendments, which is largely a measure of shadow-boxing.

5 pm

Lord Carlile of Berriew (CB): My Lords, I follow the noble Lord with much respect for his contributions to your Lordships' House. The proposition made by my noble and learned friend Lord Hope, which I support strongly, is that these amendments seek to give effect to

"the proposition that Parliament cannot judge Rwanda to be a safe country until the Rwanda Treaty has been, and continues to be, fully implemented".

What do the Government say? The Government say that Rwanda is a safe country because the Rwanda treaty has been achieved and, shortly, will be fully implemented. What are they afraid of in these amendments, for they simply seek to provide insurance for the proposition made by the Government about Rwanda?

To answer that question, I invite the Minister to remind himself once again of the report dated 17 January this year from the International Agreements Committee, which was discussed at some length in previous debates in your Lordships' House. I draw his attention particularly to paragraph 45, which sets out nine

"further legal and practical steps"—

that is the term of art used—which are "required under the treaty" and which will make, in the opinion of that committee, Rwanda a safe country that operates the treaty in the way which is intended by its words.

Can the Minister, who has been challenged to this effect before, tell us quite specifically how many of those nine requirements in that paragraph have now been implemented, which they are and, in relation to the ones that have not yet been implemented, when will they be implemented? If the Government's optimism is such that, as the noble Lord, Lord Murray, said in an earlier intervention, it is enough to go into the Rwandan Parliament and see that the treaty has been ratified—not the requirements in the committee's report—for that to be a way of regarding the Bill as justified, what is the intellectual basis for that conclusion? I see none: unless these requirements can be demonstrably implemented in full, Rwanda is not a safe country. The insurance policy proposed by my noble and learned friend is exactly what is needed, unless we are told of full implementation.

Lord Deben (Con): My Lords, I rise because of the speech of the noble Lord, Lord Hodgson. He suggested that those of us who have worries about the Bill are in some way wanting to stop anything of this kind. I want to make it clear that I do not have a theological or philosophic objection to the concept that you might have a system to deal with these problems which involved some other country. My problem is fundamentally this: I hope that, in all the years as a Minister and as a Member of Parliament, I never told a public lie—and I am being asked here to tell a lie.

[Lord Deben]

The Government have told us that Rwanda is not a safe place at the moment but is going to be one. Indeed, the Minister himself explained that to us. However, they are asking us to say it is a safe place now. At the same time, the Government are pointing to the Supreme Court and saying it is perfectly reasonable to disagree with it, because the information which we now have makes a decision now different in kind from the one that the court made, because it did not have that information. Evidently, it was perfectly right for the Supreme Court to say that it was not a safe place then, but now we are in a different position. However, the Government have not provided us with any of the evidence which makes that different position tenable.

All the Government have done is said: "We have signed an agreement. That agreement is going through, and we are in the course of ensuring that that agreement is carried through in Rwanda". I do not much mind how we do this, but what I want to be able to do is to vote to say that Rwanda would be a safe place if all these things are carried through. I want to make sure that there is a mechanism for checking that.

I also want to make sure that, if things should change, we could deal with that—after all, Governments change. Africa has been known to have very significant changes. Indeed, the present Government of Rwanda are a very hopeful change from what they had before. We need to have a mechanism whereby, should the situation alter, we would be able to deal with it. Normally, the courts would be able to deal with it, but the Government have specifically excluded the courts. Therefore, we need to have something of this kind in the Bill. The mover of this amendment is absolutely right in saying that the amendments can all be carried through without holding up the passage of the Bill.

I want to ask my noble friend very directly: given that this is not going to hold anything up; given that he is going to allow himself to tell the truth, instead of not telling the truth and, given that he can allow me to tell the truth, why does he not just allow us to do it? Many of the other issues are of high political and legal concern. This is a terribly simple, basic fact. Will you allow us to say that Rwanda is a safe place, when you can provide the information to allow us to tell the truth? For goodness' sake, let us tell the truth.

Baroness Meyer (Con): My Lords, I am standing to tell the truth. As a member of the Joint Committee on Human Rights, I was also in Rwanda very recently. We had a packed programme. Everyone we met told us that Rwanda is a safe country. This included women's rights and the LGBT organisation, which told us that that is how they felt. We were also told that Rwanda has the largest LGBT community in Africa. Many people from that community flee neighbouring countries to go to Rwanda because they feel safe.

Critics also tend to overlook the fact that Rwanda has one of the lowest levels of corruption in Africa and that it is committed to the rule of law. It has more women participating in the labour market than in any country in Africa. The Supreme Court's decision, mainly based on the UNHCR report, failed to take any of those factors into account. The UNHCR representative we met admitted that Rwanda was at the forefront of improving its legal system and Rwanda was a safe country as such, but not safe enough to accept relocated individuals from the UK, as the current system was not capable or experienced enough to deal with them.

I need to point out that this was before the new agreement, in which a lot of the concerns of the Supreme Court have been addressed. She also pointed out that refugees from the UK came from different backgrounds to refugees from neighbouring countries. That comment was in direct contradiction to all the positive attitudes we witnessed. Everyone who we met expressed genuine readiness to accept and welcome the refugees coming from the United Kingdom.

The UNHCR representative's conclusion, which I found most revealing, was that the UK should accept all immigrants arriving to its shores, rather than sending them off to Rwanda. But it is unrealistic to say that the UK has a responsibility to accept all asylum seekers, particularly if they come to our shores for economic reasons and line the pockets of traffickers. We are one of the most generous countries when it comes to refugees, but we have a responsibility towards our citizens, which includes securing our borders to ensure that no one takes advantage of our system.

Most of the people we met in Rwanda were surprised, if not deeply hurt, by the negative attention their country has received from both Houses and the media. I have to say that I was embarrassed. I felt that we are criticising a country that has had a terrible genocide and, in the past 30 years, has done so much to improve everything. It is so willing to accept new migrants. I was embarrassed. To be honest, Kigali is a beautiful city—I fell in love with it. It is clean, tidy and well organised. It has a young population full of optimism, looking forward to its future. I would not mind living there. I recommend that noble Lords who criticise Rwanda should go there, check for themselves and decide what they think, rather than making observations on hearsay and possibly—

Lord Cashman (Lab): The noble Baroness referred to the LGBT situation in Rwanda. Can she indicate to the House which LGBT organisation she met?

Baroness Meyer (Con): We met the Rwanda Women's Network, which was very interesting. We also met the Hope and Care Organization, the Rwanda Men's Resource Centre and My Rights Alliance. They campaign for LGBT rights.

Lord Cashman (Lab): I thank the noble Baroness for that and will not detain the House any longer, but it is important to put this on the record. I say this with some knowledge of Rwanda, having been the chief election observer for the European Union in Rwanda in 2008, with subsequent knowledge since. The noble Baroness quoted the Hope and Care Organization, which does do a great deal of work. But I thought your Lordships should be aware of a recent quote. I will not name the individual, for fear of placing anyone at risk—but it is in my records if anyone needs it. It reads:

"Homosexuality is not criminalized in Rwanda, but many LGBTI people keep their sexuality and gender identity secret in an attempt to avoid rejection, discrimination and abuse, which in the long run inevitably denies them their basic human rights".

Baroness Meyer (Con): I am not LGBT, so I have no idea, but from the evidence we heard it seems to be a little frowned upon among the older generation or in the countryside—probably like in the United Kingdom. But, in Kigali, the capital, we were told that two men walking in the street holding hands is absolutely fine. This was the report we received.

Lord Cashman (Lab): Again, I shall not detain the House, but I shall refer to this situation and the expression of one's sexual identity in a later grouping—the fifth grouping. I thank noble Lords for their patience.

Lord Inglewood (Non-Afl): Briefly, I shall add a few comments to the remarks made by the noble Lord, Lord Deben. In his remarks, the noble Lord, Lord Hodgson, said—and it is true—that there is a lot of concern and anxiety about the whole issue that we are discussing this afternoon. Probably, in this Chamber, there is nobody who knows less about Rwanda than I do—and I dare say that I am representative of the nation as a whole. The wider world is very concerned about this, and we have been talking about this from the perspective of this Chamber—but if you look at it from the perspective of the wider public, it would be to everybody's great advantage to have something along the lines of what the noble and learned Lord, Lord Hope, and the noble Lord, Lord Anderson, are advocating; it would be very helpful in trying to allay wider public concern. It seems to me—and I am sure that we all regret it very much—that, the way the world is now, the fact that the Government give it the thumbs up does not necessarily instil great confidence in the wider public.

5.15 pm

Lord German (LD): My Lords, I start by saying to the noble Lord, Lord Deben, that I have come to the same conclusion about these amendments, but perhaps from a different perspective. As noble Lords know, these Benches voted against the Bill in principle, but that does not mean to say, having not won that argument, that we will not support changes to the Bill in ways that mitigate the problems that we still see with it.

It is worth reminding the House of the decision that we took on the treaty—that we would not recommend the treaty being signed until certain conditions were in place. As noble Lords know, from the Standing Orders of this House, that that was a resolution of this House and is the view of this House. These amendments are simply seeking to amplify and recognise the decision of this House that is in place at present. If it is not in place, we are going to be asked to do that fictionalising thing, which is to change our minds from what we said before—that we need to see those conditions in place before we can see Rwanda as safe—simply because the Bill is before us.

This group of amendments recognises that we need to have those conditions in place before the consideration that this House has already given can be reversed. I must say to the noble Baroness, Lady Meyer, that "safe" in respect of a country is not about the beauty of the country or the nature of its people; it is about the structures and the systems that it has in place to meet its obligations, including the obligations for refugees that we have laid out.

Given that the courts have given a decision of fact on the safety of Rwanda, it is deeply problematic that the Government want this Parliament to overturn its own decision and declare the opposite. We think that they would be better off going back to the courts to review the evidence and coming to a finding of fact, if they believe that the situation has changed. As the United Nations council responsible for public affairs said in its announcement last Friday, this Bill will

"unduly limit judicial independence by requiring judges to treat Rwanda as a safe third country now and in the future, regardless of any evidence to the contrary before them".

It is clear that the terms of the treaty have not been met; that is what this House says, and that is the resolution of this House. They need to be met before the requirements of the treaty are satisfied. The mechanism by which the Government are asking Parliament to declare Rwanda safe is the treaty. The Minister confirmed in Committee that the safeguards outlined in the resolution of this House were not yet in place but were being worked towards. In *Hansard* for day one in Committee, 12 February, my noble friend Lord Purvis asked whether we could pursue the issue that the Minister had mentioned. He said:

"If the Rwandan Government are 'working towards' putting safeguards in place, that means they are not currently in place. Is that correct?"—[*Official Report*, 12/2/24; cols. 64-65.]

Hansard says that the noble and learned Lord, Lord Stewart of Dirleton, replied, "It must do".

This afternoon, letters have been delivered to Members who took part in these debates. I apologise for having to look on my phone, because these letters which relate to Committee of this House on the Bill were delivered by electronic mechanisms only after we had started discussing Report. That is not the way this House should be treated. If we want the evidence on which we can make decisions, we should have it in time to be able to make further progress. Anyway, I have to turn my phone sideways because it is very small writing, but I will do my very best. It says in a paragraph about whether these matters are in sight:

"The UK and Rwandan Governments will continue to work closely together to implement all the measures under the treaty and prepare to operationalise the partnership".

So quite clearly, the facts required by this House are not there at present. I like to cite the analogy from the noble Lord, Lord Purvis. It is like saying, "Ladies and gentlemen, we are going by plane and we are working towards making the plane safe". If you think about it, that is where we are at the moment. Would you get into that plane? Probably not. You would be foolish to do so—but, if you did get into it, you would have no guarantee that it would be capable of flying and not dropping out of the air.

So these amendments are clear that we must put the conditions in place. They have already been agreed by this House. We have made it clear that the conditions we as a House place on the treaty are to be adhered to, and that the conditions and procedures must be adopted

[LORD GERMAN]
to satisfy the House both before and after deportations can take place. They are sensible. They are what the House requires in order to fulfil the requirements of the decision we took on the matters of the treaty. I support.

Lord Lilley (Con): My Lords, I do urge noble Lords to use some common sense. It is inconceivable, if this Bill is enacted, for the first few months—regardless of whether all the conditions of the treaty have been implemented—that Rwanda, under the full spotlight and glare of international publicity and the attention of the press, will not implement carefully and considerately or that it will refoule anyone that we send it.

The reason for having all the things in the treaty is for the period after the initial spotlight has been turned off and attention has waned. Then, it is important to have all those considerations in place; it is not initially. No one could really imagine that we will send someone out and within a few weeks they will be sent by Rwanda to some unsafe country. It will not happen. We know it will not.

But it is very important that we get this happening soon, and that we not only use common sense but are merciful, because the longer we delay, the more people will come across the Channel and the more people will die.

Lord Ponsonby of Shulbrede (Lab): My Lords, I wonder whether the Minister would care to comment on whether he agrees with the analysis from the noble Lord, Lord Lilley, of the status of this Bill we are debating. The noble Lord said it was inconceivable that there would be any refoulement and that it is okay to proceed without the various recommendations in place. In the longer term, they would need to be in place—because it was in the longer term, I think, that he was suggesting that there might be justification in the suspicions that have been raised. I think that was the point the noble Lord was making.

I thank the noble and learned Lord, Lord Hope, for tabling these amendments and for his constructive communication before doing so. In Committee there was clear interest in developing a mechanism to ensure that the terms of the treaty are and continue to be adhered to. I hope the House will see that there is value in how he has integrated these ideas into these amendments. Amendments 4 and 7 together provide a clear framework for ensuring the ongoing safety of Rwanda, rooted in the terms of the treaty the Government have negotiated. I will not say any more, because the noble and learned Lord set out the terms of his amendments very clearly.

The Parliamentary Under-Secretary of State, Home Office (Lord Sharpe of Epsom) (Con): My Lords, I thank all noble Lords for their contributions. The partnership between the UK and Rwanda is rooted in a shared commitment to develop new ways of managing flows of irregular migration by promoting durable solutions, thereby breaking the existing incentives that result in people embarking on perilous journeys to the UK. We saw again only last week how perilous those journeys are, as my noble friend Lord Hodgson noted. The UK and Rwanda share a vision on the need for the global community to provide better international protection for asylum seekers and refugees, emphasising the importance of effective and functioning systems and safeguards that provide protection to those in most need.

Noble Lords will know that Rwanda has a long history of supporting and integrating asylum seekers and refugees in the region, for example through its work with the United Nations High Commissioner for Refugees to host the emergency transit mechanism. It has also been internationally recognised for its general safety and stability, strong governance, low corruption and gender equality. My noble friend Lord Hodgson noted this, and my noble friend Lady Meyer gave her very welcome perspective on her recent visit. I say gently to the noble Lord, Lord German, that I heard a great deal in her comments about structures and systems.

As the noble and learned Lord, Lord Hope of Craighead, has explained, these amendments seek to allow Parliament to deem Rwanda to be safe only so long as the arrangements provided for in the Rwanda treaty have been fully implemented and are being adhered to in practice. The UK Government and the Government of Rwanda have agreed and begun to implement assurances and commitments to strengthen Rwanda's asylum system. In advance of agreeing the treaty, we worked with the Government of Rwanda to respond to the findings of the courts by evidencing Rwanda's existing asylum procedures and practice in standard operating procedures relating to and reflecting the current refugee status determination and appeals process.

Amendment 7 imposes a duty on the Secretary of State to obtain a statement from the independent monitoring committee confirming that the objectives specified in Article 2 of the treaty have been secured. This is unnecessary; the Government will ratify the treaty in the UK only once we agree with Rwanda that all necessary implementation is in place for both countries to comply with the obligations under the treaty. We have assurances from the Government of Rwanda that the implementation of all measures in the treaty will be expedited, and we continue to work with the Rwandans on this. The legislation required for Rwanda to ratify the treaty passed the lower house of the Rwandan Parliament on 28 February and it will now go to the upper house, as my noble friend Lord Murray noted in the debate on the previous group. Once ratified, the treaty will become law in Rwanda. It follows that the Government of Rwanda would then be required to give effect to the terms of the treaty in accordance with its domestic law as well as international law.

The Bill's provisions come into force when the treaty enters into force. The treaty enters into force when the parties have completed their internal procedures. These amendments therefore confuse the process for implementing the treaty with what is required for the Bill's provisions to come into force. The Bill builds on the treaty between the UK and the Government of Rwanda signed on 5 December 2023. It reflects the strength of the Government of Rwanda's protections and commitments given in the treaty to people transferred to Rwanda in accordance with the treaty. Alongside the evidence of changes in Rwanda since summer 2022,

published this January, the treaty will enable Parliament to conclude that Rwanda is safe and the Bill provides Parliament with the opportunity to do so. I say to my noble friend Lord Deben that that is the truth.

Lord Deben (Con): I accept everything the Minister says, but it is all about what will happen in future. He is asking me to accept that what will happen in future has happened now. That is the only argument. He would not ask me to do that in any other circumstances. Can he explain why I have to do it now?

5.30 pm

Lord Sharpe of Epsom (Con): My Lords, I have been extraordinarily clear on this subject. As I said, the Bill provisions come into force when the treaty enters into force. The treaty enters into force when the parties have completed their internal procedures, and these amendments therefore confuse the process for implementing the treaty with what is required for the Bill provisions to come into force.

Lord Clarke of Nottingham (Con): My noble friend says that it will confuse it; it is actually perfectly straightforward. If everything happens as smoothly as he says it will happen—and I hope it does, because I do not object to the safe country policy that is being pursued if we can find a safe country—the monitoring committee will presumably confirm that it has happened. Why is he resisting it, except to save the Secretary of State having to send a letter asking for the monitoring committee's principle? Why is this amendment a threat to the Government's stated policy?

Lord Sharpe of Epsom (Con): I say to my noble friend that I am about to come on to the workings of the monitoring committee in great detail, if he will bear with me.

I turn to the points raised with regard to introducing a duty on the Secretary of State to consult with the monitoring committee every three months during the operation of the treaty. The committee is independent of both the UK and Rwandan Governments. It was always intended to be independent, to ensure that there is a layer of impartial oversight of the operation of the partnership. Maintaining the committee's independence is an integral aspect of the design of the policy, and, as my noble and learned friend Lord Stewart of Dirleton set out, the treaty enhances the monitoring committee's role.

The committee will ensure that obligations to the treaty are adhered to in practice and, as set out in Article 15(4)(b), it will report to the joint committee, which is made up of both UK and Rwandan officials. As per Article 15(4)(c) of the treaty, the monitoring committee will make any recommendations it sees fit to the joint committee. Therefore, these amendments are both unnecessary and risk disturbing the independence and impartiality of the monitoring committee.

Lord Falconer of Thoroton (Lab): I apologise for interrupting the Minister. Could he confirm to the House that the Minister, which I assume means the Secretary of State for Home Affairs, will not seek to bring the Bill—the Act—into force until he is satisfied that all the provisions of the treaty have been implemented and are being properly operated?

Lord Sharpe of Epsom (Con): I think I have already answered that. The Bill provisions come into force when the treaty enters into force, and the treaty enters into force when the parties have completed their internal procedures.

Lord Falconer of Thoroton (Lab): Sorry for interrupting again, but that is not quite an answer to my question. Could the Minister give the House an assurance that the Home Secretary will bring the treaty into force only once he is satisfied that the treaty's provisions have been implemented and it is operational?

Lord Sharpe of Epsom (Con): My Lords, I disagree. I am afraid that is an answer to this particular question. I think it is. To assure noble Lords further, the joint committee met on 21 February to discuss implementation and readiness for operationalisation and, as set out in the published terms of reference for the joint committee, minutes will be produced after each meeting for agreement by the co-chairs.

The monitoring committee will undertake daily monitoring of the partnership for at least the first three months to ensure rapid identification of and response to any shortcomings. This enhanced phase will ensure that comprehensive monitoring and reporting take place in real time. As I set out in earlier debates, during the period of enhanced monitoring, the monitoring committee will report to the joint committee in accordance with an agreed action plan, to include weekly and bi-weekly reporting as required.

During the enhanced phase, the monitoring committee will place particular emphasis on monitoring asylum procedures, asylum case assessments, and any asylum decisions made in this timeframe. The monitoring committee will ensure that decisions are objective and based on a legally sound foundation in accordance with international laws and convention.

The following minimum levels of assurance have been agreed by the monitoring committee for the enhanced phase: two visits to the UK to see the selection process; observing two boardings and two disembarkations; observing three induction sessions; weekly visits to accommodation and reception centres; monthly visits to health and education facilities; observing education and language training sessions; observing interviews and appeal hearings; reviewing the process and paperwork for all individuals relocated to Rwanda in this phase; monitoring the status of people relocated to Rwanda, captured through the quarterly reporting process and visits to resettlement areas; reviewing a sample of at least 25% of complaints, including all serious incidents; investigating all complaints received directly; and interviewing on a voluntary basis a sample of one in 10 relocated individuals at various stages of the process.

The published terms of reference are accompanied by a detailed monitoring plan—as agreed by the monitoring committee—which was published on 11 January. These documents provide a comprehensive

[Lord Sharpe of Epsom]
and transparent framework for the operations and procedures of the monitoring committee, starting from the immediate departure period of the first cohort of relocated individuals and including the details of the enhanced initial monitoring phase.

