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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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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

Tuesday 8 October 2024

2.30 pm

Prayers—read by the Lord Bishop of Oxford.

Horizon Europe
Question

2.37 pm

Asked by ***Viscount Stansgate***

To ask His Majesty's Government what assessment they have made of the United Kingdom's membership of Horizon Europe since rejoining the programme in September 2023.

Viscount Stansgate (Lab): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. I warmly welcome my distinguished noble friend to the Dispatch Box for his first Parliamentary Question.

The Minister of State, Department for Science, Innovation and Technology (Lord Vallance of Balham) (Lab): We have early indications that UK applications have increased in 2024 following Horizon Europe association in January. Making the association a success is our priority, but we recognise that it will take time to recover to the participation levels that we enjoyed in Horizon 2020. We are working with businesses and academia to address the barriers to entry and to support greater participation in the programme.

Viscount Stansgate (Lab): My Lords, I hope the House will welcome the Minister's reply, because it shows that we are moving in the right direction. I also welcome the letter sent by the Secretary of State last week to the Science and Technology Select Committee, of which I am a member, which outlined the Government's negotiating stance in respect of framework programme 10—Horizon's successor. Do the Government hope to associate themselves with work on computing and space, with which we have not so far been associated? Finally, can the Minister, as I hope he will, give the House some encouragement that his department and the Home Office will have discussions to ensure that the visa system and its costs are designed in such a way as to maximise the chances of getting the best and brightest scientists to come to do their research here in Britain? That would be good for science and good for Britain.

Lord Vallance of Balham (Lab): I praise my noble friend Lord Stansgate for his persistence and effectiveness in bringing the matter of European science funding to this House. He will have seen that, on 26 September, we published a position paper on FP10, laying out that we would like to explore greater association with that programme and to be part of trying to shape it, provided that it delivers excellence, is relevant and delivers value for money for both the taxpayer and researchers. Visas are under constant review by the Home Office. What is encouraging is that the visa costs, for both the fast-track visas and others, can be covered by Horizon Europe funding.

Lord Krebs (CB): My Lords, it was reported in the press about a year ago that a substantial sum of money allocated to the research budget in relation to our association with Horizon had subsequently been withdrawn by the Government. Can the Minister tell us whether those reports were correct, and, if so, what the sum of money was?

Lord Vallance of Balham (Lab): Any underspend on Horizon in the last year has been fully kept within the department.

Lord Fox (LD): My Lords, following the answer on visas, I think we all know that it is harder now for scientists to come in, and to bring their families, to work in the United Kingdom. We also know that Horizon projects have to be multinational, or have the most success by being multinational. Anecdotally, we hear that progress being made on Horizon is difficult and slow. How much of that slow progress does the Minister attribute to visa issues? In his conversations with the Home Office, what is the ask of that department to speed those visas up?

Lord Vallance of Balham (Lab): There are, of course, a number of visa programmes—it is a points-based system—including the global talent visa and the skilled worker visa. We know that the number of applications for the global talent visa increased by about 16% between 2023 and 2024, so that we had 8,000 or so in 2024. It is important that the costs of those, including the immigration health surcharge, can be put on to the grants. The noble Lord is absolutely right that it is also important that it is as easy as possible to get these things done. We rely, and always have relied, in this country on immigration of talented scientists and exchange of people, and I hope that that will continue and be as easy as possible.

Lord Johnson of Marylebone (Con): My Lords, rejoining Horizon was a no-brainer. Will the Government reassess their position on Erasmus, a student mobility scheme that polls suggest has very wide public backing?

Lord Vallance of Balham (Lab): I am very glad indeed that the noble Lord thinks it was a no-brainer; that was not always the situation when trying to get that through. Erasmus, of course, was an important scheme that it was not possible to reach an agreement on. Consequently, it is important that universities can attract the best people through other means. The Turing scheme that was put in place in 2021 provides an opportunity for exchange; in the last round, the number of applications was up from 520 in 2022 to 619 in 2023, and more than 40,000 pupils and students were able to do exchange programmes, 60% of whom came from a disadvantaged background. The proposal at the moment is to continue with that scheme.

Lord Kakkar (CB): My Lords, I draw noble Lords' attention to my registered interests. The Minister indicated that we have got off to a good start in 2024, but that is particularly in terms of applications for European Research Council funding. The start has been less promising for Horizon pillar 2 funding, which requires collaboration between businesses and academia. What action do His Majesty's Government propose to take to ensure that those kinds of relationships can once again be established and that we have a more successful approach to achieving that funding?

Lord Vallance of Balham (Lab): The noble Lord is quite right that the numbers are looking more promising for 2024, particularly in the European Research Council mono-beneficiary schemes. In the collaborative and industry schemes, things still look fairly flat, although there are some examples of very good progress. In the European rail project, 61% in the most recent round had a UK participant and five out of the seven successful bids had UK participants, so there is some progress. We are doing a number of things: there is an increased communications campaign, the last one having led to a substantial increase of 64,000 hits on the UK Horizon website; there are roadshows, most recently in Birmingham and Glasgow and soon in Northern Ireland and Wales; there are pump priming grants, which have led to an ability to get money to work out how to make applications to Horizon programmes—I am pleased to say that of those people who received those grants and put in applications, 100% were eligible. Finally, European network programmes are being set up to link UK academic teams and industry to European teams in the most successful countries.