The plan provides an overview of the monitoring committee's specific activities, monitoring techniques, and the personnel involved. It also outlines reporting procedures—

Lord Hannay of Chiswick (CB): I am most grateful to the Minister, who has given us a great deal of new information about the monitoring committee. But all he has told the House demonstrates that the monitoring committee is extremely well placed to provide the Government the information they need to act as in my noble and learned friend's amendment. What is holding them back? The fact of the matter is that the monitoring committee has no means of reporting to this Parliament, but the Government do. That is what this amendment suggests is the right thing to do.

Lord Sharpe of Epsom (Con): I hear what the noble Lord says, but I have answered this in considerable detail now.

Lord Clarke of Nottingham (Con): The more detail the Minister gives about the virtues of the monitoring committee, the stronger his argument is in favour of the amendment proposed to this House by the noble and learned Lord, Lord Hope. The briefing he has been given is totally contradictory to the conclusion that he is trying to invite us to reach.

Lord Sharpe of Epsom (Con): I am afraid I disagree again.

Noble Lords: Oh!

Lord Sharpe of Epsom (Con): My Lords, as set out in the monitoring plan, the monitoring committee will ensure that there is a daily presence of the support team on the ground through the initial enhanced phase. For the enhanced phase, a minimum of two monitoring committee members will be actively engaged in the monitoring.

Implementation continues at pace, including of the support team for the monitoring committee and the new appeals body. I put on record my thanks to all officials, including those in the Government of Rwanda, for all their hard work in implementing the treaty and delivering the crucial partnership. The partnership is one important component of a much broader bilateral relationship. We co-operate closely with Rwanda on a number of issues, including the Commonwealth, climate change, education, trade, governance, and conflict issues, and delivering a successful and long-standing development partnership.

To conclude, we have agreed and begun to implement assurances and commitments to strengthen Rwanda's asylum system. These assurances and commitments provide clear evidence of the Government of Rwanda's ability to fulfil its obligations generally and specifically, to ensure that relocated individuals face no risk of refoulement. I therefore respectfully ask the noble and learned Lord—

Lord Carlile of Berriew (CB): Before the Minister sits down, I return to the question I asked him earlier: will he now tell the House which of the nine provisions highlighted in paragraph 45 of the International Agreements Committee's report are now completed?

Lord Sharpe of Epsom (Con): My Lords, as has already been discussed, the lower house of the Rwandan Parliament passed its treaty ratification only earlier this week. As I have just tried to explain, implementation continues at pace. I do not yet have the very specific information the noble Lord requires, but, as I have also explained, we will not implement until all the treaty obligations are met.

I therefore respectfully ask the noble and learned Lord to not press his amendment, but, were he to do so, I would have no hesitation in inviting the House to reject it.

Lord Hope of Craighead (CB): My Lords, I am very grateful to all noble Lords who have taken part in the debate. I do not want to take up time by going over the issues all over again, but I want to pick up two points made by the noble Lord, Lord Hodgson of Astley Abbotts.

First, I think the noble Lord suggested that my amendments were treating Rwanda as a country that is untrustworthy; I absolutely refute that. When I introduced the amendments in Committee, I made it absolutely clear that I do not, for a moment, question the good faith of Rwanda, and I remain in that position. I absolutely understand that both parties to the treaty are treating each other on that basis. I am certainly not, in any way, questioning the good faith or commitment of Rwanda to give effect to the treaty; what I am talking about is implementation.

Secondly, I think the noble Lord said that my amendment would make the Bill unworkable. I simply do not understand that. I cannot understand why relying on the word of the monitoring committee in any way undermines the effectiveness or purpose of the Bill. For those reasons, I wish to test the opinion of the House.

The Deputy Speaker (Lord Geddes) (Con): I must advise the House that, if Amendment 4 is agreed to, I cannot call Amendment 5, due to pre-emption.

5.39 pm

Division on Amendment 4

Contents 282; Not-Contents 180.

Amendment 4 agreed.

Division No. 2

CONTENTS

Aberdare, L.	Allan of Hallam, L.
Addington, L.	Alton of Liverpool, L.
Adebowale, L.	Anderson of Ipswich, L.
Alderdice, L.	[Teller]

Anderson of Stoke-on-Trent, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashton of Upholland, B.
Bach, L.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley of Knighton, L.
Birt, L.
Blackstone, B.
Blake of Leeds, B.
Blower, B.
Blunkett, L.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Boycott, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brinton, B.
Brooke of Alverthorpe, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Bull, B.
Burnett, L.
Burns, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Butler-Sloss, B.
Cameron of Dillington, L.
Campbell-Savours, L.
Canterbury, Abp.
Carlile of Berriew, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chapman of Darlington, B.
Clancarty, E.
Clark of Calton, B.
Clark of Windermere, L.
Clarke of Nottingham, L.
Clement-Jones, L.
Coaker, L.
Collins of Highbury, L.
Colville of Culross, V.
Coussins, B.
Crawley, B.
Cromwell, L.
Davidson of Glen Clova, L.
Davies of Brixton, L.
Dear, L.
Deben, L.
Desai, L.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
Drayson, L.
D'Souza, B.
Dubs, L.
Eatwell, L.
Eccles, V.
Etherton, L.
Fairhead, B.
Falconer of Thoroton, L.
Faulkner of Worcester, L.
Featherstone, B.
Finlay of Llandaff, B.
Ford, B.
Foster of Bath, L.
Fox, L.
Freyberg, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Glasman, L.
Goddard of Stockport, L.
Gohir, B.
Goudie, B.
Grantchester, L.
Green of Hurstpierpoint, L.
Grey-Thompson, B.
Griffiths of Burry Port, L.
Grocott, L.
Hacking, L.
Hailsham, V.
Hain, L.
Hale of Richmond, B.
Hampton, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Hayman of Ullock, B.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Hollick, L.
Hollins, B.
Hope of Craighead, L. [Teller]
Houghton of Richmond, L.
Howarth of Newport, L.
Hughes of Stretford, B.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Inglewood, L.
Janke, B.
Jay of Ewelme, L.
Jay of Paddington, B.
Jolly, B.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Jordan, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Khan of Burnley, L.
Kidron, B.
Kingsmill, B.
Kinnock, L.
Knight of Weymouth, L.
Kramer, B.
Krebs, L.
Laming, L.
Lawrence of Clarendon, B.
Layard, L.
Lee of Trafford, L.
Lennie, L.
Leong, L.
Levy, L.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Lisvane, L.
Livermore, L.
Londesborough, L.
London, Bp.
Ludford, B.
Lytton, E.
Macpherson of Earl's Court, L.
Manchester, Bp.
Mandelson, L.
Marks of Henley-on-Thames, L.
Maxton, L.
McDonald of Salford, L.
McIntosh of Hudnall, B.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Mendelsohn, L.
Merron, B.
Miller of Chilthorne Domer, B.
Mitchell, L.
Monks, L.
Morgan of Huyton, B.
Morgan, L.
Morris of Yardley, B.
Murphy of Torfaen, L.
Neuberger, B.
Newby, L.
Newcastle, Bp.
Northover, B.
Nye, B.
Oates, L.
O'Donnell, L.
O'Grady of Upper Holloway, B.
O'Loan, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Patel of Bradford, L.
Patel, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Prentis of Leeds, L.
Purvis of Tweed, L.
Quin, B.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Ricketts, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Robertson of Port Ellen, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Russell, E.
Sahota, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Sikka, L.
Skidelsky, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Newnham, B.
Snape, L.
St Edmundsbury and Ipswich, Bp.
Stansgate, V.
Stephen, L.
Stevenson of Balmacara, L.
Stirrup, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.
Taylor of Stevenage, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurlow, L.
Thurso, V.
Touhig, L.
Triesman, L.
Tugendhat, L.
Tunnicliffe, L.
Turnberg, L.
Turnbull, L.
Tyler of Enfield, B.
Uddin, B.
Vaux of Harrowden, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Walney, L.
Warner, L.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watson of Wyre Forest, L.
Watts, L.
Wellington, D.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wilson of Dinton, L.
Winston, L.
Wood of Anfield, L.
Woodley, L.
Woolley of Woodford, L.
Wrigglesworth, L.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altrincham, L.
Anelay of St Johns, B.
Ashcombe, L.
Ashton of Hyde, L.
Attlee, E.
Bailey of Paddington, L.
Balfe, L.
Barran, B.
Bellamy, L.
Benyon, L.
Bertin, B.
Bethell, L.
Blencathra, L.
Borwick, L.
Brady, B.
Bray of Coln, B.
Bridges of Headley, L.
Browne of Belmont, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.

Callanan, L.
Cameron of Chipping Norton, L.
Camoys, L.
Camrose, V.
Carrington of Fulham, L.
Carrington, L.
Cathcart, E.
Choudrey, L.
Colgrain, L.
Courtown, E. [Teller]
Craig of Radley, L.
Crathorne, L.
Cruddas, L.
Cumberlege, B.
Davies of Gower, L.
De Mauley, L.
Dobbs, L.
Dodds of Duncairn, L.
Douglas-Miller, L.
Dunlop, L.
Eaton, B.
Effingham, E.
Elliott of Mickle Fell, L.
Empey, L.
Evans of Bowes Park, B.
Evans of Rainow, L.
Fairfax of Cameron, L.
Farmer, L.
Faulks, L.
Fleet, B.
Fookes, B.
Forsyth of Drumlean, L.
Foster of Oxton, B.
Fowler, L.
Frost, L.
Gascoigne, L.
Godson, L.
Gold, L.
Goldie, B.
Goschen, V.
Grade of Yarmouth, L.
Green of Deddington, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hamilton of Epsom, L.
Hannan of Kingsclere, L.
Harlech, L.
Haselhurst, L.
Hay of Ballyore, L.
Hayward, L.
Henley, L.
Herbert of South Downs, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hoey, B.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Houchen of High Leven, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jackson of Peterborough, L.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Kempsell, L.
Lamont of Lerwick, L.
Lansley, L.
Lawlor, B.
Lea of Lymm, B.
Leigh of Hurley, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lucas, L.
Lupton, L.
Magan of Castletown, L.
Mancroft, L.
Markham, L.
Marland, L.
Marlesford, L.
McColl of Dulwich, L.
McCrea of Magherafelt and Cookstown, L.
McInnes of Kilwinning, L.
McLoughlin, L.
Mendoza, L.
Meyer, B.
Minto, E.
Montrose, D.
Moore of Etchingham, L.
Morgan of Cotes, B.
Morrow, L.
Mott, L.
Moylan, L.
Moynihan of Chelsea, L.
Murray of Blidworth, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Noakes, B.
Norton of Louth, L.
Offord of Garvel, L.
Owen of Alderley Edge, B.
Parkinson of Whitley Bay, L.
Patten, L.
Pidding, B.
Porter of Spalding, L.
Powell of Bayswater, L.
Ranger of Northwood, L.
Rawlings, B.
Reay, L.
Redfern, B.
Risby, L.
Robathan, L.
Roborough, L.
Rock, B.
Rogan, L.
Sanderson of Welton, B.
Sandhurst, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, 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.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Strathclyde, L.
Stroud, B.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trenchard, V.
True, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Waverley, V.
Wei, L.
Willetts, L.
Williams of Trafford, B. [Teller]
Wrottesley, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

5.55 pm

Amendments 5 and 6 not moved.

Amendment 7

Moved by ***Lord Hope of Craighead***

7: Clause 1, page 2, line 31, at the end insert—

"(7) The Rwanda Treaty will have been fully implemented for the purposes of this Act when the Secretary of State has obtained and laid before Parliament a statement from the independent Monitoring Committee formed under Article 15 that the objectives referred to in Article 2 of the Treaty have been secured by the creation of the mechanisms listed in that Article.

(8) The Secretary of State must consult the Monitoring Committee every three months during the period that the Treaty remains in force, and must make a statement to Parliament at the earliest opportunity in the event that the advice of the Monitoring Committee is that the provisions of the Treaty are not being adhered to in practice.

(9) If the advice of the Monitoring Committee is as referred to in subsection (8), the Rwanda Treaty shall cease to be treated as fully implemented for the purposes of this Act unless and until the Secretary of State has obtained from the Monitoring Committee, and laid before Parliament, subsequent advice that the provisions of the Treaty are being adhered to in practice."

Member's explanatory statement

This amendment seeks to provide a means by which it can be determined for the purposes of this Act that the Rwanda Treaty has been, and continues to be, fully implemented.

Lord Hope of Craighead (CB): My Lords, I wish to test the opinion of the House on this amendment.

5.56 pm

Division on Amendment 7

Contents 277; Not-Contents 167.

Amendment 7 agreed.

Division No. 3

CONTENTS

Aberdare, L.
Addington, L.
Adebowale, L.
Alderdice, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Anderson of Ipswich, L. [Teller]
Anderson of Stoke-on-Trent, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashton of Upholland, B.
Bach, L.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Best, L.
Bilimoria, L.
Birt, L.
Blackstone, B.
Blake of Leeds, B.
Blower, B.
Blunkett, L.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.

Boycott, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brinton, B.
Brooke of Alverthorpe, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Bull, B.
Burnett, L.
Burns, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Butler-Sloss, B.
Cameron of Dillington, L.
Campbell of Surbiton, B.
Campbell-Savours, L.
Canterbury, Abp.
Carlile of Berriew, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chapman of Darlington, B.
Clancarty, E.
Clark of Calton, B.
Clark of Windermere, L.
Clarke of Nottingham, L.
Clement-Jones, L.
Collins of Highbury, L.
Colville of Culross, V.
Coussins, B.
Crawley, B.
Cromwell, L.
Davidson of Glen Clova, L.
Davies of Brixton, L.
Dear, L.
Deben, L.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
Drayson, L.
D'Souza, B.
Dubs, L.
Eatwell, L.
Eccles, V.
Etherton, L.
Fairhead, B.
Falconer of Thoroton, L.
Faulkner of Worcester, L.
Featherstone, B.
Finlay of Llandaff, B.
Ford, B.
Foster of Bath, L.
Fox, L.
Freyberg, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Glasman, L.
Goddard of Stockport, L.
Gohir, B.
Goudie, B.
Grantchester, L.
Green of Hurstpierpoint, L.
Grey-Thompson, B.
Griffiths of Burry Port, L.
Grocott, L.
Hacking, L.
Hailsham, V.
Hain, L.
Hale of Richmond, B.
Hampton, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Hayman of Ullock, B.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Hollick, L.
Hollins, B.
Hope of Craighead, L. [Teller]
Houghton of Richmond, L.
Howarth of Newport, L.
Hughes of Stretford, B.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Inglewood, L.
Janke, B.
Jay of Ewelme, L.
Jay of Paddington, B.
Jolly, B.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Jordan, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Khan of Burnley, L.
Kidron, B.
Kingsmill, B.
Kinnock, L.
Knight of Weymouth, L.
Kramer, B.
Krebs, L.
Laming, L.
Lawrence of Clarendon, B.
Layard, L.
Lee of Trafford, L.
Lennie, L.
Leong, L.
Levy, L.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Lisvane, L.
Livermore, L.
Londesborough, L.
London, Bp.
Ludford, B.
Lytton, E.
Macpherson of Earl's Court, L.
Manchester, Bp.
Mandelson, L.
Marks of Henley-on-Thames, L.
Maxton, L.
McDonald of Salford, L.
McIntosh of Hudnall, B.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Merron, B.
Miller of Chilthorne Domer, B.
Mitchell, L.
Monks, L.
Morgan of Huyton, B.
Morgan, L.
Morris of Yardley, B.
Murphy of Torfaen, L.
Neuberger, B.
Newby, L.
Newcastle, Bp.
Northover, B.
Nye, B.
Oates, L.
O'Donnell, L.
O'Grady of Upper Holloway, B.
O'Loan, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Patel of Bradford, L.
Patel, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Prentis of Leeds, L.
Purvis of Tweed, L.
Quin, B.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Ricketts, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Robertson of Port Ellen, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Sahota, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Sikka, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Newnham, B.
Snape, L.
St Edmundsbury and Ipswich, Bp.
Stansgate, V.
Stephen, L.
Stevenson of Balmacara, L.
Stirrup, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.
Taylor of Stevenage, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurlow, L.
Thurso, V.
Touhig, L.
Triesman, L.
Tunnicliffe, L.
Turnberg, L.
Turnbull, L.
Tyler of Enfield, B.
Uddin, B.
Vaux of Harrowden, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warner, L.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watson of Wyre Forest, L.
Watts, L.
Wellington, D.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wilson of Dinton, L.
Winston, L.
Wood of Anfield, L.
Woodley, L.
Woolley of Woodford, L.
Wrigglesworth, L.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altrincham, L.
Anelay of St Johns, B.
Ashcombe, L.
Ashton of Hyde, L.
Attlee, E.
Bailey of Paddington, L.
Balfe, L.
Barran, B.
Bellamy, L.
Benyon, L.
Bertin, B.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Brady, B.
Bray of Coln, B.
Bridgeman, V.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Callanan, L.
Cameron of Chipping Norton, L.
Camoys, L.
Camrose, V.
Carrington of Fulham, L.
Carrington, L.
Cathcart, E.
Choudrey, L.
Colgrain, L.
Courtown, E. [Teller]
Craig of Radley, L.
Crathorne, L.
Cruddas, L.
Davies of Gower, L.
De Mauley, L.
Dobbs, L.
Douglas-Miller, L.
Dunlop, L.
Eaton, B.
Effingham, E.
Elliott of Mickle Fell, L.
Empey, L.
Evans of Bowes Park, B.
Evans of Rainow, L.

Fairfax of Cameron, L.
Faulks, L.
Fleet, B.
Fookes, B.
Forsyth of Drumlean, L.
Foster of Oxton, B.
Frost, L.
Gascoigne, L.
Godson, L.
Gold, L.
Goldie, B.
Goschen, V.
Grade of Yarmouth, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hamilton of Epsom, L.
Hannan of Kingsclere, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Hayward, L.
Henley, L.
Herbert of South Downs, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hoey, B.
Holmes of Richmond, L.
Hooper, B.
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.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Kempsell, L.
Lamont of Lerwick, L.
Lansley, L.
Lawlor, B.
Lea of Lymm, B.
Leigh of Hurley, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lucas, L.
Lupton, L.
Magan of Castletown, L.
Mancroft, L.
Markham, L.
Marland, L.
Marlesford, L.
McColl of Dulwich, L.
McInnes of Kilwinning, L.
McLoughlin, L.
Mendoza, L.
Minto, E.
Montrose, D.
Moore of Etchingham, L.
Morgan of Cotes, B.
Mott, L.
Moylan, L.
Moynihan of Chelsea, L.
Murray of Blidworth, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Noakes, B.
Offord of Garvel, L.
Owen of Alderley Edge, B.
Parkinson of Whitley Bay, L.
Patten, L.
Pidding, B.
Porter of Spalding, L.
Powell of Bayswater, L.
Ranger of Northwood, L.
Rawlings, B.
Reay, L.
Redfern, B.
Risby, L.
Robathan, L.
Roborough, L.
Rock, B.
Rosenfield, L.
Sanderson of Welton, B.
Sandhurst, L.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, 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.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Strathclyde, L.
Stroud, B.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trenchard, V.
True, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Waverley, V.
Wei, L.
Willetts, L.
Williams of Trafford, B. [Teller]
Wrottesley, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

6.09 pm

The Deputy Speaker (Baroness Finlay of Llandaff) (CB): My Lords, before I call the next amendments, I will explain the order of pre-emption, because it is important. If Amendment 8 is agreed to, I cannot call Amendments 9 to 11 due to pre-emption. If Amendment 9 is agreed to, I cannot call Amendments 10 and 11 due to pre-emption. If Amendment 10 is agreed to, I cannot call Amendment 11 due to pre-emption. I will remind your Lordships at the relevant points. I now call Amendment 8.

Clause 2: Safety of the Republic of Rwanda

Amendment 8 not moved.

The Deputy Speaker (Baroness Finlay of Llandaff) (CB): I remind noble Lords that, if Amendment 9 is agreed to, I will be unable to call Amendments 10 and 11 due to pre-emption.

Amendment 9

Moved by ***Lord Anderson of Ipswich***

9: Clause 2, page 2, line 34, at end insert "unless presented with credible evidence to the contrary"

Member's explanatory statement

The amendments to Clause 2 in the name of Lord Anderson of Ipswich would allow the presumption that Rwanda is a safe country to be rebutted by credible evidence presented to decision-makers, including courts and tribunals.

Lord Anderson of Ipswich (CB): My Lords, I rise to move Amendment 9 and address Amendment 12 in my name and those of my noble friend Lord Carlile, the right reverend Prelate the Bishop of Manchester and the noble Lord, Lord Clarke of Nottingham. I will be brief, because the equivalent amendments were discussed in detail in Committee. I am also very grateful to my noble and learned friend Lord Hope of Craighead for how he has dealt with pre-emption, which, your Lordships willing, may allow both groups of amendments to stay alive.