Lord Markham (Con): I also welcome the Minister to answering his first Question—I know what it feels like. Following on from the last question, obviously we want to maximise participation and I am pleased to hear that the roadshow that we introduced is continuing to be rolled out. Are there particular sectors that we need to focus on in the outreach? I hear that the SME sector is particularly underrepresented.

Lord Vallance of Balham (Lab): I thank the noble Lord for his question. He is right that the SME sector is underrepresented, and there is a specific effort to increase its ability to engage and to raise awareness within it. We hope that will be a major part of the European networking programme as well.

Lord Bassam of Brighton (Lab): My Lords, can the noble Lord give us an estimate of the damage done to our research and development programmes through our absence from the Horizon scheme over the past few years?

Lord Vallance of Balham (Lab): There is absolutely no doubt that quite significant damage was done. That the participation rate dropped so dramatically, from 16% of all grants coming to the UK in 2015 to 6.5% in 2022, shows the scale of the damage. At the moment, it is not possible to work that out in terms of patents or publications, partly because those indicators are so lagging, but we will look at that and I fully expect to see some change.

Lord Wallace of Saltaire (LD): My Lords, is the Minister confident that the UK's association with Horizon and its successor programme can be dealt with as a one-off or does this have to be wrapped up in a broader reconsideration of our relations with the European Union?

Lord Vallance of Balham (Lab): Now that we are back in Horizon Europe and FP10, we will be looking to engage in that fully and shape it. In answer to an earlier question, I hope that that will include areas from which we are currently excluded. That will all depend on the backdrop of our relationship with Europe; you will see that it is warmer now and therefore we have had encouraging noises. I am due to meet Manuel Heitor, who is chair of the expert group on Horizon and FP10, to discuss how we can fully engage.

Lord Patel (CB): My Lords, it is good to hear the Minister, whom I welcome, say that the Government will engage in the Horizon 10 programme and its future form. Important also is that, when we were not members of Horizon, we collaborated with the Swiss research foundations. Will the Government assist in a negotiation to engage with Switzerland and the EU Horizon programme to readmit and collaborate with Switzerland?

Lord Vallance of Balham (Lab): Obviously, it is up to the Swiss to determine their association, but I will travel shortly to Switzerland to meet Science Ministers there. I will discuss our memorandum of understanding and how we can further engage in collaborations with Swiss scientists, which we see as incredibly important for the UK science base.

Operation Conifer

Question

2.48 pm

Asked by ***Lord Lexden***

To ask His Majesty's Government whether they will appoint an independent legal expert to review the seven allegations of child sex abuse against Sir Edward Heath left unresolved at the end of Operation Conifer in 2017.

The Minister of State, Home Office (Lord Hanson of Flint) (Lab): The noble Lord will be aware that four reviews of this operation have found it legitimate and proportionate. This is a complex matter with significant history, which I am approaching with an open mind. To that end, I will listen carefully to any representations that noble Lords make on the issue.

Lord Lexden (Con): My Lords, noble Lords may recall the debate that we had on this in January. Did that not confirm and strengthen the conviction long

held in all parts of this House that the seven unresolved allegations against Sir Edward Heath, to which this Question refers, should be subject to independent review? Do we not owe it to the memory of this deceased statesman to ensure that his reputation is not unfairly and improperly compromised in the eyes of posterity? That could so readily happen if we do not establish the full truth now, while the matter is still relatively fresh. Evidence in police files can be scrutinised carefully and impartially by an independent legal expert attuned to the circumstances of our times.

Lord Hanson of Flint (Lab): As the noble Lord mentioned, it is unfortunate that Operation Conifer was not able to resolve conclusively the position in respect of the allegations made against Sir Edward Heath. The Operation Conifer summary closure report emphasises—and I must emphasise this as well—that no inference of guilt should be drawn from the fact that Sir Edward would have been interviewed under caution had he been alive. I will reflect on the points that the noble Lord has made, as I will on any other points put before the House today.

The Lord Speaker (Lord McFall of Alcluith): The noble Lord, Lord Campbell-Savours, is participating remotely.

Lord Campbell-Savours (Lab) [V]: My Lords, I welcome what my noble friend has said from the Dispatch Box, but is it not time, with a change of government, to put this story to rest by holding a comprehensive case review to examine all the papers? The instinct of the powers that be will be to leave well alone; however, an injustice remains. Cannot we, Labour, be the honest brokers who put this story to bed? Will Ministers give serious thought to my request for a specific inquiry?

Lord Hanson of Flint (Lab): I am grateful to my noble friend for his comments. If he reflects on what I said at the beginning of my Answer, I am approaching this with an open mind, and it takes time to reflect on those issues. The points he has made today are important, and I will reflect on those as part of my consideration of the issue raised by the noble Lord, Lord Lexden.

Lord Sharpe of Epsom (Con): My Lords, the Minister will be aware that, before leaving the Home Office and after exhaustive consultation with very helpful officials, I had managed to draft a letter to the chief constable of Wiltshire Police that encouraged the possibility of another look at this while also scrupulously respecting the force's operational independence. Can the Minister shed any light on whether this letter was ever sent? If not, will he agree to draft his own?

Lord Hanson of Flint (Lab): I hope that I do not ruin the noble Lord's reputation when I say that I agree with him, in the sense that it is appropriate, potentially, for the chief constable of Wiltshire Police to examine the issues in the first instance. I am not aware of what happened in the previous Administration, because I am not party to that, but, equally, it could be a course of action for the noble Lord, Lord Lexden, to take forward to write to the new chief constable and ask her for her opinion on the issues that have driven the Question today.

Lord Birt (CB): My Lords, I greatly welcome the Minister's response and his declaration of an open mind. When I was a working television producer, I spent a very great deal of time—many days—in the company of Edward Heath and all those around him. As far as I am aware, no one who ever worked with him believes that he was a paedophile. We have a poor record in this country of speedily resolving perceived injustice, so I strongly encourage the Minister to adopt the suggestion of the noble Lord, Lord Lexden.

Lord Hanson of Flint (Lab): I am grateful to the noble Lord, Lord Birt, for his comments. I must again say to the House that no inference of guilt should be drawn from the fact that Sir Edward Heath would have been interviewed under caution had he been alive. It is unfortunate that Operation Conifer ended without resolution. I personally feel, although I will reflect on the issues raised today, that the first port of call should be going back to the chief constable of Wiltshire for an investigation into the concerns that have been raised. I hope that that will potentially be undertaken by the noble Lord. I will certainly follow up on the Opposition Front Bench's suggestion as to what happened to any previous letter.

Lord Paddick (Non-Afl): My Lords, does the Minister not agree that some legal process needs to be established in the case of deceased people being accused of serious criminal offences, in light of the fact that it is not possible to hold a criminal trial nor to libel the dead?

Lord Hanson of Flint (Lab): The noble Lord will know that the College of Policing has looked at investigating allegations and calls for allegations made against individuals both living and dead and is currently potentially issuing guidelines to police forces around these matters. Again, this is a complex area. I want to reflect on the points raised today, and I am open to further scrutiny from this House in due course.

Baroness Brinton (LD): My Lords—

Lord Hunt of Wirral (Con): My Lords—

Lord Kennedy of Southwark (Lab Co-op): My Lords, both noble Lords can get in; we have plenty of time. Shall we take the noble Baroness's question first?

Baroness Brinton (LD): My Lords, following the publication of the Independent Inquiry into Child Sexual Abuse in October 2022 and the government response a year later, the Government issued a consultation on mandatory reporting by professionals working with children when they suspect possible abuse. The result of that consultation has still not been published a year on. One of the best ways of ensuring that there are no malicious allegations against senior politicians is to

[Baroness Brinton]
see that result and for a government response. When do this Government plan to implement the recommendations of the IICSA report?

Lord Hanson of Flint (Lab): If I may, I will look into the issues that the noble Baroness has raised and write to her with the detail very shortly in response.

Lord Hunt of Wirral (Con): My Lords, in declaring my interest as the immediate past chair of the Sir Edward Heath Charitable Foundation, I warmly welcome the Minister's commitment to this House that he has an open mind, which I believe has tremendous support. But it is not just what is in the police files; there are a number of other matters that require scrutiny. The first is the fact that the former chief constable of Wiltshire, Mike Veale, has now been totally discredited. There is also the fact of the manner in which the police and crime commissioner was cut out of the whole investigation by the appointment of a so-called scrutiny committee, and then there is the fact that so many of the police logs at the entrance to Sir Edward Heath's home, Arundells, were wantonly destroyed. All these matters require close investigation.

Lord Hanson of Flint (Lab): I am grateful to the noble Lord, Lord Hunt, for his comments. It draws me back to the point I put to the noble Lord, Lord Lexden, on the suggestion of the Opposition Front Bench. The chief constable of Wiltshire rightly has the investigatory powers to investigate any matters that are of concern, including those raised by the noble Lord in relation to her police force, as indeed does the police and crime commissioner in response to this, who is a different police and crime commissioner to the one who was operational at the time. I would suggest that, whatever my reflections on these matters are—I will make those reflections—it would be helpful for the noble Lord, Lord Lexden, to raise those issues again with the current chief constable and the current police and crime commissioner.

Lord Butler of Brockwell (CB): My Lords, it is very good to hear that the Minister has an open mind on this matter and will listen to representations. I think he will find that there are a lot of representations from Members of this House. There is merit in asking the chief constable to look at it, bearing in mind that it was her predecessor who is the source of all this trouble.

Lord Hanson of Flint (Lab): Again, the noble Lord will have great experience of government and I think served as an official in Sir Edward's Government at some point. I joined the Labour Party because of Sir Edward, but that is another story altogether—

Noble Lords: Oh!