Amendment 9 would allow Ministers, officials and courts to depart from the presumption that Rwanda is safe when presented with credible evidence that it is not. Amendment 12 would remove various detailed barriers to that course. Their combined effect is to reverse two of the most revolutionary—I do not use that word in a positive sense— aspects of the Bill. They are the requirement for decision-makers, including courts, to stop their ears to any evidence that does not agree with the Government's position and the requirement that they should do so for an indefinite period, even if things in Rwanda—as we all hope that they do not—take a turn for the worse.

If noble Lords are in any doubt about how truly remarkable Clause 2 is, I invite them to look at subsection (4). It does not matter how compelling your evidence is of what could happen to you and people like you when you get to Rwanda, it must not even be considered if it questions the proposition that Rwanda is safe.

Subsection (5) sets out the legal principles that have to be ignored to make this clause work—not just the Human Rights Act and international law but

"any other provision or rule of domestic law (including any common law)"—

an insight into the sheer range of legal protections, ancient and modern, that may have to be disregarded in the interests of avoiding the impartial scrutiny of the courts.

If Rwanda is safe, as the Government would have us declare, it has nothing to fear from such scrutiny, yet we are invited to adopt a fiction, to wrap it in the cloak of parliamentary sovereignty and to grant it permanent immunity from challenge—to tell an untruth and call it truth. Why would we go along with that? Clause 2 takes us for fools. Subject to anything that

the Minister may say, when these amendments are called, I fully expect to test the opinion of the House. I beg to move.

Lord Blunkett (Lab): My Lords, I rise to support the noble Lord, Lord Anderson of Ipswich. I am glad that this evening I have started to understand the processes of the House of Lords, having been here only eight years. Therefore, I will not speak to Amendment 6, which had to be withdrawn in order to vote on Amendment 7, even though Amendment 6 was in group three, but there we go.

I can be even briefer than I intended to be, by just saying that when something is a nonsense, it remains a nonsense at whatever stage we happen to be voting on it. Crucially, in terms of what the noble Lord, Lord Anderson, has rightly said, when circumstances change, most people change their minds. If minds are not allowed to be changed when circumstances change, then we are all extremely foolish.

I heard the noble Lord, Lord Howard, on the radio this morning explaining in great detail why Parliament had primacy over the courts. In many respects, as with the doctrines of Lord Jonathan Sumption, I agree. However, when the Government step outside the norms of international conventions which Parliament has ratified and signed up to, then the courts obviously continue to have a substantial role, because those are the checks and balances we have built in.

This evening, we are trying to make sense of a nonsensical piece of legislation. No doubt the House of Commons will just nod through the Government's rejection of these amendments, but in times to come, when historians look back, I think they will ask: "Where were you and what did you do?" If you cannot answer that in a way that makes you comfortable about your grandchildren seeing it, then do not do it.

6.15 pm

Baroness Chakrabarti (Lab): My Lords, it is a privilege to follow my noble friend Lord Blunkett. I apologise to your Lordships for my mistakes earlier on, with standing up at the wrong time.

I have Amendment 19 in this group, with the noble and learned Baroness, Lady Hale of Richmond, the noble Viscount, Lord Hailsham, and the right reverend Prelate the Bishop of St Edmundsbury and Ipswich. However, I commend all other amendments, in particular the simple and clear amendments of the noble Lord, Lord Anderson of Ipswich. While we suggested a rebuttable presumption, his formulation—that a finding of safety may be displaced by "credible evidence to the contrary"—is clearer and even more attractive. Therefore, I urge him, as he has indicated, to press his amendment to a vote.

In concluding, I merely flag, as a sort of advert for Wednesday, that it is very important that as many noble Lords as possible can be here early on Wednesday to support Amendment 33, which introduces a new Clause 4. That will be debated and pressed then, because without that amendment, which restores the general jurisdiction of the courts, other amendments, even these ones, could well be illusory. The purpose, as I say, is to restore the jurisdiction of courts and tribunals to decide what the facts are, based on the evidence before them, including to invoke this rebuttable presumption. That is what our courts are for, despite all the dancing we heard before about novel interpretations of the rule of law. Our courts are admired for that jurisdiction all over the world. That is what we mean by the rule of law.

Viscount Hailsham (Con): My Lords, I rise briefly to support what the noble Lord, Lord Anderson, has said, as well as, of course, the noble Baroness, Lady Chakrabarti; I signed her Amendment 19. This House should try to insist that, if the facts change, a mechanism is provided to the courts to reassess the situation. Anything else is profoundly unjust. Therefore, if the noble Lord, Lord Anderson, moves his amendment, I will support him.

Baroness Lister of Burtersett (Lab): My Lords, as well as supporting the noble Lord, Lord Anderson, I rise to speak to Amendment 16, which seeks to minimise the risk of torture arising from the Bill and to safeguard torture survivors. I am grateful to the noble Baroness, Lady D'Souza, and my noble friend Lord Cashman for their support. They will speak to the first part of the amendment, while I will focus on the second. We brought it back because of our dissatisfaction with the response from the Minister in Committee. We hope that we might do better now, given the existential importance of torture, which represents one of the most serious of human rights violations.

We know from the work of organisations such as Freedom from Torture and Redress, whose help I am grateful for, that a good number of the asylum seekers in line to be sent to Rwanda will have survived torture. We also know, including from a recent report from the Mental Health Foundation, of the high incidence of mental health difficulties among asylum seekers, the risk of which is increased by traumatic experiences such as torture. These difficulties can only be exacerbated by removal to Rwanda.

In Committee, the Minister pointed out that an individual could challenge removal on the grounds of their "individual circumstances". But Freedom from Torture warns that providing, in the time available, the necessary "compelling evidence" to meet the exceptionally high bar set by the test means that this does not offer torture survivors an effective safeguard. Indeed, the Minister himself admitted that successful claims on this basis are expected to be "rare". That might have implications for some other amendments.

In response to my questioning about what mental health support will be available to torture survivors in Rwanda, the Minister referred me to Article 13 of the treaty, but that refers only to the special needs of victims of modern slavery or human trafficking. I can find no reference to the needs of torture survivors.

My noble friend Lady Kennedy of The Shaws interjected that the mental health situation in Rwanda is very poor, with high levels of mental illness but very few suitably trained medical professionals. Since then, I have been referred to WHO's 2020 mental health profile for Rwanda. This confirms the low level of

[Baroness Lister of Burtersett]
provision and seems to show that there are no out-patient mental health facilities. If this continues to be the case, would traumatised torture survivors have to be admitted to a mental health unit to obtain any support? As was noted in Committee, civil society remains weak and therefore is unlikely to be able to step in.

More recently, last October, a press release from Interpeace, while commending the efforts that the Rwandan Government have made in this area, warns that

"the country still faces challenges such as the scale of mental health needs that outstrips the capacity of available professionals, low awareness and knowledge of mental health issues"

and "poor mental health infrastructure".

From the Minister's responses, it would appear that the Government simply do not know what support will be available and have made no attempt to find out, yet they are happy to condemn this highly vulnerable group to a life in a country that, with the best will in the world, is ill placed to provide that support. Of course, ideally, I would want the Government to accept the case for not sending torture survivors to Rwanda. At the very minimum, I ask the Minister to take this issue back to the Home Office—although I am not quite sure which Minister will respond—and give an undertaking that he will ask his colleagues to talk to the Rwandan Government about support for torture survivors and, if necessary, provide the necessary resources to ensure that support is available, perhaps earmarking part of the enormous sum to be paid to Rwanda identified by the NAO.

Baroness D'Souza (CB): My Lords, what needs to be said about the risk of torture and inhumane treatment has already been set out by the noble Baroness, Lady Lister. I simply emphasise the credibility of the reports of ongoing torture of even mild political dissenters, which continues to this day in Rwanda. Nor do freedom of expression and association exist there, however narrowly the terms are defined. However, the genocide ideology law is broadly defined and now carries criminal sanctions. The criminal code has recently been expanded to include

"creating a hostile … opinion of Rwanda"

by criticising the Government. These irrefutable reports indicate that Rwanda does not comply with the international obligations under various UN conventions, including the convention against torture. This can only add to the evidence that, at present, Rwanda cannot be regarded as a safe country.

The Lord Bishop of Manchester: My Lords, I am grateful to the noble Lord, Lord Anderson of Ipswich, for sponsoring Amendments 9 and 12, to which I have added my name. They take up matters that I and the noble Lord, Lord Carlile, raised in Committee. This evening, Rwanda might be the safest country in Africa for all I know, but over the last few years we have seen a number of military coups and takeovers across African countries. To enshrine in legislation the notion that Rwanda will remain safe whatever seems to beggar belief. Who knows in what state that country might be in six to 12 months' time? Who knows how safe it will be then? The courts need the ability to take new facts into consideration, to recognise that Rwanda may not be the same in a certain number of weeks, months or years as it was on this evening at the beginning of March 2024. We must have that flexibility. I hope that the noble Lord, Lord Anderson, will press these amendments to a Division. I will support him in the Lobby if he does.

Lord Murray of Blidworth (Con): My Lords, as a member of the JCHR delegation, I had the benefit of visiting the very hospital in Kigali that will provide mental health support to relocated individuals. It was an impressive experience. That hospital has very capable psychiatric and psychological care. This is perhaps unsurprising given the context in which Rwanda finds itself. This is a country that, 30 years ago, was caused mass trauma as a consequence of the genocide against the Tutsi, which cost 800,000 lives in Rwanda. You can imagine the impact that has on relatives and those who knew those 800,000 people. Mental health is a widely understood and widely acknowledged issue in Rwanda. The community schemes to work on mental health are abundant. This is a country that understands mental health. The points raised against Rwanda on the basis of mental health are, in my view, unfounded. I do not accept the contentions advanced by the noble Baronesses, Lady Lister and Lady D'Souza.

Lord Scriven (LD): My Lords, I am pleased to follow the noble Lord, Lord Murray, and his trying to portray mental health provision within Rwanda. To use his words, the understanding of the illness may be there, and he says that the provision is significant. I point out that there are 13,170 psychiatrists in the UK, which equates to one for every 5,200 citizens. What the noble Lord, Lord Murray, did not tell the House is that there are only 15 psychiatrists in the whole of Rwanda, which equates to one for every 953,000 people. Clearly, the provision is not on the ground. The number of clinical psychologists is not known, but the latest evidence is that it probably runs to fewer than 200. The people who are vulnerable and critically scarred mentally will need the use of psychologists and psychiatrists. The fact is that they are not there. When the noble Lord, Lord Murray, presents his views of what he has seen, they are important, but they must be put into context of exactly what provision there is in Rwanda. Even though the Government may wish to see mental health provision as important, it is not on the ground to treat people already in Rwanda, never mind people who will be going because of the Bill.

Lord Cashman (Lab): My Lords, as I said earlier when talking to a group of amendments, I spent a great deal of time in Rwanda. As anyone who visits knows, the first thing you do is go to the genocide museum to look at the faces of those lost and the skulls, there to remind us that it should not be forgotten. Indeed, the genocide strikes at the very psyche of Rwanda and laws within the country. It is because of our deep concerns, and for the progress that Rwanda has made, that we put forward these amendments based on the safety of those whom we believe are among the most vulnerable in the world.

My name has been added to the amendment in the name of my noble friend Lady Lister. I believe that she and the noble Baroness, Lady D'Souza, have set out adequately the reasoning for this amendment, so I will not go into further detail. But I will say this: there is evidence of ongoing torture in Rwanda. That was made plain to us during Committee by my noble friend Lady Whitaker. It has been made plain to us in the briefings that we have received from Redress, among others. I make these criticisms with deep regret, because the UK Government cannot be easily forgiven for the harsh spotlight they have put on a country that has striven to improve since that genocide and continues to improve. That is why I say with the greatest respect that our concerns are for the most vulnerable. Those who will go there will pull up the resources there already for those in need.

Therefore, if the noble Lord, Lord Anderson, puts his amendments to the test, I hope your Lordships will support them. As I have said before—I am repeating myself, like a cheap curry—they are so sensible. That is probably why the Government will encourage us to reject them.

Finally, as I said, these amendments are about supporting the most vulnerable and those most in need. If we cannot offer support and consideration to those most in need, then I must ask: what kind of country have we become and what principles do we serve—except perhaps naked self-interest?

6.30 pm

Baroness Butler-Sloss (CB): My Lords, I shall speak to Amendments 23 and 27, in my name and that of the noble Baroness, Lady Meacher. They deal with Clause 4(1)(a) and (b), and relate very simply to "compelling evidence". The threshold is quite simply too high for someone to be found to require "particular individual circumstances" to be considered. The point of these amendments is to take away "compelling".

Lord Horam (Con): My Lords, I am concerned about Amendment 9 from the noble Lord, Lord Anderson, which on the face of it seems extremely reasonable. If new, clear evidence and facts emerge, they should obviously be presented and tackled appropriately, but I wonder whether we are mixing up what the law can do with operational issues. After all, as was explained at some length from the Front Bench in the last debate, we have a monitoring committee with all sorts of bells and whistles, which should be able to pick up anything that is going wrong on the ground floor; it is the ground floor that matters. It is that issue—operational versus the law—that concerns me.

I quote to the House the remarks of Sir Robert Neill, who is a lawyer and chairman of the House of Commons Justice Committee, at Second Reading in the other place:

"Equally, the idea that legislation is the sole or even the principal solution to this situation is, I think, wrong. Ultimately, an operational solution is required … Ultimately, it will be operational measures that make the real difference".—[*Official Report*, Commons, 12/12/23; col. 783.]

This is the point: there is a danger of mixing up operational issues, which may be dealt with by the Rwandan Government, the British Government, and the instruments put in place by the treaty, and getting the courts involved at too early or inappropriate a stage. That is the risk with the commendable idea that the noble Lord, Lord Anderson, has.

The Lord Bishop of St Edmundsbury and Ipswich: Noble Lords would expect the Bishop of St Edmundsbury and Ipswich to support the noble Lord, Lord Anderson of Ipswich, which I will do, but I want to say a few words about Amendment 39, which the noble Lord, Lord Blunkett, tabled and to which is added my name and that of my right reverend friend the Bishop of Bristol. It simply asks that the right be given to those who have gone to Rwanda and been granted refugee status to be able to return in some circumstances, because it may well be that Rwanda is not a country where they should remain. Noble Lords can imagine issues around language, the possibility of destitution, risks to victims of modern slavery—various circumstances. Not allowing those granted refugee status to return to the UK seems a failure in the Bill.

This is not unprecedented. Indeed, the arrangements currently being made between Albania and Italy mean that those processed in Albania can, if they choose to do so, return to Italy. I urge that this amendment be considered as a way of making that option available.

Lord Coaker (Lab): My Lords, we very much support Amendments 9 and 12, which the noble Lord, Lord Anderson, has led on. They would allow the presumption that Rwanda is a safe country to be rebutted by credible evidence presented to decision-makers, including courts and tribunals. If he were to test the opinion of the House, we would support him.

I will refer to my Amendment 29, which I hope gives some evidence of the need for the amendments from the noble Lord, Lord Anderson. Amendment 29 would take out Clause 4(2). I tabled it because Clause 4(2) says that

"subsection (1) does not permit a decision-maker"—

however that is defined, whether it is the Secretary of State, a court or a tribunal—

"to consider any matter, claim or complaint to the extent that it relates to the issue of whether the Republic of Rwanda will or may remove or send the person in question to another State in contravention of any of its … obligations".

In other words, an individual cannot put before the court or a tribunal not that they "may" be refouled but, using the Government's own words in Clause 4(2), that they "will" be refouled. I could just about understand it if it had "may", but if an individual cannot even argue that they "will" be then I would find that quite astonishing. Therefore, I suggest that my Amendment 29 highlights why Amendments 9 and 12, in the name of the noble Lord, Lord Anderson, are needed.

Lord Sharpe of Epsom (Con): My Lords, I thank noble Lords for their contributions to this debate. I will turn first to Amendment 39, tabled by the noble Lord, Lord Blunkett. As I set out in Committee, we do not consider it necessary to make this amendment.

Clause 1 sets out the obligations that the Government of Rwanda have committed to under the new treaty. The addition the noble Lord proposes does not reflect the arrangements under the treaty. Enabling persons whose claims are successful in Rwanda to return to the

[Lord Sharpe of Epsom]
UK would be entirely inconsistent with the terms and objectives of the treaty. Those relocated to Rwanda are not intended to be returned to the UK, except in limited circumstances. Article 9 of the treaty clearly sets out that Rwanda shall process claims for asylum in accordance with the refugee convention and this agreement.

Since the partnership was announced, UK officials have worked closely with the Government of Rwanda to ensure that individuals relocated under the agreement will be safe and that their rights will be protected. Human rights have been a key consideration throughout this work, including the treaty, to confirm the principles for the treatment of all relocated individuals in an internationally binding agreement and strengthened monitoring mechanisms to ensure practical delivery against the obligations. For example, individuals, once relocated, will have freedom of movement. They will not be at any risk of destitution, as they will be accommodated and supported for five years. They will have access to a generous integration package so that they can study, undertake training and work, and access healthcare.

For those who are not registered as refugees, Rwanda shall consider whether the relocated individual has another humanitarian protection need. Where such a humanitarian protection need exists, Rwanda shall provide treatment consistent with that offered to those recognised as refugees and permission to remain in Rwanda. Such persons shall be afforded equivalent rights and treatment to those recognised as refugees and shall be treated in accordance with international and Rwandan laws. For those relocated individuals not recognised as refugees or granted protection, Article 10 of the treaty provides that Rwanda shall regularise their status in the form of a permanent residence permit and provide equivalent treatment as set out in Part 2 of Annex A.

It is the Government of Rwanda, and not the UK Government, who will consider asylum or protection claims and who will grant refugee or protection status to those relocated to Rwanda under the treaty that will underpin the migration and economic development partnership. As is made clear in the agreed terms of the treaty, those relocated will not be returned to the UK except in limited specified circumstances. Obtaining refugee status in Rwanda does not grant that person any rights within the UK, as would be the case for any other person granted refugee status in Rwanda who had not been relocated from the UK. Anyone seeking entry to the UK in the future would have to apply through legal routes, such as the work or family route, with no guarantee of acceptance.

Amendments 9 and 12 tabled by the noble Lord, Lord Anderson, and Amendment 19 tabled by the noble Baroness, Lady Chakrabarti, seek to qualify the requirement for decision-makers, including courts and tribunals, to conclusively treat Rwanda as a safe country, thus allowing individuals to challenge removal decisions on the grounds that Rwanda is not a generally safe country.

The treaty, the Bill and the evidence together demonstrate that Rwanda is safe for relocated individuals and that the Government's approach is tough but fair and lawful. The Government are clear that we assess Rwanda to be a safe country, and we have published detailed evidence that substantiates this assessment. This is a central feature of the Bill, and many of its other provisions are designed to ensure that Parliament's conclusion on the safety of Rwanda is accepted by the domestic courts. The conclusive presumption in the Bill that Rwanda is generally a safe country is not, as the noble Lord suggested, a "legal fiction".

The courts have not concluded that there is a general risk to the safety of relocated individuals in Rwanda. Rather, the Supreme Court's findings were limited to perceived deficiencies in the Rwandan asylum system and the resulting risk of refoulement should any lack of capacity or expertise lead to cases being wrongly decided. As we have repeatedly set out, the treaty responds to those key findings. The assurances we have since negotiated in our legally binding treaty with Rwanda directly address these findings by making detailed provision for the treatment of relocated individuals in Rwanda, ensuring that they will be offered safety and protection, with no risk of refoulement.

We have been clear that the purpose of this legislation is to stop the boats, and to do that we must create a deterrent that shows that, if you enter the UK illegally, you will not be able to stay. We cannot allow systematic legal challenges to continue to frustrate and delay removals. It is therefore right that the scope for individualised claims remains limited, to prevent the merry-go-round of legal challenges and enable us to remove from the UK individuals who have entered illegally. We cannot allow illegal entrants to be able to thwart their removal when there is a clear process for the consideration of a claim based on a risk of serious and irreversible harm. We cannot allow the kinds of spurious legal challenges we have been seeing for far too long to continue.

It is for this reason that I cannot accept Amendments 23 and 27 tabled by the noble Baroness, Lady Meacher, which seek to lower the threshold for a claim or appeal brought on the grounds that Rwanda is unsafe to succeed. These amendments undermine the core principle of the Bill, which is to limit challenges brought against the safety of Rwanda. The Bill makes it clear that Rwanda is generally safe and that decision-makers, as well as courts and tribunals, must treat it conclusively as such. This reflects the Government's confidence in the assurances of the treaty and in Rwanda's commitment and capability to deliver against these obligations. As I have set out, the UK Government and the Government of Rwanda have agreed and begun to implement assurances and commitments to strengthen Rwanda's asylum system.

Following on from my previous point with regard to relocated individuals in Rwanda being offered safety and protection with no risk of refoulement, I now turn to Amendments 11, 14, 15 and 29 tabled by the noble Lord, Lord Coaker. I consider these amendments to be unnecessary. As I have just stated, yes, the Supreme Court did find deficiencies in the Rwandan asylum system that meant there was a risk that those relocated under the terms of the previous memorandum of understanding with Rwanda could be refouled. However, the UK and Rwanda have since worked closely together to address the court's conclusions.