Lord Hanson of Flint (Lab): But what we should try to reflect upon is the fact that the chief constable has responsibility for this investigation in Wiltshire. It is not for Ministers to investigate; it is for the chief constable. That would be a useful source of direction, and I am grateful for the noble Lord's suggestion and support.

Public Procurement: Data Offshoring

Question

2.58 pm

Asked by ***Lord Evans of Rainow***

To ask His Majesty's Government what assessment they have made of public bodies and services, including the NHS Digital app, procuring professional services through processes which purport to be "onshoring" to firms which contract third parties outside the United Kingdom to do the work; and what assessment they have made of the risk this poses to private data and cybersecurity.

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Baroness Twycross) (Lab): Each contracting authority carefully considers and makes risk-based decisions on whether, and where, data can be offshored, and what restrictions are appropriate for service delivery and development activities. The new standard security schedules for all central government contracts, published on 1 October 2024, include greater controls over data offshoring and stronger security requirements. Buyers also have greater transparency over where, and how, their data is hosted and processed, and stronger remedies where suppliers do not follow buyers' requirements. Outsourcing contracts also contain complementary provisions on the offshoring of this personal data under GDPR.

Lord Evans of Rainow (Con): I thank the Minister for her reply. NHS Digital has contracted with Splunk, which subcontracts to the Bulgarian company Bright Consulting. This practice, which Splunk refers to as "onshoring", began during the Covid-19 pandemic and continues to this day. Can the Minister reassure the House that under this practice of onshoring to third-party non-UK-based companies patient data really is safe? Is the taxpayer getting value for money by paying UK rates to a company that outsources the work for a considerable margin?

Baroness Twycross (Lab): The government model services contract is one of three template contracts for use by government departments and wider government when procuring complex outsourced services. Value for money for taxpayers is central to good government procurement. The Government recognise the potential risk of data offshoring taking place without the explicit consent of public sector buyers. New standard security schedules for all government contracts include greater controls over data offshoring and stronger security requirements.

Lord Browne of Ladyton (Lab): My Lords, thanks to a whistleblower, we learned on 4 August from the *Daily Telegraph* that, up to 2021 when it was discontinued, a chain of outsourcing resulted in software for our nuclear submarine engineers being developed by private companies in Minsk and Siberia. The *Telegraph* reported Ben Wallace, the then Defence Secretary, as saying that the breach left the UK's national security "vulnerable to undermining". Can my noble friend tell us whether

this story is true? If it is true, where can we find a credible, comprehensive rebuttal? Otherwise, is it not likely that our deterrent will be undermined?

Baroness Twycross (Lab): As my noble friend will appreciate, the Ministry of Defence took these reports extremely seriously. In response, on 6 September this year, Maria Eagle, the Minister of State for Defence, confirmed that both the MoD and Rolls-Royce Submarines had conducted an investigation into the matter. The Minister assured that the investigation found no evidence that Belarusian nationals had access to sensitive information and concluded that no change to the MoD procurement policy was required. The Ministry of Defence has set a policy of using Secure by Design. This is a modern approach whereby senior responsible owners, capability owners and delivery teams are accountable and responsible for delivering systems that are cybersecure. This includes ensuring new systems being bought or built carry out due diligence on the security of their systems.

Baroness Brinton (LD): My Lords, my dental practice changed its IT supplier a year ago. After going online to confirm an appointment and agree the usual dental practice use of my data, I was invited to check the IT supplier's data. Seven layers down, it appeared that I gave permission for all my medical data to be used by the UK company, its parent US company and all its commercial subsidiaries. The practice has now got a new IT contractor. How well aware are clinical practices and surgeries of this underhand technique by major digital contractors?

Baroness Twycross (Lab): The noble Baroness makes a really important point. I will speak to my noble friend Lady Merron, to make sure it is taken forward through DHSC. The Government are quite clear that government data is owned by the Government and any commercialisation should be agreed with His Majesty's Government.

Baroness Chisholm of Owlpen (Non-Afl): My Lords, obviously cybersecurity is vital for the NHS Digital app, as it is for anything. However, we know that the app is way behind, say, banking apps, which in this country are very good. Can the Minister make sure that NHS digital services are not held up by all the other stuff that is going on, because NHS apps are a vital part of NHS reform?

Baroness Twycross (Lab): I think the security piece and the development piece can and should go in tandem, otherwise neither is sustainable. Three in every four people in England have already downloaded the app. This Government want to establish adoption through improved patient experience and system benefits, and to expand the services offer. This is part of making sure that more people can access the services they require.

Lord Scriven (LD): My Lords, Microsoft gave a view to the Scottish Government in June this year that it could not guarantee that data held by public services on its Microsoft 365 and Azure hyperscale cloud infrastructure will remain in the UK. What mitigations are the Government looking at in the light of this statement by Microsoft?

Baroness Twycross (Lab): I refer back to my initial Answer, which is that each contracting authority should carefully consider, and make risk-based decisions on, whether and where data can be offshored. We can get really hung up on offshoring, onshoring or where the data is stored, but we have to make sure that all data and cybersecurity are central to how we move forward with this type of procurement. This is why the Government are introducing a cybersecurity and resilience Bill, which will help ensure our cybersecurity for the future.

Lord West of Spithead (Lab): My Lords, further to the question from my noble friend Lord Browne, I think that the response from the MoD is not satisfactory. These Belarusians, although they might not have had access to highly classified information, were writing software that would be used within our nuclear deterrent. This cannot be satisfactory. Can the MoD give an answer, maybe through the Minister, to say that this is no longer allowed to happen? We all know how you can use software in various clever ways to cause real damage.

Baroness Twycross (Lab): I will speak to my noble friend Lord Coaker and ask him to provide a letter responding to that point.

Baroness Blackwood of North Oxford (Con): My Lords, the heart of this Question is the safety of public data and the resilience of services. As we saw with the ransomware attack on Synnovis in the summer, cyberattacks of these sorts on supply chains can cause significant disruption to public services. Can the Minister say exactly how the cybersecurity Bill that is coming up will improve the regulatory framework for the supply chain, and when exactly it will be brought forward?

Baroness Twycross (Lab): I can give a bit more detail on what the Bill will focus on. I cannot give a precise date for when it will be brought forward, but it was in the King's Speech, so we can anticipate it coming forward in due course in the relatively near future. The Bill will make crucial updates to the legacy regulatory framework by expanding the remit of regulation, putting regulators on a stronger footing and mandating increased incident reporting, which will give the Government better data on cyberattacks, including where companies or organisations have been held to ransom.

Baroness Neville-Rolfe (Con): My Lords, the new Procurement Act will bring more transparency and new entry into contracting, which will help with these kinds of outsourcing and security issues. Will the Minister ensure that the disappointing delay in the commencement of that Act into next year is minimised? In the meantime, will the model services contracts that she mentioned ensure that patient data is kept in the UK or in a country with which we have a robust data-sharing agreement?

Baroness Twycross (Lab): On the national procurement policy, our entire focus is on delivering change through our national missions. We will therefore be publishing a bold new procurement policy statement in February to harness the billions of pounds spent by public sector organisations each year and ensure that commercial activity aligns with our missions. We think it is really important that that statement is in place before the Procurement Act goes live, so that everything is aligned and as effective as possible. The Government recognise the potential risk of data offshoring, as I mentioned, and the new standard security schedules for all central government contracts include greater controls over data offshoring and stronger security requirements.

British Indian Ocean Territory

Question

3.09 pm

Asked by ***Lord Lancaster of Kimbolton***

To ask His Majesty's Government what assessment they have made of the implications for the United Kingdom's strategic relationship with the United States of America of the decision to cede sovereignty of the British Indian Ocean Territory to Mauritius.

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office (Baroness Chapman of Darlington) (Lab): My Lords, on 3 October, the UK and Mauritius reached an historic political agreement that will ensure the operational effectiveness of the joint US-UK military base on Diego Garcia well into the next century. Throughout the negotiations we have worked in lockstep with the US, and this agreement is strongly supported by the US. President Biden issued a statement applauding it within minutes of its announcement. Secretary Austin and Secretary Blinken have also voiced clear public support.

Lord Lancaster of Kimbolton (Con): My Lords, I did not fully appreciate the strategic value of Diego Garcia until I visited it in 2019 in my capacity as Minister for the Armed Forces. Yesterday, the Foreign Secretary said that there would be "robust security arrangements" to prevent other nations occupying the outer islands. Of course, the best way to do this would be to maintain sovereignty. Short of this, are we simply relying on other nations to follow the international rules-based order? We need look only at what the Chinese have done on the disputed Spratly Islands to realise that this would be naive. I simply ask: what is the rush? My understanding is that we are in such a rush that no Minister has even had the opportunity to go to Diego Garcia. Can the Minister confirm that that is not the case?

Baroness Chapman of Darlington (Lab): My Lords, the easiest way to put this is that there is no easy time to make this kind of decision. Noble Lords will be aware that the previous Government took part in 11 rounds of negotiation on this issue. The situation was getting to a point where legal rulings had made it clear that the sovereignty of the Chagos Islands belonged to Mauritius. I accept that those legal rulings, to which I can refer Members opposite should they need me to do so, were not legally binding; however, it is clear that they were going in that direction. We found that it would be much better to take this decision from a position of relative strength, rather than wait for a legal ruling that would be legally binding to go against us.

The Earl of Devon (CB): My Lords, I must congratulate the Chagossians on the return of their islands. How far back in time do His Majesty's Government intend to go with their restitutionary zeal? We have seen reference made to the Falkland Islands and Gibraltar, and I should note my interests as a feudal proprietor of the Isle of Wight.

Baroness Chapman of Darlington (Lab): I am not quite clear where the noble Earl is going with that, but it gives me the opportunity to state not only self-determination for the Isle of Wight but the unequivocal and longstanding clarity of this Government that the future of the Falkland Islands and Gibraltar lies squarely, wholly and unarguably in the hands of the Falkland Islanders and the Gibraltarians.