As noble Lords are aware, the Supreme Court could consider evidence only up to summer 2022, which was not reflective of the current evidential position. Not only could the court not consider additional work undertaken with the Government of Rwanda to build capacity in the Rwandan asylum system, but it had not had the opportunity to consider the terms agreed under our new legally binding treaty with Rwanda. The treaty makes very clear that no one relocated to Rwanda will be returned to another country, except, in very limited circumstances, back to the UK. This expressly addresses the court's conclusions by eliminating the risk of refoulement.

As I have said previously, and as I stated in my letter to the noble Lord, Lord Kerr, following the debate on this matter in Committee, the treaty contains, among other provisions, a definitive undertaking from the Government of Rwanda that they will not remove any person relocated under the MEDP, except to the UK, in accordance with Article 11(1).

Lord Kerr of Kinlochard (CB): Can the Minister confirm that the arrangement described in Article 10(3) of the treaty has been devised: that is, the arrangement to ensure that refoulement does not in practice occur? The treaty imposes an obligation on both parties to agree a process. Has it been agreed, and can we see it?

6.45 pm

Lord Sharpe of Epsom (Con): I am afraid I do not know the answer to that question. I will find out and come back to the noble Lord on whether it has been agreed and where we are.

We therefore believe that there is no need for this to be considered when making individualised assessments as to the safety of Rwanda.

The treaty also enhances the role of the independent monitoring committee, which we discussed on the previous group. The monitoring committee will provide real-time, comprehensive monitoring of the end-to-end relocation and asylum process, ensuring delivery against the terms of the agreement and in line with both countries' international obligations. This will prevent the risk of any harm to relocated individuals, including potential refoulement, before it has a chance to occur.

Rwanda is one step closer to ratifying the treaty, as discussed, which has passed through its lower house in Parliament. Once ratified, the treaty will become law in Rwanda. It follows that the Government of Rwanda would be required to give effect to the terms of the treaty in accordance with its domestic law, as well as international law. Those in genuine need of safety and security will be provided with it in Rwanda.

Turning to Amendment 16 tabled by the noble Baroness, Lady Lister of Burtersett, we do not accept that individuals relocated to Rwanda would be at risk of torture or any other form of inhumane or degrading treatment. The Government's assessment is that Rwanda is a safe country that respects the rule of law. Rwanda is a signatory to the United Nations convention against torture, the convention on refugees and other core UN human rights conventions. It has also signed the treaty with us which guarantees the welfare of all those relocated under the partnership. The enhanced monitoring committee will be in place to robustly monitor adherence to these obligations. Should somebody with a particular vulnerability be relocated to Rwanda, there will be the necessary treatment and specialist support available, with safeguarding processes in place.

Furthermore, Clause 4 preserves the ability of individuals to challenge removal due to their particular individual circumstances if there is compelling evidence that Rwanda is not a safe country for them. That is the appropriate mechanism to ensure that an individual's circumstances have been considered.

Baroness Lister of Burtersett (Lab): I am sorry to interrupt. What investigations have the Government made of whether that support is available in Rwanda? This is not a criticism of Rwanda but an acceptance of the fact that it is a country that has poor provision, as we heard from the noble Lord, Lord Scriven, and others. On being able to say that it is not safe for an individual, as the Minister's colleague said in Committee, the Government expect this to be successful very rarely, so that is no safeguard, really.

Lord Sharpe of Epsom (Con): I was about to answer the noble Baroness's questions, because safeguarding arrangements are set out in detail in the standard operating procedure on identifying and safeguarding vulnerability, which states that, at any stage in the refugee's status determination and integration process, officials may encounter and should have due regard to the physical and psychological signs that can indicate that a person is vulnerable. The SOP sets out the process for identifying vulnerable persons and, where appropriate, making safeguarding referrals to the relevant protection team.

Screening interviews to identify vulnerability will be conducted by protection officers who have received the relevant training and are equipped to competently handle safeguarding referrals. The protection team may trigger follow-up assessments and/or treatment as appropriate. In addition, protection officers may support an individual to engage in the asylum process and advise relevant officials of any support needs or adjustments to enable the individual to engage with the process. Where appropriate, the protection team may refer vulnerable individuals for external support, which may include medical and/or psycho-social support or support with their accommodation. Where possible, this should be with the informed consent of the individual.

As regards capacity, of course it will be in place. The policy statement sets out at paragraph 135:

> "In line with our obligations under the Refugee Convention and to ensure compliance with international human rights standards, each Relocated Individual will have access to quality preventative and curative primary and secondary healthcare services that are at least of the standard available to Rwandan nationals. This is provided through a comprehensive agreement between the Government of Rwanda and medical insurance companies for the duration of 5 years and through MoUs with hospitals in Kigali".

I also say at this point that it would be in the best mental health interests of those seeking asylum who are victims to seek asylum in the first safe country that they come to. Why would they risk their health and mental health crossing the channel in much more grave circumstances than they need to?

[Lord Sharpe of Epsom]

Noble Lords will know that over 135,000 refugees and asylum seekers have already successfully found safety in Rwanda. International organisations including the UNHCR chose Rwanda to host these individuals. We are committed to delivering this partnership. With the treaty and published evidence pack, we are satisfied that Rwanda can be deemed a safe country through this legislation. I would ask the noble Lord to withdraw his amendment.

Lord Anderson of Ipswich (CB): I thank all noble Lords who have participated in this fast-paced debate, and for the generous and constructive contributions that we have heard from all corners of this House. I shall not dwell on them individually, but I will single out the contributions that we heard from the noble Baronesses, Lady Lister and Lady D'Souza, and the noble Lord, Lord Cashman, on the subject of torture. Although my amendments are broader than theirs, theirs serve as a reminder that even evidence of widespread torture would be off limits if Clause 2 were not amended as they and I wish.

I say to the noble Lord, Lord Murray, that I am delighted by what he says he has seen in Rwanda. However, with great respect to him, the points that he makes in no way remove the desirability of ensuring that, should protections not prove to be adequate—including, for example, protections against the risk of refoulement contrary to the terms of an agreement, as we saw when the Rwanda/Israel agreement was in force—the decision-makers and courts should be able to take those matters into account. That is all that these amendments contend for.

I agree with the noble Lord, Lord Horam, that it is operational measures that will make the difference; he must be right about that. Those are the sorts of measures that were identified by the International Agreements Committee in its list of nine or 10, and in Article 10(3) of the treaty. As the noble Lord, Lord Kerr, pointed out, these will be unfinished business even when the treaty is ratified. The purpose of the courts is simply to check that those measures meet the minimum thresholds laid down by law.

The Minister made the point that the concerns expressed by the Supreme Court were limited to specific issues regarding refoulement and suggested that, had they not been resolved already, those issues would be easily resolved in the near future. The Minister asks us to take a good deal on trust. I understand that a letter has been circulated this afternoon; it certainly did not reach me. Whether that includes, for example, full details relating to the Rwanda asylum Bill, which nobody seemed to have seen when we debated this in Committee, and whether it contains full details of the arrangements to ensure non-refoulement, which are referred to in Article 10(3) of the treaty, I cannot say.

Lord Scriven (LD): Speaking for myself, I would just say in answer to the noble Lord's questions that the answer is no.

Lord Anderson of Ipswich (CB): I am grateful. I should say in fairness to the Minister that I did have a letter about Northern Ireland. It did not touch on those issues.

I acknowledge the confidence with which the Minister defended the position on the ground in Rwanda. This is all the more reason to accept these amendments. The more confident the Government are in the safety of Rwanda, the less they have to fear. For these reasons, I am minded to test the opinion of the House on my amendment.

6.54 pm

Division on Amendment 9

Contents 258; Not-Contents 171.

Amendment 9 agreed.

Division No. 4

CONTENTS

Aberdare, L.
Addington, L.
Adebowale, L.
Alderdice, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Anderson of Ipswich, L. [Teller]
Anderson of Stoke-on-Trent, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashton of Upholland, B.
Bach, L.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Bilimoria, L.
Birt, L.
Blackstone, B.
Blake of Leeds, B.
Blower, B.
Blunkett, L.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Boycott, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brinton, B.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Bull, B.
Burnett, L.
Burns, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Butler-Sloss, B.
Campbell-Savours, L.
Carlile of Berriew, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Clancarty, E.
Clark of Calton, B.
Clark of Windermere, L.
Clarke of Nottingham, L.
Clement-Jones, L.
Coaker, L.
Collins of Highbury, L.
Colville of Culross, V.
Coussins, B.
Craigavon, V.
Crawley, B.
Davidson of Glen Clova, L.
Davies of Brixton, L.
Deben, L.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
Drayson, L.
D'Souza, B.
Dubs, L.
Eatwell, L.
Eccles, V.
Etherton, L.
Fairhead, B.
Falconer of Thoroton, L.
Faulkner of Worcester, L.
Featherstone, B.
Finlay of Llandaff, B.
Foster of Bath, L.
Fox, L.
Freyberg, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Goddard of Stockport, L.
Gohir, B.
Goudie, B.
Grantchester, L.
Green of Deddington, L.
Green of Hurstpierpoint, L.
Grey-Thompson, B.
Griffiths of Burry Port, L.
Grocott, L.
Hacking, L.
Hailsham, V.
Hain, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Hayman of Ullock, B.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.

Hollick, L.
Hope of Craighead, L. [Teller]
Howarth of Newport, L.
Hughes of Stretford, B.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Inglewood, L.
Janke, B.
Jay of Paddington, B.
Jolly, B.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Khan of Burnley, L.
Kidron, B.
Kingsmill, B.
Kinnock, L.
Knight of Weymouth, L.
Kramer, B.
Krebs, L.
Lawrence of Clarendon, B.
Layard, L.
Lee of Trafford, L.
Lennie, L.
Leong, L.
Levy, L.
Liddle, L.
Lister of Burtersett, B.
Lisvane, L.
Livermore, L.
Londesborough, L.
London, Bp.
Ludford, B.
Lytton, E.
Manchester, Bp.
Mandelson, L.
Marks of Henley-on-Thames, L.
Maxton, L.
McDonald of Salford, L.
McIntosh of Hudnall, B.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Mendelsohn, L.
Merron, B.
Miller of Chilthorne Domer, B.
Monks, L.
Morgan of Huyton, B.
Morgan, L.
Morris of Yardley, B.
Murphy of Torfaen, L.
Neuberger, B.
Newby, L.
Newcastle, Bp.
Northover, B.
Nye, B.
Oates, L.
O'Donnell, L.
O'Grady of Upper Holloway, B.
O'Loan, B.
Osamor, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Patel of Bradford, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Prentis of Leeds, L.
Purvis of Tweed, L.
Quin, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Ricketts, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Robertson of Port Ellen, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Russell, E.
Sahota, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Sikka, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Newnham, B.
Snape, L.
St Edmundsbury and Ipswich, Bp.
St John of Bletso, L.
Stansgate, V.
Stephen, L.
Stevenson of Balmacara, L.
Stirrup, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.
Taylor of Stevenage, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurso, V.
Touhig, L.
Tunnicliffe, L.
Turnberg, L.
Turnbull, L.
Tyler of Enfield, B.
Uddin, B.
Vaux of Harrowden, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warner, L.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watson of Wyre Forest, L.
Watts, L.
Wellington, D.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wilson of Dinton, L.
Winston, L.
Woodley, L.
Woolley of Woodford, L.
Wrigglesworth, L.
Young of Old Scone, B.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altrincham, L.
Anelay of St Johns, B.
Ashcombe, L.
Ashton of Hyde, L.
Attlee, E.
Bailey of Paddington, L.
Balfe, L.
Barran, B.
Bellamy, L.
Bellingham, L.
Benyon, L.
Bertin, B.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Brady, B.
Bray of Coln, B.
Bridgeman, V.
Bridges of Headley, L.
Browne of Belmont, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Callanan, L.
Cameron of Chipping Norton, L.
Camoys, L.
Camrose, V.
Carrington of Fulham, L.
Carrington, L.
Cathcart, E.
Choudrey, L.
Colgrain, L.
Courtown, E. [Teller]
Crathorne, L.
Cruddas, L.
Davies of Gower, L.
De Mauley, L.
Dobbs, L.
Douglas-Miller, L.
Dunlop, L.
Eaton, B.
Effingham, E.
Elliott of Mickle Fell, L.
Empey, L.
Evans of Bowes Park, B.
Evans of Rainow, L.
Fairfax of Cameron, L.
Farmer, L.
Faulks, L.
Fleet, B.
Fookes, B.
Forsyth of Drumlean, L.
Foster of Oxton, B.
Frost, L.
Gascoigne, L.
Godson, L.
Gold, L.
Goldie, B.
Goschen, V.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hamilton of Epsom, L.
Hannan of Kingsclere, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Hayward, L.
Henley, L.
Herbert of South Downs, L.
Hill of Oareford, L.
Hintze, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hoey, B.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Houchen of High Leven, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jackson of Peterborough, L.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Kempsell, L.
Lamont of Lerwick, L.
Lansley, L.
Lawlor, B.
Lea of Lymm, B.
Leigh of Hurley, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lucas, L.
Lupton, L.
Magan of Castletown, L.
Mancroft, L.
Markham, L.
Marland, L.
Marlesford, L.
McColl of Dulwich, L.
McInnes of Kilwinning, L.
McLoughlin, L.
Mendoza, L.
Meyer, B.
Minto, E.
Montrose, D.
Moore of Etchingham, L.
Morgan of Cotes, B.
Mott, L.
Moylan, L.
Moynihan of Chelsea, L.
Murray of Blidworth, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Noakes, B.
Offord of Garvel, L.
Owen of Alderley Edge, B.
Parkinson of Whitley Bay, L.
Patten, L.
Pidding, B.
Porter of Spalding, L.
Ranger of Northwood, L.
Reay, L.
Redfern, B.
Risby, L.
Robathan, L.
Roborough, L.
Rock, B.
Rogan, L.
Rosenfield, L.
Sanderson of Welton, B.
Sandhurst, L.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, 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.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Strathclyde, L.
Stroud, B.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trenchard, V.
True, L.
Tyrie, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Wei, L.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B. [Teller]
Wrottesley, L.
Young of Cookham, L.
Younger of Leckie, V.

Amendment 9 agreed.

7.06 pm

The Deputy Speaker (Baroness Finlay of Llandaff) (CB): My Lords, I cannot call Amendments 10 and 11 due to pre-emption. I remind the House that Peers should not cross the Floor between the Woolsack and the clerks during voting. If Amendment 12 is agreed, I cannot call Amendments 13 to 16 due to pre-emption.

Amendments 10 and 11 not moved.

Amendment 12

Moved by ***Lord Anderson of Ipswich***

12: Clause 2, page 2, line 41, leave out subsections (3) to (5)

Member's explanatory statement

The amendments to Clause 2 in the name of Lord Anderson of Ipswich would allow the presumption that Rwanda is a safe country to be rebutted by credible evidence presented to decision-makers, including courts and tribunals.

Lord Anderson of Ipswich (CB): My Lords, I would like to test the opinion of the House.

7.07 pm

Division on Amendment 12

Contents 260; Not-Contents 169.

Amendment 12 agreed.

Division No. 5

CONTENTS

Aberdare, L.
Addington, L.
Adebowale, L.
Adonis, L.
Alderdice, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Anderson of Ipswich, L. [Teller]
Anderson of Stoke-on-Trent, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Ashton of Upholland, B.
Bach, L.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Bilimoria, L.
Birt, L.
Blackstone, B.
Blake of Leeds, B.
Blower, B.
Blunkett, L.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Boycott, B.
Bradley, L.
Bradshaw, L.
Bragg, L.
Brinton, B.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Bull, B.
Burnett, L.
Butler of Brockwell, L.
Butler-Sloss, B.
Campbell-Savours, L.
Carlile of Berriew, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chapman of Darlington, B.
Clancarty, E.
Clark of Calton, B.
Clark of Windermere, L.
Clarke of Nottingham, L.
Clement-Jones, L.
Coaker, L.
Collins of Highbury, L.
Colville of Culross, V.
Coussins, B.
Craigavon, V.
Crawley, B.
Davidson of Glen Clova, L.
Davies of Brixton, L.
Deben, L.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
Drake, B.
Drayson, L.
D'Souza, B.
Dubs, L.
Eatwell, L.
Eccles, V.
Etherton, L.
Fairhead, B.
Falconer of Thoroton, L.
Faulkner of Worcester, L.
Featherstone, B.
Finlay of Llandaff, B.
Foster of Bath, L.
Fox, L.
Freyberg, L.
Gale, B.
Garden of Frognal, B.
German, L.
Giddens, L.
Glasgow, E.
Goddard of Stockport, L.
Gohir, B.
Goudie, B.
Grantchester, L.
Green of Deddington, L.
Green of Hurstpierpoint, L.
Grey-Thompson, B.
Griffiths of Burry Port, L.
Grocott, L.
Hacking, L.
Hailsham, V.
Hain, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Hayman of Ullock, B.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Hollick, L.
Hollins, B.
Hope of Craighead, L. [Teller]
Howarth of Newport, L.
Hughes of Stretford, B.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Inglewood, L.
Janke, B.
Jay of Paddington, B.
Jolly, B.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerr of Kinlochard, L.
Khan of Burnley, L.
Kidron, B.
Kingsmill, B.
Kinnock, L.
Knight of Weymouth, L.
Kramer, B.
Krebs, L.
Lawrence of Clarendon, B.
Layard, L.
Lee of Trafford, L.
Lennie, L.
Leong, L.
Levy, L.
Liddle, L.
Lister of Burtersett, B.
Lisvane, L.
Livermore, L.
Londesborough, L.
London, Bp.
Ludford, B.
Lytton, E.
Manchester, Bp.
Mandelson, L.
Marks of Henley-on-Thames, L.
Maxton, L.
McDonald of Salford, L.
McIntosh of Hudnall, B.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Mendelsohn, L.
Merron, B.
Miller of Chilthorne Domer, B.
Mitchell, L.
Monks, L.
Morgan of Huyton, B.
Morgan, L.
Morris of Yardley, B.
Murphy of Torfaen, L.
Neuberger, B.
Newby, L.
Newcastle, Bp.
Northover, B.
Nye, B.
Oates, L.
O'Donnell, L.
O'Grady of Upper Holloway, B.
O'Loan, B.
Osamor, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Patel of Bradford, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Prentis of Leeds, L.
Purvis of Tweed, L.
Quin, B.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Rennard, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Robertson of Port Ellen, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Russell, E.

Sahota, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Sikka, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Newnham, B.
Snape, L.
St Edmundsbury and Ipswich, Bp.
St John of Bletso, L.
Stansgate, V.
Stephen, L.
Stevenson of Balmacara, L.
Stirrup, L.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.
Taylor of Stevenage, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurso, V.
Touhig, L.
Tunnicliffe, L.
Turnberg, L.
Turnbull, L.
Tyler of Enfield, B.
Uddin, B.
Vaux of Harrowden, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Walney, L.
Warner, L.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watson of Wyre Forest, L.
Watts, L.
Wellington, D.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wilson of Dinton, L.
Winston, L.
Woodley, L.
Woolley of Woodford, L.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Ahmad of Wimbledon, L.
Altrincham, L.
Anelay of St Johns, B.
Ashcombe, L.
Ashton of Hyde, L.
Attlee, E.
Bailey of Paddington, L.
Balfe, L.
Barran, B.
Bellamy, L.
Bellingham, L.
Benyon, L.
Bertin, B.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Brady, B.
Bray of Coln, B.
Bridgeman, V.
Bridges of Headley, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Callanan, L.
Cameron of Chipping Norton, L.
Camoys, L.
Camrose, V.
Carrington of Fulham, L.
Carrington, L.
Cathcart, E.
Colgrain, L.
Courtown, E. [Teller]
Crathorne, L.
Cruddas, L.
Davies of Gower, L.
De Mauley, L.
Dobbs, L.
Douglas-Miller, L.
Dunlop, L.
Eaton, B.
Effingham, E.
Elliott of Mickle Fell, L.
Empey, L.
Evans of Bowes Park, B.
Evans of Rainow, L.
Fairfax of Cameron, L.
Farmer, L.
Faulks, L.
Fleet, B.
Fookes, B.
Forsyth of Drumlean, L.
Foster of Oxton, B.
Frost, L.
Gascoigne, L.
Godson, L.
Gold, L.
Goldie, B.
Goschen, V.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hamilton of Epsom, L.
Hannan of Kingsclere, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Hayward, L.
Henley, L.
Herbert of South Downs, L.
Hill of Oareford, L.
Hintze, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hoey, B.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Houchen of High Leven, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jackson of Peterborough, L.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Kempsell, L.
Lamont of Lerwick, L.
Lansley, L.
Lawlor, B.
Lea of Lymm, B.
Leigh of Hurley, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Lucas, L.
Lupton, L.
Magan of Castletown, L.
Mancroft, L.
Markham, L.
Marland, L.
Marlesford, L.
McColl of Dulwich, L.
McInnes of Kilwinning, L.
McLoughlin, L.
Mendoza, L.
Meyer, B.
Minto, E.
Montrose, D.
Moore of Etchingham, L.
Morgan of Cotes, B.
Mott, L.
Moylan, L.
Moynihan of Chelsea, L.
Murray of Blidworth, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Noakes, B.
Offord of Garvel, L.
Owen of Alderley Edge, B.
Parkinson of Whitley Bay, L.
Patten, L.
Pidding, B.
Porter of Spalding, L.
Powell of Bayswater, L.
Ranger of Northwood, L.
Reay, L.
Redfern, B.
Risby, L.
Robathan, L.
Roborough, L.
Rock, B.
Rogan, L.
Sanderson of Welton, B.
Sandhurst, L.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, 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.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Strathclyde, L.
Stroud, B.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trenchard, V.
True, L.
Tyrie, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Wei, L.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B. [Teller]
Wrottesley, L.
Young of Cookham, L.
Younger of Leckie, V.