Baroness Lister of Burtersett (Lab): My Lords, my noble friend will be aware that not all Chagossians have welcomed this agreement, not least because it precludes resettlement on the unoccupied part of the largest island, Diego Garcia, the homeland of many who were so cruelly forced off the islands. Will the Government therefore look again at the exclusion of the whole of Diego Garcia and undertake genuinely to consult all parts of the Chagossian community before finalising the treaty?

Baroness Chapman of Darlington (Lab): My noble friend is right that the history of the Chagos Islands is a very unhappy one, and the Chagossians have been appallingly treated over many decades. The history is that these islands were uninhabited until they were discovered by the Portuguese, then colonised by the French, then taken over by the British after the Napoleonic Wars. The British then expelled the population in order to set up a UK-US military base.

The future and security of that base is what has driven this treaty. It is not for me or anybody else in this Chamber to speak on behalf of the Chagossians, but I think it a good thing that the intention of this treaty is that Chagossians will be able to return to the outer islands, and we will be resuming visits to Diego Garcia. This will not satisfy every Chagossian—as I say, they have been badly treated for many years—but it is an improvement on the situation we have had until now.

Lord Callanan (Con): As the Minister has just confirmed, in 1967 the then Labour Government forcibly evicted 1,700 Chagossian people from Diego Garcia. Can the Minister tell us precisely how many of them or their descendants, now here in the UK, were consulted before the Government took the decision to hand over the islands to Mauritius?

Baroness Chapman of Darlington (Lab): My Lords, we have engaged for a long time with Chagossian communities. This was a decision made between Governments, and the noble Lord will know that it is Governments who negotiate international treaties. It is right that we offer citizenship to Chagossians who want it, and a trust fund will be set up for Chagossians. As I have said, they will have the right to return to the other islands and the right to visit Diego Garcia.

Lord Hannay of Chiswick (CB): Does the Minister recognise a remarkable similarity between this exchange and the last time there was an exchange on the Chagos Islands, in the last Parliament, when the noble Baroness, Lady Goldie, for whom I have the very greatest respect, stood at the Dispatch Box and defended the negotiation of an agreement to return the Chagos Islands to Mauritius, but to keep the base in being for Britain and the United States? Is it not a bit odd?

Baroness Chapman of Darlington (Lab): Far be it from me to comment on things that get said during Tory party leadership elections. However, I think it would help if I explained why the legal decisions have been made in this way. When Mauritius gained independence in the 1960s, the UK separated part of the country, in the form of the Chagos Islands, and that has been found to have been unlawful. Separation by the colonial power is not allowed in any circumstance under international law, and that is what the UK was found to have done at that time. That is why we have now had 13 rounds of negotiations to take us to this point.

Lord Purvis of Tweed (LD): My Lords, I agree with the Minister that the human rights of the Chagossians have been denied for generations. However, during the rounds of negotiations, and now with the agreement this Government have made, there has been no mechanism of consent for the Chagossians. I understand that we will be receiving a treaty, but in opposition Labour supported a human rights Motion on agreement for treaties. Given the seriousness of this issue, will the Government consider tabling an amendable Motion that can be voted on in both Houses in advance of the limited scrutiny of the treaty, so that all the issues, including the voice of the Chagossians, can be heard?

Baroness Chapman of Darlington (Lab): Noble Lords may or may not be aware that there is no single Chagossian voice on these issues; Chagossians live here in the UK, but many also live in Mauritius itself and in the Seychelles. The treaty will come before both Houses in the usual way, and there will be amendable primary legislation alongside it that will deal with some of the changes we need to make to the law in order to ratify the treaty.

Baroness Whitaker (Lab): My Lords, I congratulate my noble friend on solving this issue, which was handled appallingly for many years during the last Government, and which has rightly been applauded by all the American players. First, will she confirm that the Government of Mauritius, one of the African democracies, have never shown any interest in an alliance with China, least of all over anything like this? Secondly, will the question of the right of the Chagossians not only to return, which is enormously welcomed by them, but to live on the outer islands remain on the table for discussion with the Americans so that, in due course, a resolution to that problem can be made?

Baroness Chapman of Darlington (Lab): The agreement, which noble Lords will be able to look at in detail in the treaty, will allow for Chagossians to return to the outer islands. There has been a lot of old nonsense spoken about China in relation to Mauritius. Mauritius is one of only two African countries that do not take part in belt and road. It is a member of the Commonwealth and a close ally of India.

Baroness Sugg (Con): My Lords, the previous Government consistently consulted the Chagossian people and consistently concluded that this deal is not in the UK's national or security interests. I am interested in the financial settlement. The Foreign Secretary said yesterday that Governments do not normally reveal payments but, of course, that is up to the Government to decide; and, for example, the US has revealed that it pays $63 million a year for its Djibouti military base. Does the Minister agree that it would be helpful, in the interests of transparency, to explain just how much taxpayers' money is going to be spent on this deal? Where will that money come from—from the overseas development budget?

Baroness Chapman of Darlington (Lab): My Lords, we never reveal the cost of basing our military assets overseas—we never have, we never will, and I do not think other nations do either. There are very good reasons for that. If we started to do so, I expect we would see the prices of these things start to go up fairly rapidly. No, we will not be disclosing that.

Anniversary of 7 October Attacks: Middle East

Statement

3.21 pm

The Lord Privy Seal (Baroness Smith of Basildon) (Lab): My Lords, I will repeat a Statement made by the Prime Minister yesterday on the anniversary of the attacks on 7 October and on the Middle East. The Statement is as follows:

"Today we mark a year since the horrific attack on Israel by the terrorists of Hamas. It was the bloodiest day for the Jewish people since the Holocaust—a day of sorrow, a day of grief. Over 1,000 people were massacred, with hundreds taken hostage, in an attack born of hatred, targeted not just at individuals but at Jewish communities, at their way of life and at the State of Israel—the symbol of Jewish security to the world. Fifteen British citizens were brutally slain that day. Another has since died in captivity. Our thoughts today are with Jewish people around the world, the Jewish community here in the UK and all those we lost a year ago.

[Baroness Smith of Basildon]

For so many, the pain and horror of that day is as acute today as it was a year ago. They live it every day. Last week I met the families of British hostages and of those killed on 7 October. I sat with them as they told me about their loved ones. I will never forget their words. Mandy Damari spoke of her love for her daughter Emily. She said:

'my personal clock stopped at 10:24 on the 7th of October',

the moment when Emily sent a desperate, unfinished message as Hamas attacked her kibbutz. She is still held captive today. We can hardly imagine what hostages like Emily are going through, nor what their families are going through—the agony day after day. So I say again: the hostages must be returned immediately and unconditionally. They will always be uppermost in our minds. I pay tribute again to the families for their incredible dignity and determination.

Today is also a day of grief for the wider region, as we look back on a year of conflict and suffering. The human toll among innocent civilians in Gaza is truly devastating. Over 41,000 Palestinians have been killed, tens of thousands orphaned and almost 2 million displaced, facing disease, starvation and desperation without proper healthcare or shelter. It is a living nightmare and it must end. We stand with all innocent victims in Israel, Gaza, the West Bank, Lebanon and beyond, and we stand with all communities here in the United Kingdom against hatred of Jews or Muslims, because any attack on a minority is an attack on our proud values of tolerance and respect, and we will not stand for it.

With the Middle East close to the brink, and the very real danger of a regional war, last week the Iranian regime chose to strike Israel. The whole House will join me in utterly condemning this attack. We support Israel's right to defend herself against Iran's aggression in line with international law. Let us be very clear: this was not a defensive action by Iran; it was an act of aggression and a major escalation in response to the death of a terrorist leader. It exposes once again Iran's malign role in the region. It helped equip Hamas for the 7 October attacks. It armed Hezbollah, which launched a year-long barrage of rockets on northern Israel, forcing 60,000 Israelis to flee their homes, and it supports the Houthis, who mount direct attacks on Israel and continue to attack international shipping.

I know the whole House will join me in thanking our brave servicemen and servicewomen, who have shown their usual courage in countering this threat, but make no mistake: the region cannot endure another year of this. Civilians on all sides have suffered far too much. All sides must now step back from the brink and find the courage of restraint. There is no military solution to these challenges, so we must renew our diplomatic efforts. Together with my right honourable friend the Secretary of State for Foreign, Commonwealth and Development Affairs, I have had discussions with the leaders of Israel, Lebanon, Jordan, the Palestinian Authority, the G7 and the European Union, and made the case at the United Nations for political solutions and an end to fighting.

In the weeks ahead, we will continue this work, focused on three areas. The first is Lebanon, where our immediate priority is the safety of British citizens. Our team is on the ground, helping to get people out. We have already brought more than 430 people home on chartered flights, and we stand ready to make additional evacuation efforts as necessary. I again give this important message to British citizens still in Lebanon: you must leave now. We are also working to ease the humanitarian crisis in Lebanon—last week we provided £10 million of vital support, in addition to the £5 million we are already providing to UNICEF—but the situation cannot go on. We will continue to lead calls for an immediate ceasefire and for the return to a political plan for Lebanon based on Security Council resolution 1701, which requires Hezbollah to withdraw north of the Litani river. They must stop firing rockets and end this now, so that people on both sides of the border can return to their homes.

Secondly, we must renew efforts for an immediate ceasefire in Gaza, but we cannot simply wait for that to happen. We must do more now to provide relief to the civilian population. That is why we have restarted aid to the United Nations Relief and Works Agency. We are supporting field hospitals and the delivery of water, healthcare and treatment for malnourished children, but the ongoing restrictions on aid are impossible to justify. Israel must open more crossings and allow life-saving aid to flow. Crucially, Israel must provide a safe environment for aid workers. Too many have been killed, including three British citizens. Israel must act now, so that, together with our allies, we can surge humanitarian support ahead of winter.