7.18 pm

Amendments 13 to 16 not moved.

Amendment 17

Moved by ***Baroness Lawlor***

17: Clause 2, page 3, line 13, leave out subsection (5) and insert—

"(5) This Act and the Illegal Migration Act 2023 will have effect in relation to removals to Rwanda notwithstanding—

(a) any provision made by or under the Immigration Acts,

(b) the Human Rights Act 1998,

(c) EU derived law and case law retained under sections 2 to 7 of the European Union (Withdrawal) Act 2018,

(d) any other provision or rule of domestic law (including any common law), and

(e) international law, including any interpretation of international law by the court or tribunal.

(6) Nothing identified in paragraphs (a) to (e) of subsection (5) may prevent or delay the removal to Rwanda of an individual under this Act or the Illegal Migration Act 2023, or affect the interpretation or application of any provision of this Act or the Illegal Migration Act 2023, including the actions or policies of public authorities, in relation to the removal of a person to Rwanda.

(7) To the extent that any provision or requirement included in paragraphs (a) to (e) of subsection (5) has been given effect to in legislation (including the Asylum and Immigration Appeals Act 1993, the Nationality, Immigration and Asylum Act 2002 and the Asylum and Immigration (Treatment of Claimants etc) Act 2004), that legislation does not apply in relation to provision made by or by virtue of this Act or the Illegal Migration Act 2023 in relation to the removal of an individual to Rwanda, and shall not prevent or delay the removal to Rwanda of an individual under this Act or the Illegal Migration Act 2023.

(8) A person or body to which subsection (9) applies may not have regard to international law, in the circumstances mentioned in subsection (11).

(9) This subsection applies to —

(a) the Secretary of State or an immigration officer when exercising any function related to removing, or considering for removal a person to Rwanda under this Act or the Illegal Migration Act 2023;

(b) a court or tribunal when considering any application or appeal which relates to a decision or purported decision to remove, or to consider the removal of a person to Rwanda under this Act or the Illegal Migration Act 2023.

(10) No inference is to be drawn from this section as to whether or not a person or body mentioned in subsection (9) would otherwise have been required to have regard to international law.

(11) The Asylum and Immigration Appeals Act 1993 is amended as follows.

(12) In section 2, at end insert "except in relation to the removal of a person to Rwanda under the Safety of Rwanda (Asylum and Immigration) Act 2024 and the Illegal Migration Act 2023"."

Baroness Lawlor (Con): My Lords, I support the aims of the Bill and I hope that it—and they—will succeed, that it will not be challenged and that there will be no further obstacles put in the way of removing people who come to this country illegally and by these dangerous routes.

My Amendment 17 would leave out Clause 2(5) and substitute the text on the Marshalled List. The aim is to tighten the Bill on what may

"prevent or delay the removal to Rwanda of an individual"

under any of the Immigration Acts, the Human Rights Act 1998,

"EU derived law and case law … under sections 2 to 7 of the European Union (Withdrawal) Act 2018"

and

"any … provision … of domestic law (including … common law), and … international law"

relevant to the aim, so as to limit legal challenges to the Bill. I do not share the views of those who say that the Bill contravenes the rule of law. Their view rests on assumptions about the role of international law, its place within our own system, the creative approach of the Strasbourg court in applying the convention and the tendency now to accord something of a primacy to courts over Parliament.

These assumptions are contested within the legal profession itself. I will refer to one KC, Anthony Speaight, whose paper was published at the weekend by Politeia, of which I am research director. I therefore declare a special interest in the matter. Speaight explains the comparative novelty of the view, which he dates from Lord Bingham's 2010 book, that the rule of law requires adherence to international law.

I am not a lawyer. I approach the question as a historian of British political and constitutional history. It is a history, by and large—and certainly in the era since the franchise was extended in the 19th century—of the interplay between Executive and Parliament, with the Government accountable through Parliament to the will of the people, even before the extension of the franchise. At the moment, both the Government and Parliament are intent on being accountable on the matter of curbing illegal immigration. But they are prevented by laws and the judiciary that operates them or, as in the case of the Strasbourg court, interprets them in a manner that takes from and does not protect their liberty, on which good law is based—the freely expressed will of the people who are governed.

On immigration, legal and illegal, the people have spoken loud and clear. They want Britain's borders controlled and the flow of immigration curbed. Parliament has passed the laws to bring such control, but each Bill it brings forward meets a challenge in the courts. Is removal to Rwanda to be stopped not by a recalcitrant authoritarian monarch or an oligarchic, aristocratic, landowning Parliament, as in the past, but by a judiciary acting—I do not doubt in good faith—to give effect to a cocktail of legislation binding this country from an era whose laws are not our own and from times that are not our own?

There are practical limits to what a good Government can achieve. It is recognised, perhaps more clearly by voters than by rulers, that uncontrolled immigration facilitated by the obstacles now put by the courts, often—as in the case of illegal immigration through asylum claims—has consequences for the economy in terms of the budgetary costs. It puts demands that cannot be satisfied on Britain's domestic arrangements—not just for processing claims but on every manner of the support that the UK's people have over the centuries shown to those who, for whatever reason, come to make their lives in this country.

If our constitution is to survive the onslaught of legal challenge, the will of Parliament, reflecting the mandate of the voters, must triumph and, with it, the stability, transparency and accountability it has brought to Britain and its people, rather than be challenged on account of international or our own laws.

This country is no outlier. Across the channel, the political systems of western European neighbours are buckling under the political immediacy of uncontrolled immigration, each seeking to exploit or avoid the system to which in law they are bound under EU law, convention law and the mass of internal legislation to which these have given rise. They also have to take account of Schengen.

Take the case of France. Its political system was practically frozen for two years, haggling over an immigration Bill that many see as promising too little, too late. The problems with which it grapples are immense. Constitutional arrangements and stability are under threat at different levels. Departments are pitted against national powers, as in the recent stand-off with some mayors, who refuse to accept and look after

unaccompanied minors because they have no ability to do so. At government level, against the ruling of the Strasbourg court, it is voters against the traditional systems of the political parties, the republicans and the socialists.

In this country, we are free to make our own laws. Other noble Lords will speak to their amendments on the same theme. My amendment aims to tighten the Bill and to pre-empt further challenge. As the Minister mentioned earlier, a core principle and aim of the Bill is to prevent further challenge to the workings of ordered, representative and accountable democracy. It aims to promote the aims of the Bill to delay illegal and unsafe crossings and deter the horrid loss of life, such as the death of a little girl of seven in freezing waters in the channel on Sunday night. I therefore beg to move.

Lord Frost (Con): My Lords, I will also speak in favour of Amendment 17, tabled by my noble friend Lady Lawlor, to which I have added my name. As I said at Second Reading, I support the Bill. I am afraid that the Rwanda policy is a bit of a Heath Robinson arrangement. It shies away from some of the tough decisions needed to solve the problems. But I support the Bill because it is the plan we have, and we must hope it makes a difference.

It can certainly be improved. Most of the amendments discussed today would make it worse rather than better, and less effective rather than more effective. Amendment 17 is one of the few exceptions to that. It aims to provide a more clearly drawn Bill—one that can withstand challenges and fulfil its purpose more effectively, by making clear that no other legal provisions of any kind, whether in domestic or international law, can be used to frustrate the policy.

I do not want to repeat issues that have already been raised in Committee and discussed again at length today, but I will briefly explain why I support this amendment and then make one comment based on my involvement in recent years in the intersection between international and domestic law.

First, it is absolutely clear that this Parliament may legislate against international law, and indeed the Government may act in contravention of international law. As we have already heard, Clause 1(4) makes that clear and nobody is seeking to amend that. It is a long-standing, fundamental element of our constitution. It is not some sort of weird, UK-specific provision; there is good reason for the dualism in our system. First, otherwise Governments could act to create domestic law merely by signing an international treaty and thereby sidestep normal democratic processes. Secondly, it reflects the reality that international treaties are in practice very difficult to adapt to changing conditions because all the parties must agree to changes. It has been suggested by some noble Lords today and in previous debates that that is what should happen and that we should seek to renegotiate the international framework. The refugee convention, for example, has 149 state parties, including such well-known supporters of international law as China, Russia and Iran. Are we going to wait for them all to agree to amend this framework? We are clearly not, but if national Governments accept that they can deal with pressing national challenges only by renegotiating these treaties, they are in effect abandoning their duty to govern their own countries on matters of huge importance.

7.30 pm

If a Government choose to act against international law, they may pay a reputational price, one that is often hugely exaggerated, as we have heard in the case of France. They may consider that price justified, depending on circumstances, but they must weigh it up. That is what the Government have done in this case. I worry that they have set the balance in the wrong place, setting supposed compliance with international obligations crafted in a different era on a higher plane than the core state function, which is one of the basic raisons d'être of a Government: controlling the country's borders.

That is where Amendment 17 is designed to help. It is designed to deliver the goods that are invoiced, as it were, in Clause 1(4). That clause recognises that there is a right for Governments to act, and, if Amendment 17 were agreed to—I suspect it will not be—it would be the necessary action. It does what is necessary to make this policy work by closing off, as far as possible, the ability to challenge it and the ability of domestic or foreign courts to act against it. It does that with a goal of delivering what people in this country want: a Government who are actually in control of our borders.

I briefly turn to my second point. This is the third time that Parliament has debated compliance with international law. I had a small hand in two of the previous occasions: the United Kingdom Internal Market Act, where the relevant clauses that would have explicitly breached international law were withdrawn, and then the Northern Ireland protocol Bill, the whole of which was withdrawn. Now we have the Rwanda policy. It is not a coincidence that this keeps coming up. The UK is enmeshed in a set of international legal obligations that, in defiance of our constitutional traditions, in practice constrain the sovereignty of this Parliament and therefore the ability of any Government to act in the interests of the good governance of this country. While we were members of the EU, the huge constraints of that made those other legal obligations less visible, although no less intrusive. Now we are not in the EU, they are there for everybody to see.

Mark my words: this issue will not go away, I am afraid. I do not think the Government have quite faced up to it with the Bill. In particular, they have not faced up to the need to free ourselves from the ECHR. The only issue is: how much more time will be wasted? How many more constitutional traditions will we lose? How much more will democracy be circumscribed before government does what is necessary in making the top priority the democratic wishes of our citizens and the good governance of this country? That is why I support Amendment 17. It at least shows the necessary direction of travel, and it signals very clearly what will, in the end, be necessary to fix this problem.

Baroness Hoey (Non-Afl): My Lords, I will briefly support Amendment 17 in the name of the noble Baroness, Lady Lawlor. I will say a few words about the Northern Ireland perspective on this, because whether

[Baroness Hoey]
this will really apply to Northern Ireland has been discussed at various stages, as have the effects if it does not.

A number of things in the *Safeguarding the Union* Command Paper have already been exposed as not correct. I would have liked more specific language in proposed new subsection (5)(c) in the amendment and more specific mention of Section 7A of the European Union (Withdrawal) Act when we talk about international law. The noble Lord, Lord Frost, is absolutely right: this will not go away and, sooner or later, we will have a legal challenge, probably first in Northern Ireland, on Section 7A and whether this applies.

Last week, we saw that the effect of the protocol framework is to give EU law supremacy in Northern Ireland, even to the point whereby the legacy Act that was passed—whether you agreed with it or not—could be struck down due to inconsistency with EU law applying because of the protocol. The Government and the Minister need to clarify because there is a lot of confusion and—I will put this gently—misleading information about how Article 2 works.

In a Written Answer to me on the Rwanda Bill, the noble Lord, Lord Caine, claimed that the EU Charter of Fundamental Rights did not apply to Northern Ireland via Article 2 of the protocol framework, and this is directly at variance with the High Court judgment in Angesom and the High Court in Northern Ireland disapplying 10 provisions of the legacy Act last week. The Government cannot keep making claims that are so obviously not true and then get almost angry when we point out things about how it is working legally.

This is another example of the degree to which control over part of the United Kingdom has been genuinely surrendered by this Government while they pretend that it is not happening. Let us not forget that the Windsor Framework is very specific: paragraph 46 of *Safeguarding the Union* says that

"the Windsor Framework applies only in respect of … trade"

and that Article 2 does not apply to immigration issues. I think we will find that this is not correct.

On the Rwanda Bill and the effect of Article 2 of the protocol framework, the proponents of the deal need to be clear. The Bill does not apply in the same way in Northern Ireland because Article 2 prevents it from doing so. The EU Charter of Fundamental Rights continues in Northern Ireland, and we should be honest about that. The protocol framework provision trumps domestic law and the wishes of our sovereign Parliament. Noble Lords should be aware that, whatever your views on this Rwanda Bill, we will find that this will ultimately end in another legal challenge. Whether the Bill has gone through or not, this will delay its implementation. I support the amendment, even if it does not specifically mention the Windsor Framework.

Baroness Chakrabarti (Lab): My Lords, I will speak to Amendments 18, and Amendment 20 which I share with the noble Viscount, Lord Hailsham, the noble and learned Baroness, Lady Hale of Richmond, and the right reverend Prelate the Bishop of St Edmundsbury and Ipswich. I support the starred Amendment 21 in the name of the noble Lord, Lord German.

Amendments 20 and 21 both restore Human Rights Act protection in full for those subject to the Bill pending removal to Rwanda. The amendment of the noble Lord, Lord German, does this in even clearer language by not referring internally to last year's immigration Bill but clearly stating for the lay reader that Human Rights Act protection is restored.

However, Amendment 18 is a revision of the amendment tabled in Committee by the noble Lord, Lord Kirkhope. It is a modest revision to address the concerns of some of his noble friends. He is not able to be here this evening. I begin with that one because it is so mild and in keeping with the thrust of the Bill, and it cannot be described as wrecking or disturbing the framework—even of a Bill I object to—in any way.

Noble Lords will know that, in Clause 3, most Human Rights Act protection is removed for these vulnerable people. The one thing that is left is the possibility of a declaration of incompatibility. Contrary, I fear, to some of the comments made by the noble Lord, Lord Clarke of Nottingham, and others, there is no possibility in our arrangements for the Supreme Court to strike down the Bill, were it to become an Act, because that is not the arrangement that we have in the elegant British constitutional compromise of the Human Rights Act and the balance it strikes between the rule of law, which is the bedrock of any democracy, and parliamentary sovereignty.

If an Act is declared incompatible, that declaration has merely moral and persuasive effect, and the Act continues in operation. That is why, with the greatest of respect to him, the noble Lord, Lord Clarke, was optimistic to the point of being wrong about that. What the noble Lord, Lord Kirkhope, came up with last time was just the suggestion that, if there were to be a declaration of incompatibility made by a higher court in relation to this legislation, there should be accelerated consideration in Parliament. That is it. I am flabbergasted by the Government's response, that they would not even have a look at that most modest amendment from their noble friend—a former Immigration Minister, the noble Lord, Lord Kirkhope of Harrogate.

In the noble Lord's absence, I have retabled the amendment, and it has been tweaked slightly to address some of the points made by his noble friends last time—and I really look forward to hearing what the objection is to that modest suggestion that he made, that, if is there is a declaration, Parliament should have an accelerated timetable, and Ministers should put their arguments to Parliament, not to a court, and Parliament should be given the opportunity to consider what to do next.

As for our amendments to restore Human Rights Act protection, that is another way of trying to restore the protection of the domestic courts. I say to the Government—and here the noble Lord, Lord Frost, has a point—that where they have left us with this Bill, if it passes unamended, is in a situation whereby the only court that will really be seized of these matters and have full jurisdiction over the safety of Rwanda and individual removals, from this country to that country, will be the European Court of Human Rights. Of course, interim measures will be ignorable by a

Minister of State, but final orders of the European court will still be an international legal obligation, which is not removed by the Bill.

The noble Lord, Lord Frost, is the one who is telling the truth about the logic of where this Government are heading—really, for walking out of the European Court of Human Rights and walking out of the Council of Europe. We can follow Russia and be the next one out. At least the noble Lord is honest about that position, whereas the Government are trying to have it both ways. They have defenestrated domestic courts and gaslit the Supreme Court, but the only court that will be left for redress in any real terms will be the Strasbourg court. Then the Prime Minister can say, "I told you what I said about foreign courts", because foreign courts will be all that is left, if that is what we now say about international courts. Goodness me, what terrible politics.

The noble Lord, Lord Frost, has had enough of international law, really—that is where he is coming from—but how on earth are we going to address in a unilateral way the pressing challenges of the 21st century, facing not just the United Kingdom but the world today, whether it is climate change, war and peace or the challenge of the ungoverned continent that is the internet, AI or robotics? It is just nonsense.

The noble Baroness, Lady Lawlor, does not seem to like law, whether it is domestic or international, I hope that she never has need of it and that she is never subject to the kind of abuse of power that sometimes people are subject to, and they need the protection of the courts.

Baroness Lawlor (Con): I ask the noble Baroness to be clear about what I proposed and to what I was referring. I was referring to the laws of this country, made by the people of this country, with the support of the people of this country—good laws. Yes, they support international treaty law, when that is in the interests of this country, and other wider interests that arise, whether they are trade treaties or international agreements over other matters. It is wrong to suggest that I am not in favour of law; I am in favour of good law, but not politicised law, as it very often is, by the interpretations of the Strasbourg court of the convention.

7.45 pm

Baroness Chakrabarti (Lab): I am very grateful to the noble Baroness for her clarification. As I pointed out, and I think the noble Lord, Lord Frost, was nodding, the Strasbourg court is unaffected in its final jurisdiction by the Bill—it is our domestic courts that are defenestrated by this government policy.

I look to the noble Baroness's amendment, which abrogates domestic laws. It refers to

"any provision made by … the Immigration Acts … the Human Rights Act"

and other domestic statute, as well as

"any other provision or rule of domestic law (including any common law)"—

in case Magna Carta still got a shout-out there—and, of course, international law. The noble Baroness has been pretty comprehensive in her approach to law in the amendment, whether domestic or international.

Of course, the noble Baroness says that it is only bad law that she does not like—but of course we all have our own views about good and bad law. Some of us believe that there should be referees in a democracy that is built on the rule of law, and the rule of law was invoked by the Prime Minister, even in his slightly odd Downing Street declaration on Friday.

Baroness Lawlor (Con): May I clarify that my amendment is designed to promote the aims of the Bill to remove people who come to this country illegally to Rwanda and stop obstructions on that matter?

Baroness D'Souza (CB): My Lords, perhaps I might add a few words to this debate on the Human Rights Act. I point out that this is the first time that I have spoken in this group. This amendment seeks to return the responsibility of interpreting the law to the courts and specifically underlines the unacceptability of a law on the statute book that is incompatible with domestic law, which of course includes the UK Human Rights Act. Unless and until the courts affirm that the Act conforms with the strictures of the Human Rights Act, it must not have any effect; to do otherwise would be to reject the rule of law, which is one of the pillars of the UK constitution.

Baroness Lister of Burtersett (Lab): My Lords, I wanted to make a couple of brief points in support of Amendments 20 and 21. In Committee, the Minister, the noble and learned Lord, Lord Stewart, quoted at length the Lord Chancellor's submission to the Joint Committee on Human Rights to justify breaching the universality of human rights. Clearly, the Lord Chancellor did not convince the Joint Committee on Human Rights, which in its majority report concluded that the provision

"threatens the fundamental principle that human rights are universal and should be protected for everyone".

I still do not understand, given the concerns expressed by the JCHR, as well as the EHRC, the Law Society and the Northern Ireland Human Rights Commission, why this Government continue to try to argue that disapplication does not affect the principle of universality, which the noble and learned Lord waxed lyrical about in his speech.

Secondly, the noble and learned Lord promised to write to me in response to my concerns about the implications for the Windsor Framework and the Good Friday agreement—following on from the comments of the noble Baroness, Lady Hoey—and the Joint Committee on Human Rights' request for a full explanation before Report as to why the Government consider Clause 3 to be consistent with these agreements. I thank the noble and learned Lord for his letter but, to echo what the noble Lord, Lord German, said earlier, I gently point out that it was sent at 3.24 pm this afternoon, after Report began. That really is not good practice, and it does not meet the JCHR's request that a full explanation should be published before Report. It seems that the actual full publication will not be until some time on Wednesday, when we will be finishing Report.

I am not convinced that the answers to my questions would satisfy the JCHR, the Northern Ireland Human Rights Commission or the Human Rights Consortium

[Baroness Lister of Burtersett]
of Northern Ireland. I am also not clear why the letter was not copied to the noble Baroness, Lady O'Loan, given that she originally challenged the Minister on this point at Second Reading. I am not going to pursue the matter here, except to point out that I do not think we yet have a satisfactory explanation of the interactions with and the implications for these agreements.

Lord German (LD): My Lords, I will speak to Amendment 21 in my name and also link that with Amendments 20 and 18. If Amendment 20 had had any space, I would have signed it as well, because it makes the same case. I will address Amendment 17 later and look forward very much to seeing how the Government deal with it in their response.

At the moment I will just repeat the universality issue of human rights—they are for all. I read once again the response from the noble and learned Lord, Lord Stewart of Dirleton, about legitimacy and I am sure we will hear it again today. But the underpinning of the Human Rights Act is that the protections should not be disapplied just to some people. Human rights are for all; if they become qualified, they are no longer human rights but only rights for some people. This violates the principle of the universality of human rights, which is why this amendment is in place.

It does not matter that this is directed at illegal migrants: once the Government do this for one group, they will choose—or could choose—to use it for other groups such as protesters.

Lord Murray of Blidworth (Con): Is the logic of the noble Lord's point therefore that the Government would be better to repeal the Human Rights Act completely and revert to the pre-1998 situation?

Lord German (LD): No, we simply keep the Human Rights Act, which does the job we are seeking here. Naturally, of course, if the Government want to move and create a special group, as here—what they call "illegal migrants"—what about the other groups that might follow from it? It is very clear that there may well be an issue with protesters—groups that are not in vogue with the Government. It is a very dangerous precedent and this is a warning sign. Fundamentally, what we are seeing here is a chasing of short-term headlines that will have a significant consequence for people's rights in this country.

Not content with arguments that they are having with the views of the ECHR and the UNHCR, the Government in the last seven days have now drawn swords with the United Nations Human Rights Council. Published last Friday, the council's report said:

"Prohibiting courts and tribunals in the UK from applying and interpreting principles of domestic human rights law and international law would undermine the ability of the courts to protect all those under UK jurisdiction from violations of their human rights as provided under international law".

It goes on to say that the Government should look at this matter again and the United Nations has offered to work with the UK Government on this matter. So, when he responds, will the noble Lord tell us whether the Government have read the United Nations Human Rights Council's review and whether they are prepared to meet the council and discuss this matter further?

There is also a logical inconsistency in what the Government are doing; they cannot have it both ways. They want to rely on the international convention and jurisprudence in justifying the disapplication of the Human Rights Act, but they are then seeking to disapply the findings of that same court in relation to the same international convention with respect to the consideration of interim orders. You cannot have it both ways and the Government need to be clear on that matter.

All the comments that the noble Baroness, Lady Chakrabarti, made about Amendment 17 are absolutely accurate, but one thing worries me completely and that is the part of the amendment that basically takes away every law that this country might apply in this direction—domestic law and common law. For goodness' sake, with common law as interpreted by the courts, I do not know how you find which parts of it you want to disapply. You have to be specific in what you say if you want to disapply anything of this nature. Amendment 17 looks to me like a complete wiping out, blanking out and blindfolding of every single possible piece of legislation that might stand in the way of this Government's view, and that absolutely must affect the balance of the rule of law in this country.

I look forward to seeing how the Government will deal with that amendment, but I suggest they might need to consider how they move forward with no further disapplication of the Human Rights Act.

Lord Ponsonby of Shulbrede (Lab): My Lords, I will speak quite briefly. The amendments in this group again demonstrate the threat to the domestic rule of law posed by this Bill. This is not the first Bill that threatens the Human Rights Act in this way, but the fact that it now seems almost commonplace for the Government to strip back human rights legislation does not mean it should go without objection each and every time.

There is much to object to in this Bill and Clause 4 is no exception. Each cut to the Human Rights Act matters and each piece of domestic law cut away in search of a quick political gain matters as well. I hope the Government listen to the arguments put forward by my noble friends and see sense.

I have to say I found this relatively brief debate quite refreshing. The noble Lord, Lord Frost, was perfectly candid with the House, and for a layman it was much easier to understand the political differences between the view articulated by the noble Lord and the view on the other side of the House. It was much easier to understand that difference than when I try to decipher the words of the Ministers when they respond to these amendments. Nevertheless, I look forward to what the Minister has to say.

Lord Stewart of Dirleton (Con): My Lords, the noble Lord, Lord Ponsonby, has flung down the gauntlet and, on behalf of His Majesty's Government, I am happy to pick it up.

I am grateful to all who participated in this debate and sincerely echo the words of the noble Lord when he said that there was a refreshing quality to this short debate. I think that the House articulated some

important points and contrasting positions were properly and clearly laid out for the consideration of the House.

My noble friend Lady Lawlor opened with the support of my noble friend Lord Frost and I begin by saying, as I said at an earlier stage in the handling of this Bill, that it is important to recognise, as my noble friend did, that the levels of illegal migration to this country, perhaps to the whole of western Europe and other comparatively prosperous parts of the world, are not only placing enormous strain on us economically but straining the fabric of society and straining perhaps also public confidence in the ability of our courts and democratic legislatures to address problems.

I am grateful to both my noble friends for their broad support for the aims and objectives of the Bill. The noble Lord, Lord Frost, put it clearly and accurately in constitutional terms when he repeated that this Parliament may legislate in contravention of international law and that it is a long-standing element of our constitution.

The noble Lord also correctly identified that the high price to be paid for any such step is a matter of reputation. Reputations of countries, as of people, may be easily lost. I echo what he said about how it is difficult to adapt international treaties drawn up at different times and in different circumstances. The noble Baroness, Lady Chakrabarti, intervened on him; it seemed to me that he was not saying that he had had enough of international law but that he wished it to operate in its proper context.

8 pm

The noble Baroness, Lady Hoey, made an extremely important point, which the noble Baroness, Lady Lister of Burtersett, touched on—the status of the law of the United Kingdom in one of its constituent parts as opposed to another. The Government are considering the judgment in the case of Dillon, to which the noble Baroness referred, in relation to Article 2 of the Windsor Framework and all the available options, including appeal against that decision, very carefully. Our position is that the Bill will apply in full in Northern Ireland and we are clear that nothing in the Windsor Framework, including Article 2, or the trade and co-operation agreement affects the Bill's proper operation on a UK-wide basis—a matter very important to this Government.

The Government have always been consistent about the position of Article 2. For it to be engaged, it would be necessary to provide evidence that the alleged diminution of rights relates to rights set out in the relevant rights, safeguards and equality of opportunity chapter of the Belfast/Good Friday agreement, concerns a right that was given effect in domestic law in Northern Ireland on or before 31 December 2020 and occurred as a result of the United Kingdom's withdrawal from the European Union. Nothing in the Bill, which is about matters of asylum and immigration, engages any of those issues. As such, it would be incorrect to claim that its provisions are within the scope of Article 2.

The noble Baroness, Lady Lister of Burtersett, referred to the importance of speed of communication with letters written after earlier stages—I see the noble Lord, Lord Cashman, nodding his head. I apologise to the noble Baroness and to others in the House who were recipients of letters. I signed the terms of the letter off, however inadequate she may ultimately have found it, on Saturday afternoon.

The amendment tabled by my noble friend Lady Lawlor, with the support of the noble Lord, Lord Frost, would limit legal challenges. On one view, it may be seen as undermining the safeguards necessary to ensure that this Bill and the Illegal Migration Act are compatible with the United Kingdom's international obligations. That Act and this Bill include provision for a person subject to removal to a safe third country to make a limited class of suspensive claim on the ground that they would face a real risk of serious and irreversible harm if they were removed. The threshold for serious and irreversible harm is high and the harm in question must be both imminent and permanent. This reflects the test applied by the European Court of Human Rights.

This legislation provides that a court may grant interim relief which prevents removal to Rwanda only where it is satisfied that there is a real, imminent and foreseeable risk of serious and irreversible harm. These measures are necessary to ensure compatibility with the European Convention on Human Rights and ensure that the grounds by which people can challenge removal are appropriately narrow. As my noble friend Lord Sharpe of Epsom and I have set out from the Dispatch Box on other amendments—I will come back to this—the Bill reduces unnecessary challenges while preserving the principle of access to the courts where an individual may be at real risk of serious and irreversible harm. As a whole, the limited availability of domestic remedies maintains the constitutional balance between Parliament's authority and the powers of our courts to hold the Government to account.

This country has a strong track record on rights, liberties and protection of human rights internationally. We are committed to enhancing that record. Some of the provisions in the Bill are novel, though not without precedent. Noble Lords will know that Australia has undertaken a similar approach with Nauru and we know that other countries are exploring similar models. For example, Italy has announced a partnership with Albania. The Government are satisfied that the Bill can be implemented in line with the convention rights, so I ask my noble friend to withdraw her amendment.

The theme of the Bill, to echo the words of my noble friend Lord Howard of Lympne, who is no longer in his place, is accountability. It addresses the concern that my noble friends advanced to the House that illegal migration on the scale at which we currently experience it, notwithstanding the successes we have recorded and which I spoke about on an earlier group, is straining both our ability to fund the phenomenon of illegal migration and the electorate's faith in both the courts and this place.

Removing Clause 3 entirely and disapplying Section 1(5) of the Illegal Migration Act, as Amendments 20 and 21 seek to do, would mean that the Human Rights Act applied in full to this legislation, as well as the Illegal Migration Act, in relation to removals to Rwanda. This would increase the risk that a person challenging their individual removal would

[Lord Stewart of Dirleton]
frustrate the entire scheme by bringing systemic challenges on human rights grounds. It would also increase the risk of litigation, asking the courts to interpret the Bill in a way that is inconsistent with the clear intent of Parliament, undermining Parliament's conclusion on the safety of Rwanda being accepted by the domestic courts.

Section 3 of the Human Rights Act requires the courts to interpret the meaning of legislation to make it compatible with convention rights so far as it is possible to do so. Disapplying Section 3 confirms and ensures that the provisions will be interpreted in accordance with the usual principles of interpretation, primarily by applying the ordinary meaning of the provisions. This follows the approach taken in the Illegal Migration Act, which the amendment from the noble Baroness, Lady Chakrabarti, also seeks to disapply. Disapplying Section 2 of the Human Rights Act ensures that considerations about the Rwanda treaty and the safety of Rwanda are firmly located with Parliament, providing that element of accountability which my noble friend Lord Howard of Lympne called for so eloquently. Taken together with the rest of Clause 3 and the Bill as a whole, the provision makes it clear that appropriate deference should be given to Parliament's sovereign and final determination in the matter.

Clause 3 also disapplies Sections 6 to 9 of the Human Rights Act from decisions, whether by decision-makers or the courts, related to the conclusive presumption that Rwanda is safe and any application of the serious and irreversible harm test. Disapplying Section 6 confirms that public authorities are not bound in domestic law to act in a particular way as a consequence of convention rights. In the context of this Bill, which deems Rwanda a safe country, this is targeted at preventing people frustrating removal by bringing systemic challenges in our domestic courts.

The disapplication of Sections 7 to 9 of the Human Rights Act follows from the disapplication of Section 6. These are the operative provisions of the Human Rights Act that flow from Section 6, providing for judicial processes and remedies. Given that Section 6 is disapplied, these provisions are not needed.

I turn to Amendment 47, tabled by the noble Baroness, Lady D'Souza, and Amendment 18, tabled by the noble Baroness, Lady Chakrabarti. These amendments are designed to expand the current process under Section 4 of the Human Rights Act, and to place pressure on the Government to present legislative proposals to Parliament. In doing so, they seek to oblige the Government to respond to declarations of incompatibility in a certain way. That is expressly—

Baroness Chakrabarti (Lab): I think a closer reading of Amendment 18 will demonstrate that it is not ensuring that the Government respond in a certain way. They can respond favourably or negatively to the declaration; they just need to come to Parliament and have the debate.

Lord Stewart of Dirleton (Con): In her address today and I think at an earlier stage, the noble Baroness described the functioning of declarations of incompatibility in Section 4 of the Human Rights Act 1998 as an elegant compromise. I freely agree that it is an elegant constitutional compromise, which ultimately reflects parliamentary sovereignty, which lies at the very heart of our processes and constitution.

As detailed in Committee, Section 4 of the Human Rights Act in relation to the system of declarations of incompatibility is designed to strike an appropriate compromise between scrutiny of human rights and parliamentary sovereignty. Section 4 does not oblige the Government to take any specific action as a result of a declaration of incompatibility, and Section 4(6) expressly does not allow a judicial ruling to prevent the operation and enforcement of legislation passed by Parliament.

The operation of the section is to afford the Government the opportunity to reflect on matters, to listen to concerns brought by the courts and to act upon them as they see fit. I do not consider it necessary to adopt the amendment which the noble Baroness has tabled and argued for. I do so purely on the basis that the history of the application of this section, in my view, respectfully, shows it to be working.

The noble Baroness, Lady D'Souza, tabled Amendment 47, seeking to undermine Section 4(6) of the Act by providing that a declaration of incompatibility results automatically in the legislation ceasing to have effect. It seeks to give such declarations a binding character, and, as I said a moment ago in relation to the noble Baroness's point, that is contrary to what those provisions were designed to be and removes discretion or oversight as is currently afforded to the Government and Parliament as to what action would be most appropriate to take in the circumstances.

It has been the accepted practice since the introduction of the Human Rights Act for the Government to address such declarations either through primary legislation or by way of a remedial order. Again, given how well the declaration of incompatibility procedure is working and has worked in the past, I respectfully submit that there is no reason for us to innovate on that basis. These amendments are therefore not only unnecessary but inappropriate in their attempt to legislate for parliamentary procedure in this manner. The declaration of incompatibility procedure works well to strike the right balance, and there is no reason to upset it.

I was addressed on the subject of the remarks made by the Lord Chancellor to the Joint Committee on Human Rights. As your Lordships have said—it was predicted that I would refer to this again, and I will—the Lord Chancellor recently set out in his letter to the Joint Committee that while

"it is a fundamental tenet of modern human rights that they are universal and indivisible … it is legitimate to treat people differently in different circumstances".

For example,

"a citizen may legitimately be treated differently, and have different legal rights from, a non-national",

recognising that there is a difference between a citizen and a non-national. The convention,

"as interpreted by the case law of the ECtHR … recognises this principle"

in full.

"There is nothing in the … Bill that deprives any person of any of their human rights: in accordance with Article 1 of the ECHR, we shall continue to secure to everyone within our jurisdiction the rights and freedoms defined in the Convention. What we can legitimately do, and what we are doing, is to draw legal distinctions between those with a legitimate right to be in this country, and those who have come to this country illegally".

8.15 pm

As I say, the provisions in the Bill, while novel, are not without precedent. We are satisfied that the Bill can be implemented in line with the convention rights. I therefore ask noble Lords not to press their amendments.

Baroness Lawlor (Con): I thank my noble friend the Minister; I am very grateful to him for his courteous and thoughtful reply on my amendment. I also thank all noble Lords who spoke in this debate. As others have commented, we have had a very refreshing debate, and it has been very spirited too. We all share a commitment to and a respect for the rule of law, but we differ over the interpretation we give to that, and the weight we give to the different parts of our constitutional powers: government, the judiciary and Parliament.

I especially thank my noble friend Lord Frost for reflecting on the continuing tension between laws made in this Parliament on the express wish of the people of this country, which command popular support, and laws made elsewhere, very often originating from different times to apply to different circumstances. I understand that my noble friend the Minister is keen to reject this amendment, but I hope he will reflect further on the aims of this measure: to prevent legal challenge to removing to Rwanda people who come to this country illegally, and to ensure that we operate a deterrence to stop the ghastly tragedies that we see too often in the channel. I beg leave to withdraw the amendment.

Amendment 17 withdrawn.

Amendments 18 and 19 not moved.

Clause 3: Disapplication of the Human Rights Act 1998

Amendments 20 and 21 not moved.

Clause 4: Decisions based on particular individual circumstances

Amendment 22

Moved by ***Lord Etherton***

22: Clause 4, page 4, line 12, after "question" insert "or, where the person in question is a member of a particular social group within Article 1A(2) of the Refugee Convention 1951, for that group"

Member's explanatory statement

This amendment and the related amendments to Clause 4(1)(b) and Clause 4(4) provide for the situation where the person in question is a member of a particular social group, the members of which have a well founded fear of persecution, and following the decision of the Supreme Court in HJ (Iran) v SSHD [2010] UKSC 31 the focus is on the group and not the individual circumstances of each member of the group.

Lord Etherton (CB): My Lords, I will also speak to related amendments that I have tabled: Amendments 24, 26, 28 and 30. I am extremely grateful to those who have co-signed all or some of those amendments: the noble Lord, Lord Cashman, the noble and learned Baroness, Lady Butler-Sloss, and the noble Baroness, Lady Brinton.

I will speak very briefly, because I spoke previously about this both on Second Reading and in Committee. The current version of Clause 4(1) enables an applicant to oppose removal to Rwanda on the grounds that it is not a safe country for the applicant, but only if the applicant provides

"compelling evidence relating specifically to the person's particular individual circumstances".

Similarly, Clause 4(4), on the ability to obtain interim relief from removal to Rwanda, depends on particular individual circumstances relating to the applicant in question.

The defect in those provisions—a very basic defect—is that no provision is currently made for applicants in one of the important categories of refugee defined in Article 1A(2) of the 1951 refugee convention. That category comprises applicants who have a well-founded fear of persecution because of their

"membership of a particular social group".

You can immediately see the difference between other categories of refugee under the convention, who are individual persons, and this category—which is probably the largest, or certainly the most important—comprising a large number of people who qualify as refugees because they are members of a particular social group. Yet when we look at Clause 4—I mentioned subsection (1) as well as subsection (4) on interim relief—there is no reference whatever to "group", so one category of refugee has simply dropped off the list completely.

The proper approach of courts and tribunals to such a refugee was described in detail by the Supreme Court in HJ (Iran) and HT (Cameroon) v Secretary of State for the Home Department, a 2010 decision, especially in the judgment of Lord Rodger of Earlsferry. I will not take the House through the case in detail. It is sufficient for me to say briefly that the approach to be taken, as established by that case, is that, if the applicant for asylum claims to be a member of a particular social group, the other members of which have a well-founded fear of persecution, the applicant is entitled to be considered a refugee provided that they satisfy the particular decision-maker that they are a member of that social group.

HJ (Iran) and the other case I mentioned concerned men who wanted to live an openly gay life and would have faced persecution in their home country had they done so, but the principle that I just described of the way to treat this category of refugee, as set out in HJ (Iran), applies across the board. It is not limited to people who are LGBT but applies to those who are members of a particular social group because of their ethnicity or gender or who hold a particular religious or political belief. For example, by way of analogy with the LGBT men who applied in HJ (Iran), if people hold particular philosophical, political or religious views that they have not expressed because of a real risk of persecution, but would like to do so and to live

[LORD ETHERTON]
a life in which they can express those views, they are to be treated as members of a social group and granted the status of a refugee accordingly.

As the noble Baroness, Lady Chakrabarti, said in Committee, the Bill presents us with a false dichotomy. On the one hand, it is all about me—the claimant, the individual; on the other hand, it is about Rwanda generally. The former, the Bill says in Clause 4, allows you to make a claim for interim relief or removal generally to Rwanda, but the latter does not. In between those two extremes is the category of a member of a social group with a well-founded fear of persecution. This is not a torpedo point; it is not intended to undermine or delay this legislation. It is a reflection of the omission of a basic category of refugee defined in the convention, and an extremely important category as well. On that basis, I beg to move.

Baroness Butler-Sloss (CB): My Lords, I have put my name to the four amendments tabled by the noble and learned Lord, Lord Etherton. I support everything he says and, since we are on Report, I do not propose to add to it. I also have my own Amendment 42. I declare an interest as the co-chairman of the All-Party Parliamentary Group on Human Trafficking and Modern Slavery and the deputy chair of the Human Trafficking Foundation.

I spoke to this in Committee. Quite simply, and taking on what the noble and learned Lord has just said, this is a very special group of people who are in this country not because they have chosen to take the boat trip but because they have been brought here, by boat, lorry or some other route, and they are victims. When one starts complaining about people who should have stopped in France because France is a safe country, it absolutely does not apply to victims of modern slavery. They are here on an involuntary basis and need to be regarded in a totally different way.

Since I have been opposing much of the Rwanda Bill, I have heard endlessly, "What is it that you or other opposition would do to improve the situation of those crossing the channel?" I deeply regret those crossing the channel and I do not have an answer, but I do not believe that the need to stop people crossing the channel in a dangerous situation is any reason to pass an utterly shocking Bill. It is constitutionally incorrect and does not look at genuine victims, such as those victims of modern slavery. It is no answer to those of us who cannot accept what is going wrong in this country and what is going wrong in this Bill that, because we cannot offer an answer to the people crossing the channel, therefore we should be disregarded. Modern slavery is one of the most shocking crimes, making vast sums for perpetrators across the world. About a third to half the victims of modern slavery come to this country. The Government are ignoring the plight of this most vulnerable group of people. I hope that, at this last moment, they will think again about victims of modern slavery.

Lord Cashman (Lab): My Lords, it is a pleasure to follow the noble and learned Baroness, Lady Butler-Sloss. Before I refer to the amendments in the name of the noble and learned Lord, Lord Etherton, I mention Amendment 25, in the names of my noble friend Lord Dubs and the right reverend Prelate the Bishop of Winchester. Sadly, my noble friend cannot be in his place, but I raised this issue in another amendment in Committee. Our concern is about freedom of religion or beliefs and the effect that Rwandan legislation could have on such beliefs, particularly minority religious beliefs, and the conflict that could arise with the Rwandan blasphemy law. The right reverend Prelate might say more.

The noble and learned Lord, Lord Etherton, has made a powerful case for the amendments in his name and for others within this group. I have added my name to his amendments. From Second Reading onwards, we have repeatedly made the case for these amendments. I will not return to the same arguments, pertinent and important though they are.

The Government insist that belonging to this particular social group—LGBT—would pose no threat in Rwanda because there is no discrimination in law. However, there are no clear protections against discrimination or persecution within law. I refer your Lordships to the comments that I read into the record from activists in Rwanda, who detailed their direct experiences of societal discrimination, which directly affects them and their quality of life.

8.30 pm

To put it in context, following the genocide, the abiding principle followed by the Rwandan Government is that of countering what is known as divisionism, ensuring that groups do not arise and are not pitted one against the other. The genocide informs their approach to governance, and that, in effect, means conformity. If you do not conform, it can be and regularly is represented as creating divisionism that would have further consequences and is punishable by law.

Lord Murray of Blidworth (Con): The characterisation of the mentality in Rwanda that the noble Lord asserts does not reflect that of the community representatives whom the JCHR met last week. It is clear from the evidence that they gave us that Rwanda is very much a leading light in east Africa, being an open and tolerant home for LGBT+ people. Indeed, it is very much felt in the region that gay people are at home there. Therefore, I do not accept the characterisation that the noble Lord sets out. I encourage him to think again about the welcoming nature of society in Kigali, particularly given what is going on in neighbouring east African states—for example, Uganda and the DRC.

Lord Cashman (Lab): I thank the noble Lord for that considered intervention. I can speak only according to my direct experience in Rwanda, from 2008. As I said earlier, in discussion on another group, I worked in Rwanda for several months as the chief election observer for the 2008 elections. At that time, I had to intercede on behalf of activists who were directly experiencing discrimination. I have not given up on that. I recognise what is going on in Uganda and other countries, but comparisons are not always helpful—indeed, they are somewhat odious when it comes to the lived experience of people with whom I am in direct contact. This is not academic; I am talking about what is

reported to me, as the noble Lord is referring to what was reported to him and other parliamentarians on a parliamentary visit.

Following on from my previous references to divisionism and the consequences caused by one group being pitted against another, I therefore assert that LGBT people could not live openly. To do so would be a challenge to others that would not be accepted. It would and could be portrayed as divisionism.

This is in direct contrast to the protections that arise from the judgment referred to by the noble and learned Lord, Lord Etherton, in HJ (Iran) from the Supreme Court of 2010. It affects characteristics that come from belonging to a particular social group. Again, I refer to my intervention in Committee, where I represented some of the concerns of LGBT activists. I will not repeat them, but if Members of your Lordships' House request me to do so, I would be more than happy to oblige.

At the end of last week, I again made contact with LGBT activists, and asked again what the situation was like for LGBT asylum seekers in Rwanda. The reply was succinct and stark, written in four separate messages so that it could not be connected or traced:

"Rwanda is not a safe place for LGBTQ asylum seekers at all.
Though there are no laws
Community is facing
So much violence and discrimination".

They are not my words, but the words of people living in that region. That is the reality of life for the LGBTQ people that we send to Rwanda, and sadly not the representations made to visiting parliamentarians.

The Lord Bishop of St Edmundsbury and Ipswich: My Lords, I support Amendment 42 tabled by the noble and learned Baroness, Lady Butler-Sloss. My right reverend friend the Bishop of Bristol regrets that she cannot be in her place today to speak in support of this amendment, which she has signed.

The question of deterrence is central to the Government's premise in the Bill. The threat of being removed to Rwanda should, in theory, be sufficient to discourage asylum seekers from taking dangerous crossings in small boats across the channel. Even if we accept that this will work for individuals trafficked to the UK against their will—I have not seen evidence that suggests it will—how can the Bill possibly have a deterrent effect? This point was made repeatedly in Committee, but it has not been adequately addressed.

There are as many as 4,000 people in the national referral mechanism who could potentially be eligible for removal. Can we not give them assurance that we will not subject them to further upheaval? The Global Slavery Index estimates that the rate of modern slavery in Rwanda is more than twice as high as the rate in the UK. Can we be sure that victims will be safe from the risk of re-trafficking?'

The provisions of the Bill are incompatible with protective obligations, but potential victims will not even be able to put this injustice to the courts under the Rwanda treaty. Not identifying victims or sending them to another country before their claim has been properly assessed will also set us back in our efforts to bring perpetrators of modern slavery to justice. Victims are often the only witnesses of this crime; without them, the case against perpetrators will be significantly harder to make. Safeguarding victims of modern slavery from removal to Rwanda will have a negligible impact on the supposed deterrent effect of the Bill, and every effect on the safety and flourishing of the victims of modern slavery.

Baroness Hamwee (LD): My Lords, my name would have been on the amendment of the noble and learned Baroness, Lady Butler-Sloss, but I was not quite agile enough to get in as number four. The treaty provides at Article 13 that

"Rwanda shall have regard to information provided about a Relocated Individual relating to any special needs that may arise as a result of their being a victim of modern slavery or human trafficking, and shall take all necessary steps to ensure that these needs are accommodated".

If the Home Office rushes through its processes, as it will under the legislation of 2022 and 2023, I doubt that the individual needs will be adequately identified. It is hard enough to do even under the pre-2022 procedures.

Of course, what Rwanda is told is necessary and what it actually can provide are not necessarily the same thing, as has been covered pretty fully today. Its record is not exemplary. Just last year, the 2023 US *Trafficking in Persons Report* of 2023 told us that Rwanda

"did not refer any victims to services".

That there were none is, to me, literally incredible.

The report also refers to widespread cultural prejudice, as we have just heard, along with a lack of capacity and resources that inhibits effective procedures, and so on. Referring to the words of the treaty as if that made them actually happen seems simply an extension of the argument of "The legislation says that Rwanda is safe and it therefore is". What assessment have the Government made of the risks of Rwanda being safe in this respect? What assessment have they made of its capacity to provide services? Do they accept that Rwanda is able carefully to assess each individual's risk of being re-trafficked? The risk in this country is enough—my goodness, what must it be there? Indeed, what assessment have they made of how those people sent to Rwanda by Israel disappeared? Common sense gives me a likely answer.

Lord Browne of Ladyton (Lab): My Lords, I speak to Amendment 44 in this group, which is in my name and supported by the noble and gallant Lords, Lord Stirrup and Lord Houghton of Richmond, and the noble Lord, Lord Kerr of Kinlochard. Before turning further to Amendment 44, I say that I support the amendments in the name of the noble and learned Lord, Lord Etherton, and the amendment in the name of the noble and learned Baroness, Lady Butler-Sloss. I have had the benefit of hearing about these amendments in Committee and today in your Lordships' House. I do not plan to say anything further on this, but I cannot for the life of me understand why the Government's attitude to those who have been trafficked or other victims of modern slavery should be that they were in control of their own decision-making and to categorise them as such, when manifestly they were not. I also support Amendments 31 and 32 in the

[Lord Browne of Ladyton]
name of the noble Baroness, Lady Meacher, which I am sure she will speak to immediately after I sit down, and Amendment 25 in the name of my noble friend Lord Dubs.

As the explanatory statement in relation to Amendment 44 makes clear, the new clause proposed by this amendment would exempt from removal to Rwanda people who are in a very special case: those who put themselves in harm's way in support of His Majesty's Armed Forces or through working with or for the UK Government overseas. It extends this exemption to their partners and dependants. In Committee on 14 February, responding to a debate on this amendment, the Minister said:

"Of course, we greatly value the contribution of those who have supported us and our Armed Forces overseas, and we have accepted our moral obligation. … Anyone eligible for the Afghan relocations and assistance policy and Afghan citizens resettlement scheme should apply to come to the UK legally under those routes. As regards the specific case of British Council personnel, they are qualified under the third pathway of the ACRS and places are offered to them".—[*Official Report*, 14/2/24; cols. 287-88.]

I know and admire the Minister, and he is correct, but his restatement of the eligibility framework and criteria for these schemes does not engage, never mind undermine, the necessity for this exemption. It is clear that we have a moral duty to those who have served at our behest and in our interests. However, despite serving shoulder to shoulder with British troops, most of the Triples were not evacuated in August 2021, and many have subsequently been rejected under the ARAP scheme. We know now that they were rejected because of misunderstandings on the part of decision-makers of the terms of ARAP and, often, the nature of the service of the applicants, despite the existence of compelling evidence to the contrary, and there is now credible evidence suggesting that the UK Special Forces department blocked eligible applicants from being accepted. The group was refused wrongly by the bureaucracy or blocked for self-serving, venal reasons by the country's Special Forces, whose Government and Ministers have a moral obligation to promise them, and still promises them, sanctuary.

It comes to this: many applied for the status that would allow them a legal route to resettlement in the UK. They were refused in error. Then, fearing what materialised as their comrades were murdered or tortured by the Taliban, they faced the choice of staying in Afghanistan and facing certain death or getting here somehow. They chose to get here somehow. They were in extremis and had no alternative. There was no legal route open to them because of our failures. In Committee, I shared accounts of the experience of five Afghans who were driven to this extreme and acted accordingly. I do not intend to repeat them but they are freely available in open source media, and I am sure many others will become apparent over time.

8.45 pm

Responding to this amendment in Committee, the Minister asserted:

"Regardless of the contribution they have previously made, a person who chooses to come to the UK illegally, particularly if they have a safe and legal route available to them, should be liable for removal to a safe country".—[*Official Report*, 14/2/24; col. 288.]

The third clause of that sentence makes a rather startling admission: that the position of this Government is that, even when they—the Government—have failed, when access to a safe and legal route is wrongly denied, the consequences of their dereliction should doubly be laid on those who are already victims of it in the first place. Your Lordships' House is a legislative Chamber. Where there is a wrong that can be remedied via legislative means, we are empowered to do just that. Making law is not separate from morality but, in cases of this moral seriousness, should be a means of translating morality into practical, proportionate and enforceable measures.

On 5 February, in the debate on a UQ on the relocation of Afghan special forces, I welcomed—and I repeat that welcome today—the Government's undertaking to review all the ARAP applications from members of the Afghan special forces, known as the Triples, that already have been deemed ineligible. Some of these very brave men and their families and dependants are hiding in Afghanistan. Others are in Pakistan, waiting to find out whether the new Government in Pakistan will deport them back to Afghanistan, where they will be in fear for their lives.

As I said then, in addition to those who are in Afghanistan and Pakistan, there are others who are here in the United Kingdom. In August 2021, when Kabul fell to the Taliban and chaos ensued around Kabul Airport, they were denied access to evacuation flights. The Taliban in attendance around the airport knew who they were and where they lived. Soon, when the killing of their colleagues and families started, they were forced to get here by irregular and dangerous routes. On 5 February, I asked whether the Ministry of Defence, in carrying out the review, would undertake not to make them ineligible for ARAP simply because of how they got here. No such undertaken was given, either then or since. Apparently, His Majesty's Government, although greatly valuing the contribution of those who have supported us and our Armed Forces overseas and accepting their moral obligation to them, none the less value the Rwanda policy more.

The provisions of the Illegal Migration Act are so unambiguous that, if any of those people got here with the assistance of traffickers and crossed the channel in small boats, they would be illegal migrants. Section 1(2)(a) places a binding duty on the Secretary of State to arrange for their removal. In conjunction with the provisions of this Bill, were they to enter into force, that removal would be to Rwanda. Some already have been threatened repeatedly with deportation to Rwanda. It is to remedy this that the amendment is necessary. In this context, I echo a question that I asked in Committee:

"When we ask others to ally themselves with us in future"—

as we will—

"what lessons do we imagine that they will draw from these cases? That we are steadfast in our support for those who have lent their support to us? That we can be trusted to meet our commitments? No, we will be seen as utterly transactional—a power that asks others to risk their lives and pledge themselves to act in our interests but will not offer sanctuary in return when they need it".—[*Official Report*, 14/2/24; col. 272.]

As I have said, I welcome the Statement made on 1 February that the MoD has decided to undertake a reassessment of all decisions of ineligibility made on

applications with credible links to Afghan specialist units, but evidence of errors in handling eligibility for the Afghan resettlement schemes is not confined to the Triples and ARAP. I refer your Lordships to the evidence complied by the charity the SULHA Alliance, whose spokesperson Professor Sara de Jong has commented that their casework includes interpreters and labourers who qualify under ACRS who are being treated similarly by decision-makers, with many errors.

This amendment goes significantly further than the Government's reassessment and meets the moral need. Although I do not approve of the Bill or its intentions, this amendment should attract support even from those who count themselves among the Bill's supporters. If they wish the Rwanda scheme to work and to be seen to work, this would at least ensure that we do not face the ignominy of seeing those who risked their lives at our instigation being deported from the country in whose service they have risked exile, serious injury and death.

Lord Stirrup (CB): My Lords, having tried earlier in the day during Questions to be supportive of the Minister, let me now seek to redress the balance. I have appended my name to Amendment 44 for two reasons: first, because I regard it as essential that we meet the obligations we have undoubtedly accrued to those who have supported the UK's overseas endeavours in the past; but, secondly and equally, because we need to protect our ability to garner such support in future—support that will be crucial in many instances to the success and safety of our own Armed Forces. It is for this reason that faster and better handling of currently outstanding issues, such as those pertaining to the Afghans, will not resolve the issue.

The Bill has passed the other place and will undoubtedly become law. This amendment does not in any substantive way affect the powers and arrangements set out in the Bill. It carves out a limited exemption. The Government will undoubtedly argue that the more exemptions, the weaker the Bill. That may be, but it seems to me that is a pretty important exemption. That really is the question before your Lordships: would the harm done to the UK by not agreeing this amendment outweigh the impact that agreeing it would have on the Government's objective of ceasing illegal immigration? The answer, it seems to me, is an overwhelming yes, and therefore I believe we should agree the amendment. The Minister will undoubtedly disagree. My proposition to your Lordships is therefore this: let us pass the amendment and send the issue back to the other place and let us then see what importance it attaches to the safety of those who have hazarded their security and their very lives in support of global Britain's overseas endeavours.

Lord Kerr of Kinlochard (CB): My Lords, there is an irrefutable case, in my view. It is very odd when you think about it. We had three days in Committee and a long Second Reading, and the Government have heard nothing from us which is of any interest to them. There are no government amendments on the Marshalled List today, not a single one, and the Government have shown no signs of picking up, improving, adjusting, or taking advantage of any of the amendments tabled by anyone all around the House. I am tempted to say it is rather contemptuous. We have taken their Bill seriously. I am not sure that they have taken seriously what we have said about the Bill, but now we come to the test because this group contains nothing which would in any way detract from what the Government are trying to do.

Having heard the explanation by noble and learned Baroness, Lady Butler-Sloss, of the modern slavery amendment, that it cannot be right to treat the victims of modern slavery as perpetrators and it cannot be right to penalise victims; having heard the arguments advanced by noble and learned Lord, Lord Etherton, who has drawn attention to what clearly is a lacuna—not a large lacuna, but a real lacuna—in the Bill; and having heard the noble Lord, Lord Browne, explain what seems to me to be a debt of honour, it would not cost the Government very much to say, "Okay, we have heard you. Maybe we want to adjust your wording, but we are prepared to incorporate your thoughts because you hit on three real points, not seriously damaging to our Bill, where changing our view would be the honourable course to take".

I very strongly support the amendment from the noble Lord, Lord Browne. The service that I was privileged to lead is a small service, which, in my time, employed more than 10 locally engaged staff for every single member of the Diplomatic Service in our high commissions and embassies around the world. The vice-consuls, the clerks, the drivers, the security guards, the messengers: many of them worked for us for a lifetime. In certain countries, at certain times, having worked for us puts such people in grave danger. One thinks nowadays of Russia, Belarus, Iraq, Iran and, of course, Afghanistan.

I strongly support the case for doing the right thing for those who have assisted our military, but those who have assisted the King's servants on the ground in diplomatic missions, without diplomatic immunity, and who are now, as a consequence, at risk deserve the same degree of support. It is a matter of honour; not to pick up the amendment of the noble Lord, Lord Browne, would be dishonourable.

Baroness Coussins (CB): My Lords, I strongly support Amendment 44 in the name of the noble Lord, Lord Browne of Ladyton, to which I would have been more than happy to add my name had there not been a limit of four sponsors for each amendment.

As we have already heard, one of the groups of Afghans to whom this exemption would apply would be the interpreters who worked with the UK Armed Forces in Afghanistan, whose predicament at the hands at the Taliban I have been highlighting in your Lordships' House for over 10 years now. I am happy to say that many thousands of Afghan interpreters have succeeded in being relocated to the UK with their family members, but there are others whose claims under the various schemes have been unfairly or inexplicably rejected and who still live in fear, as do their family members. Only two weeks ago, I was contacted by one such individual, who had worked as an interpreter and translator. He said it was common knowledge in his

[Baroness Coussins]
community that he had been working for the British, so he felt forced to flee to a third country where he is now living in hiding, in fear of his life, with his mother and younger brother.

The importance of this proposed new clause to this individual and others like him is that his application under ARAP was refused on the grounds that he was not directly employed by HMG. His employment as an interpreter and translator was with a global agency under a contract that that organisation had with DfID to provide translation and interpreting services to the Armed Forces and to UK government projects in Afghanistan. So he would clearly fall under the terms of proposed subsection (1)(b) of this new clause in relation to indirect employment, and his family would fall under Clause 1(c).

To me he appears to be typical of the brave linguists who worked with pride for the UK but who, in the end, may feel forced to seek access to the UK by what would be treated as illegal means. In no way should he then have to face the indignity of being further removed to Rwanda. His loyalty is to the UK.

I am equally concerned about those who worked for the British Council as well as the so-called Triples, whom the noble Lord, Lord Browne, mentioned. Some of these Afghans are also in hiding, in fear of kidnap, violence and death threats at the hands at the Taliban. If forced to seek asylum here other than through an official route, they also deserve our gratitude, respect and protection. I appeal to the Minister to accept the amendment and to undertake to review all ARAP rejections, not just those of the Triples.

9 pm

Lord German (LD): My Lords, this group, similar to the third group, demonstrates the risk to individuals where their safety, due to their individual circumstances, cannot be properly considered under the Bill before they are sent to Rwanda. We have had a focus on LGBT, on modern slavery and on Afghans and other people who have served this country.

My noble friend Lady Hamwee raised the issue of modern slavery. Undoubtedly, this is an area where there is a lacuna in the Bill, because these people are victims. My noble friend asked the Government to do a complete analysis of the way in which they deal with this group of people in order to understand what sort of facilities they are going to need and, more importantly, to make the assessment here, and to understand that these people are victims who are suffering; their case should be heard so that we can judge that victim base.

On the other hand, we have talked about the Armed Forces, families and the carve-out for Afghans. It is not correct to assume that those at risk due to their association with UK forces have all been brought to the UK through safe routes. It is clear from the contributions that we have just heard that many of them remain. They have no alternative but to go into hiding or, if they see their life threatened, to take dangerous routes to reach safety in the UK, the country that they believed would protect them for all that they had put their lives at risk for.

I have two points to make to supplement that. The evidence from the UNHCR to the Supreme Court detailed that citizens from Afghanistan had a 0% success rate for claims processed in Rwanda between 2020 and 2022. During that same period, 74% of Afghans who came to the UK had had their claims processed successfully in that time period. I ask the Government: to what extent will the risk to Afghans, due to their association with allied forces in Afghanistan, be both understood and considered in Rwanda?

This question raises the issue of discharging our responsibility towards these people who were placed at risk because of their association with the UK but were then not given protection by the UK and were instead sent elsewhere for another country to deal with—a country that has a 0% success rate in giving people asylum in that country. These are people who put their lives and those of their families at risk in support of the UK's enterprise and our forces in that country.

This group of amendments needs to be examined further. It needs a much more sympathetic approach from the Government because we are talking about victims and people who have given service to this country. Those people need to have special treatment, rather than us simply looking at the legislation and passing them through. I ask noble Lords to imagine if someone from Afghanistan who got to this country, who would have qualified if they had had the chance but their qualification was misrepresented for whatever reason, was then sent to a country where there was a 0% chance of their being recognised as a refugee.

This group of amendments has demonstrated that there is a risk that the Government have to pay attention to, in trying to make sure that they fulfil the requirements that I think are both humane and important.

Lord Coaker (Lab): My Lords, as we come to the end of today's consideration of the Bill before us, I start with the important point that the noble Lord, Lord Kerr, mentioned. I raised it in debate on the first group of amendments, when I said that the constitutional position is that the Government have the right to get their Bill through, but the House of Lords also has a constitutional position, which is the right for it to expect that its views and the amendments that it passes are considered properly by the Government. Unless I got it wrong, the noble Lord, Lord Kerr, was saying—it is certainly what I think—that our belief is that the Government are simply saying, "We're not going to change the Bill at all. We don't mind what the amendments are or what inconsistencies are brought forward, or how illogical what we are saying is. Such is our determination that we are going to drive this through and use our electoral majority to do it". To that extent, the Government are undermining the constitutional conventions on which our Parliament is based.

I have been lectured, as many of us on this side of and across the House have been, on the Government's right to get their Bill through. Indeed, the Home Secretary was at it again this morning in a newspaper, warning of the consequences of us not allowing the Bill through. Why would the Government simply ignore what the House of Lords is saying, which appears to

be the intention? It may not be the intention of the noble and learned Lord, Lord Stewart, or the noble Lord, Lord Sharpe, but it will be interesting to see what amendments, if any, the Government make in response to what has happened in your Lordships' House in Committee and, more importantly, in the votes that have taken place today.

I would appreciate us having some understanding of the Government's view of what is being done here. As the noble Lord, Lord Kerr, mentioned, and as I am sure many other noble Lords feel, we have a right to be heard—and, at times, for our amendments to be acted upon—rather than simply ignored and dismissed as people who do not understand the problem and are simply trying to get in the way of dealing with the boats.

I started with that important point, notwithstanding the fact that some really important points reflecting on the Bill have been made on this group of amendments, as with many other groups. This group of amendments deals with individual claims and exemptions that may be made with respect to the general principle of the law. As somebody who has great respect for the law, although not a lawyer myself, it has always been my understanding that not many good laws do not have exemptions within them. A good law may have a generality of application to the population—the noble and learned Lord, Lord Stewart, will know this better than me, in his current position—but it will have exemptions within it because the impact of a general law on an individual may be such that justice is not served. Because of that, law therefore has to have exemptions built into it. As it stands, the Government are simply not able to have any exemptions within this. There is a blanket application of the law to particular individuals, whatever their circumstances.

We heard three very passionate and moving speakers leading on these amendments. The noble and learned Lord, Lord Etherton, supported by my noble friend Lord Cashman, outlined the circumstances that may occur with a particular social group. My noble friend mentioned the LGBT community, and the noble and learned Lord, Lord Etherton, will also appreciate that. Does that need to be considered within the Bill? We will have to see, but it appears to be another thing that the Government will just dismiss.

We heard from the noble and learned Baroness, Lady Butler-Sloss, about her amendments with respect to victims of modern slavery and trafficking. People who are trafficked have no choice. They do not say "Yes, traffic me". That is different; that is smuggling. We are talking about people who are trafficked and have no part in the decision. The Government's Bill just does not care about that. Those people will be subject to automatic deportation or going to Rwanda. As the noble and learned Baroness, Lady Butler-Sloss, said, quite rightly, surely that could be considered for exemption under the terms of the Bill.

My noble friend Lord Browne's amendment, supported by the noble and gallant Lord, Lord Stirrup, and others, pointed out that a consequence of the Bill as it stands will be that people who served this country and put their lives on the line for us will simply be treated as illegal and deported to Rwanda. Does the Minister think that is right? Does he actually agree with that? It would be interesting to know whether he thinks that somebody, as my noble friend Lord Browne pointed out, who has fought for this country, served this country and put their life on the line, and who has had to come because of the situation in Afghanistan that my noble friend outlined, should be deported. Who in this House thinks that they should be deported to Rwanda? I do not believe the Government Front Bench think that. It is a rhetorical question; I will save the Minister from answering it. If they do not think that, then they should sort it out.

We are not playing at this; these are things that affect real people's lives. The point the noble and gallant Lord, Lord Stirrup, made, is really important. What credibility will this country have if it finds itself in a similar situation in the future and says, "Work with us because we will ensure that you are protected"? What possible credibility would we have as a country or as part of an alliance? If we said to people, "If you serve with this country, do not worry about the consequences of it, because you will be protected", what will we be able to say to them when, as the noble and gallant Lord pointed out, they simply turn around and say, "That is not what happened with those who served in Afghanistan"? Many of them were forced to stay and the consequences of that for some of them have been very severe.

The Government need to act on my noble friend Lord Browne's amendment. We do not need warm words such as, "Yes, we need to consider this and think about it. It is a very important, interesting point that has been made". The Government make the law. With respect to this, they should change the Bill to make sure that those people are protected and they should change the Bill in the way the noble and learned Baroness, Lady Butler-Sloss, has outlined, with respect to victims of modern slavery and trafficking. As my noble friend Lord Cashman and the noble and learned Lord, Lord Etherton, said, the Bill needs changing with respect to LGBT people—although I note my noble friend's Amendment 33, which we will consider on Wednesday, may be a way of doing that. We will leave that for Wednesday.

This is a very important group of amendments dealing with individual claims and exemptions. This is not only about the law; it is about the way that justice works in this country. Justice demands these changes and I hope the Government respond.

Lord Sharpe of Epsom (Con): My Lords, these amendments go to the issue of whether it is safe to relocate a person to Rwanda for particular individuals. It remains the Government's view that these amendments are not necessary. I will again set out the Government's case. Before I do, on the comments from the noble Lord, Lord Kerr, regarding amendments from noble Lords, obviously I cannot pre-empt what the other place will do or what that will prompt. I am sure that noble Lords will understand that.

Amendments 22, 24, 26, 28 and 30, tabled by the noble and learned Lord, Lord Etherton, would undermine one of the core principles of the Bill, which is to limit the challenges that can be brought against the general safety of Rwanda. The Government do not accept that these amendments are required to safeguard claims

[Lord Sharpe of Epsom]
against removal to Rwanda on the basis of an individual's LGBT identity, or indeed for any other characteristic, such as religious belief. These amendments would unnecessarily and significantly broaden the Bill's provisions.

The Bill provides appropriate safeguards to ensure that decision-makers will make a case-by-case decision about the particular circumstances of each case. The Bill also allows decision-makers and the courts to consider certain claims that Rwanda is unsafe for an individual person due to their particular circumstances, despite the safeguards in the treaty, if there is compelling evidence to that effect.

As in all cases, decision-makers will make case-by-case decisions about whether the particular circumstances of each case would mean that an individual would be at real risk of harm were they to be relocated to Rwanda. That consideration would include an assessment of whether individuals faced a real risk of harm as a result of their sexuality. Furthermore, for LGBT individuals, that consideration would include any assessment of any compelling evidence reviewed in line with the principles outlined by HJ (Iran)—to which many noble Lords referred—that being LGBT would mean that Rwanda was not safe for them in their particular circumstances.

9.15 pm

As we set out previously, the constitution of Rwanda includes a broad prohibition of discrimination and does not criminalise or discriminate against sexual orientation in law or policy. Rwanda has assented to international conventions and continental frameworks that protect the human rights of all citizens, including the UN declaration on sexual orientation and gender identity and the UN report on sexual orientation, gender identity and LGBT populations.

Lord Scriven (LD): Can the Minister tell the House what legal provisions are on the statute book in Rwanda for the "T" part of "LGBT" in particular?

Lord Sharpe of Epsom (Con): No, I cannot. I will have to come back to the noble Lord.

Rwanda is a signatory to the 2011 United Nations statement condemning violence against LGBT people, and it has joined nine other African countries to support LGBT rights. As part of the published evidence pack, the updated country policy information note gave careful consideration to evidence relating to the treatment of LGBT individuals in Rwanda. The Rwandan legal protection for LGBT rights is generally considered more progressive than that of neighbouring countries, as has been alluded to.

Amendment 25, tabled by the noble Lord, Lord Dubs, relates to claims on religion or belief grounds being taken into consideration for whether Rwanda is a safe country. The amendment specifically mentions an individual's "religion or belief", but the effect would be to permit the Secretary of State to consider whether an individual who is due to be relocated to Rwanda has any refugee convention reasons why Rwanda would not be safe for them, including on grounds of religion or belief. In effect, this would be considering a protection claim for a third-country national whose home country is not Rwanda.

A number of noble Lords raised concerns about religious tolerance in Rwanda and sought to argue that it would be unsafe for individuals who followed minority faiths or had no faith at all. The Government disagree with this contention. As our policy statement and the country information note on human rights make clear, and as I set out in my letter following Second Reading, the Rwandan constitution provides protection for individuals of different religions and faiths, as well as prohibiting discrimination of the grounds of religion or faith. Taken with the appropriate safeguards, which are set out in the Bill and elsewhere in our partnership with Rwanda, decision-makers will be in a position to consider the particular circumstances of each case, including where they involve an individual's religious beliefs.

As I set out during an earlier debate, the Bill, along with the evidence of changes and the treaty, makes it clear that Rwanda is safe generally, and decision-makers, as well as courts and tribunals, must treat it conclusively as such. This ensures that removals cannot be delayed or frustrated by systemic challenges on safety. For this reason, I cannot accept Amendments 31 and 32 tabled by the noble Baroness, Lady Meacher.

Amendment 31 would remove the need for the risk of harm, when a serious and irreversible harm test is carried out, to be imminent. If accepted, this would enable a court or tribunal to delay or prevent a person's removal to Rwanda based on a risk of harm that may not materialise for many months, if not years, after the person's removal to Rwanda. This cannot be right. We cannot have a position whereby a person's removal from this country is prevented based on a risk that does not currently exist and may not exist until a significant amount of time has elapsed after the person is removed. These provisions are consistent with the measures introduced in the Illegal Migration Act, agreed by this House last year. "Imminent" features in the European Court of Human Rights' practice direction on interim measures. Clause 4(4) is not out of step with the Strasbourg court.

Amendment 32 would disapply Section 54 of the Illegal Migration Act, enabling the UK courts to grant an interim remedy preventing removal to Rwanda in cases where the duty to remove applied. This would undermine the suspensive claims procedure provided for in that Act. It risks vexatious claims being brought at the last minute in an attempt to frustrate removal, which would weaken the effectiveness of that Act. These amendments ultimately undermine the core principles of the Bill, and the Government cannot support them.

I turn to the position of potential and confirmed victims of modern slavery. The UK has a proactive duty to identify victims of modern slavery. We remain committed to ensuring that, when indicators that someone is a victim of modern slavery are identified by first responders, they continue to be referred into the national referral mechanism for consideration by the competent authorities. For all cases, steps will be taken to identify whether a person may be a victim of

modern slavery. If a person is referred into the national referral mechanism, a reasonable grounds decision will be made.

The amendment proposed would act to impede the provisions already passed in the Nationality and Borders Act and the Illegal Migration Act, which introduced the means to disqualify certain individuals from the national referral mechanism on grounds of public order before a conclusive grounds is considered. Furthermore, the amendment is unnecessary, because it is important to be clear that the Government of Rwanda have systems in place to safeguard relocated individuals with a range of vulnerabilities, including those concerning mental health and gender-based violence.

If there is a positive reasonable grounds decision in a pre-Illegal Migration Act case, the provisions in Part 5 of the Nationality and Borders Act will protect the person from removal pending a conclusive grounds decision, unless they are disqualified on the grounds of public order.

As I set out in my letter to the noble Lord, Lord Purvis, under Article 5(2)(d) of the treaty the United Kingdom may, when necessary for the purposes of relocation and when UK GDPR compliant, provide Rwanda with

"the outcome of any decision in the United Kingdom as to whether the Relocated Individual is a victim of trafficking",

and this includes positive reasonable grounds decisions. Under Article 13(1) of the treaty, Rwanda must

"have regard to information provided about a Relocated Individual relating to any special needs that may arise as a result of their being a victim of modern slavery or human trafficking, and … take all necessary steps to ensure that these needs are accommodated".

Lord Scriven (LD): The Minister has just said something at the Dispatch Box that is not factually correct. He said that under Article 13(1) on trafficking Rwanda must take all necessary steps. The treaty actually says that it

"shall take all necessary steps".

Those are two very different things.

Lord Sharpe of Epsom (Con): Is that correct? It sounds very moot to me, legally. I said that Rwanda must

"have regard to information provided about a Relocated Individual relating to any special needs that may arise as a result of their being a victim of modern slavery or human trafficking, and … take all necessary steps to ensure that these needs are accommodated".

That sounds very much the same to me.

All relocated individuals, including potential and confirmed victims of modern slavery, will receive appropriate protection and assistance according to their needs, including referral to specialist services, as appropriate, to protect their welfare. So it is simply not correct to assert that the Government do not care.

Finally, if, despite those safeguards, an individual considers that Rwanda would not be safe for them, Clause 4 means that decision-makers may consider a claim on such grounds, other than in relation to alleged onward refoulement, if such a claim is based on compelling evidence relating specifically to the person's individual particular circumstances, rather than on the ground that Rwanda is not a safe country in general.

I turn to Amendment 44, tabled by the noble Lord, Lord Browne of Ladyton, and spoken to by the noble and gallant Lord, Lord Stirrup. Although this amendment is well intentioned, it gives rise to the possibility that criminal gangs operating in northern France and across Europe will exploit this carve-out as a marketing model to encourage small boat illegal entry to the UK. The terms "agents, allies and employees" will likely result in people who have arrived illegally falsely claiming to be former agents and allies as a tactic to delay their removal, completely undermining this policy's priority to stop the boats and promptly remove them, either to their home country or to a safe third country such as Rwanda.

The Government deeply value the support of those who have stood by us and our Armed Forces overseas. As a result, there are established legal routes for them to come to the UK. For example, those who enlist and serve in His Majesty's Armed Forces are exempt from immigration control until they are discharged from regular service. After this time, non-UK HM Armed Forces personnel can apply for settlement under the Immigration Rules on discharge when their exemption from immigration control ends.

There are also provisions for family members of HM Armed Forces personnel to come to the UK legally. Anyone eligible for the Afghan relocations and assistance policy and the Afghan citizens resettlement scheme should apply to come to the UK legally under those routes.

I take what the noble Lord, Lord Browne, and the noble and gallant Lord, Lord Stirrup, say very seriously, and His Majesty's Government regret that so many cases need to be reassessed. The MoD is taking the necessary steps to ensure that all future decisions are made in accordance with the enhanced guidance being produced for the review to which the noble Lord, Lord Browne, referred. This was recently announced by the Defence Secretary and while many former members of Afghan specialist units, including the Triples, have been found eligible under ARAP and safely relocated to the UK with their families, a recent review of processes around eligibility decisions demonstrated instances of inconsistent application of ARAP criteria in certain cases. In light of that, the MoD is taking the necessary steps to ensure that the ARAP criteria are applied consistently through reassessments of all eligibility decisions made on ineligible applications with credible claims of links to Afghan specialist units on a case-by-case basis.

This review will move as quickly as possible, but we recognise that ARAP applications from this cohort present a unique set of challenges in assessing their eligibility. These units reported directly into the Government of Afghanistan, which means that HMG do not hold employment records or comprehensive information in the same way we do for many other applicants. It is essential that the MoD ensures this is done right and provides the opportunity for applicants to provide further information—which I note can sometimes take time—from these individuals.

Lord Browne of Ladyton (Lab): Will the Minister answer the question I asked in February when this review was announced: will anyone who is eligible for

[Lord Browne of Ladyton]
ARAP but was told they were ineligible—and acted in a way in which a small number of them did in extremis to protect themselves from possible death—be disqualified from being allowed to become eligible on review? Will they be excluded from the requirement of the Illegal Migration Act and this Bill if it becomes law that they must be deported to Rwanda?

Lord Sharpe of Epsom (Con): As I understand it, they will be deported to Rwanda.

In conclusion, the Government of Rwanda have systems in place to safeguard relocated individuals with a range of vulnerabilities. The Bill already includes adequate safeguards which allow decision-makers to consider certain claims that Rwanda is unsafe for an individual due to their particular—

Baroness Butler-Sloss (CB): In relation to modern slavery, is there any law in Rwanda that protects those suffering from modern slavery or human trafficking?

Lord Sharpe of Epsom (Con): I am unable to comment on Rwandan law, but, of course, the treaty takes care of this and I went into detail on that earlier. Under Article 5(2)(d) of the treaty, the United Kingdom may where necessary for the purposes of relocation provide Rwanda with

"the outcome of any decision in the United Kingdom as to whether the Relocated Individual is a victim of trafficking",

and that includes a positive reasonable grounds decision. Under Article 13(1) of the treaty, Rwanda must have regard to information provided about a relocated individual relating to any special needs that may arise as a result of their being a victim of modern slavery or human trafficking, and must take all necessary steps to ensure that these needs are accommodated.

I have to answer the noble and learned Baroness, Lady Butler-Sloss, by saying that at the moment I do not know whether it has those laws enshrined in domestic laws, but when the treaty is ratified, it will.

Baroness Butler-Sloss (CB): As far as I know, there is no legislation to that effect in Rwanda.

Baroness Coussins (CB): My Lords, will the review of ARAP decisions apply to the Afghan interpreters and translators and not just to military personnel?

Lord Sharpe of Epsom (Con): When I was explaining the ARAP situation, I pointed out the difficulty of assessing and accessing some of the records, but I will certainly make sure that is taken back to the Foreign Office, which, as I understand it, administers a large part of the ACRS, which is the agreement under which the Afghan interpreters come to this country. I will find out the answer.

Lord Scriven (LD): The Minister will not be able to answer this, but I would appreciate it if he could write to me and the House on it. He keeps referring to the treaty saying "must". There is a difference between "must" and "shall". In law, "must" is an absolute obligation. Article 13(1) says that Rwanda they "shall" take necessary steps, not "must". Will he write to me, as I have the treaty here and it says something different from what he has said three times from the Dispatch Box?

9.30 pm

Lord Sharpe of Epsom (Con): I am advised by my noble and learned friend Lord Stewart of Dirleton that "must" and "shall" both have a mandatory quality, but I will of course write to the noble Lord.

If there is compelling evidence, despite the safeguards in the treaty, decision-makers will be able to consider certain claims that Rwanda is unsafe for an individual due to their particular circumstances, as we have discussed a number of times. However, I say again that these amendments are unnecessary. On that basis, I invite the noble and learned Lord to withdraw his amendment and urge other noble Lords not to press theirs.

Lord Etherton (CB): I am very grateful to the Minister for that analysis of the speeches made and the Government's response to them. I am also grateful to all noble Lords who have spoken in this debate, which has raised some important points about people who are extremely vulnerable.

The noble Lords, Lord Kerr and Lord Coaker, articulated the point that all these amendments dealing with exemptions are objectively extremely reasonable and important, and do not involve huge numbers of people such as to undermine the effectiveness of this proposed legislation. Descending to details to say that they are not necessary, when it is plain that they are, shows a certain lack of not only sensitivity to the Chamber but a spirit of humanity which should underlie the Government's response.

Turning to my Amendment 22 and its consequential amendments, I find it difficult to understand how the Government can justify dropping and effectively disfranchising one of the expressly specified categories of refugee in the convention. There is nothing in the policy statement issued by the Government when the Bill was published or in the Explanatory Notes to say that they would do this. I would have thought that dropping a specific category of refugee defined by this convention which we have signed up to is an extraordinary move.

The justification seems to be that the Government will not permit reference to groups because it would significantly enlarge the number of those entitled to claim. However, if they are entitled to claim by virtue of a convention which we have signed up to, the Government must accept that, like all the other 149 states signed up to it. You cannot simply say, "We'll ignore this or that category of refugee" or "We'll just rely on this category of refugee". There must be an ability, in one way or another, for all those mentioned as refugees to explain why removal would result in persecution and serious harm.

Leaving that matter aside, I will comment on the intervention by the noble Lord, Lord Murray, on comments made by the noble Lord, Lord Cashman, about the situation of LGBT people in Rwanda. I do not want to go through this again, but there are two factors on which the noble Lord, Lord Murray, did

not comment, and in fact have never been commented on appropriately by the Government, by way of some sort of excuse in relation to LGBT people and the risk that they face in leading an openly gay life in Rwanda.

First, the travel information provided by the Foreign, Commonwealth and Development Office remains the same as it always has done, as it was at the time of the Illegal Migration Act: there is a danger to LGBT people living openly as such in Rwanda. Secondly, and importantly, no reference has been made to something that I mentioned in Committee: the country report on Rwanda of the US State Department, which was published only one year ago, and which talks about persecution and the possibility of physical harm to LGBT people. The Government have never addressed those points at all, but I am not going to go further into that.

As to the others, I personally strongly support all the other exemptions, which seem to me to be reasonable, humane and entirely appropriate, not designed to undermine the Bill but really rising to the level of morality which we should display as a country in relation to these categories of people. Having said all of that, and having heard the Minister, the best thing that I can do is to leave it to the amendment in the next group, tabled by the noble Baroness, Lady Chakrabarti, which contains reference to groups. For my part, having had this debate will have been useful in honing the points that will have to be met in relation to that. On that basis, and that basis alone, I beg leave to withdraw my amendment.

Amendment 22 withdrawn.

Amendments 23 to 32 not moved.

Consideration on Report adjourned.

House adjourned at 9.38 pm.