Thirdly, we must put in place solutions for the long term, to break the relentless cycle of violence. The ultimate goal here is well understood: it must be a two-state solution. There is no other option that offers stability and security. We need to build a political route towards it, so that Israel is finally safe and secure, alongside the long-promised Palestinian state. This requires support for the Palestinian Authority to step into the vacuum in Gaza; it requires an urgent international effort to support reconstruction; and it requires guarantees for Israel's security. We will work with our allies and our partners to that end, but the key to all this remains a ceasefire in Gaza now, the unconditional release of the hostages, and the unhindered flow of aid. That is the fundamental first step to change the trajectory of the region.

Nobody in this House can truly imagine what it feels like to cower under the bodies of your friends, hoping a terrorist will not find you, mere minutes after dancing at a music festival. Nobody in this House can truly imagine seeing your city, home, schools, hospitals and businesses obliterated, with your neighbours and family buried underneath. It is beyond our comprehension, and with that should come a humility. It is hard even to understand the full depth of this pain, but what we can do is remember. What we can do is respect and listen to the voices that reach out to us at these moments, and what we can do is use the power of diplomacy to try to find practical steps that minimise the suffering on the ground and work towards that long-term solution, so that a year of such terrible and bloody conflict can never happen again. That is what we have done on these Benches, it is what the whole House has done, and it is what the Government will continue to do. I commend this Statement to the House".

3.31 pm

Lord True (Con): My Lords, I thank the noble Baroness for repeating this important Statement. Yes, she did indeed speak for the whole House when, in the most graphic and moving tones, she invoked the horror of that terrible day and all the victims: dead and still alive and, frankly, those who will never forget, so long as they live, the heinous frenzy of terror committed last 7 October by Hamas. We on this side share every sentiment she expressed about that horrific day.

As my right honourable friend the leader of the Opposition said yesterday, this was a

"modern pogrom—the worst loss of Jewish life since the second world war".

It was, as he said,

"a horrendous reminder of the antisemitism in our world and the existential threats that Israel faces".—[*Official Report*, Commons, 7/10/24; col. 25.]

Like the noble Baroness, in particular our thoughts are with those British families who lost loved ones and with the family of Emily Damari, our innocent compatriot still held hostage by Hamas. We hear that many hostages are being held to shield the frankly worthless life of the vicious and cowardly killer Yahya Sinwar. Can the noble Baroness give us our latest assessment of whether Sinwar is still in control of Hamas?

Did the noble Baroness see the despicable remarks of the Supreme Leader of Iran? In calling yet again for the total eradication of the State of Israel, he declared, about 7 October and the rape, slaughter and hostage-taking, that it was a "correct move". A correct move, my Lords? Palestinians, he said, had every right to do this. Such sentiments, in my judgment, have no place in the civilised discourse of mankind. Can the noble Baroness tell the House whether the Iranian chargé d'affaires was called in by the Foreign Secretary to condemn that repulsive endorsement of the events of 7 October, and what the Prime Minister so rightly described in the Statement as a wholly illegal "act of aggression" by Iran against Israel in support of terrorists?

We on this side fully endorse the noble Baroness's remarks that Israel has every right under international law to defend itself against the aggression by the Iranian regime and its paid proxies. Like her, we salute those in our own Armed Forces who have played and who, right now, as we speak, are still vigilantly playing a part in protecting Israel and the right of free navigation on the high seas.

No one wishes to see an escalation of this conflict. It has gone too far and too long. Matters could be solved far more speedily if Iran and its terrorist proxies ended their threats to destroy Israel and the raining of terror and rockets on Israeli civilians. Another unprecedented attack on Haifa by Hezbollah was reported today. The activities of this axis of terrorists have caused untold and avoidable suffering to peoples across the Middle East—Jew, Muslim and Christian; Iranian, Israeli, Arab and Palestinian. These actions must cease.

Much concern was expressed yesterday—as it should be every day—about anti-Semitism in the United Kingdom. According to the Metropolitan Police's official statistics, there has been a fourfold increase in anti-Semitic crime since 7 October. Nationwide, 2,170 anti-Semitic incidents have been reported since last 7 October. I know the whole House will agree with me when I say there is no place for anti-Islamic or anti-Semitic actions in our country. Does the noble Baroness think that more could be done to protect our Jewish community and make all Jews feel safe in our country?

I very much welcome the humanitarian support to Lebanon that the noble Baroness reported, as well as the support to Palestinians who are suffering so grievously in Gaza. In light of the Prime Minister's call for all British citizens to leave Lebanon, can the noble Baroness assure the House that His Majesty's Government are doing everything in their power to ensure that British nationals are being helped to leave? I welcome the news that 430 have come home. Can the noble Baroness tell the House how many British nationals we believe may still be left in Lebanon?

Let me be very clear: Israel has the right to defend itself against the existential threat from Hezbollah in Lebanon. Hezbollah is a terrorist organisation proscribed by our Government. Israel has a right to eliminate terrorists who threaten its right to exist. I agree with the noble Baroness that Hezbollah should have implemented UN Security Council Resolution 1701. The nature of its leadership can be seen by the fact that in 2006 it promised to abide by that resolution and to withdraw north of the Litani. Instead, they filled the whole area with hundreds of thousands of missiles, underground fortifications and the infrastructure of vicious, militant terror. The leaders who broke those undertakings have paid a heavy price. Of course, I support the sentiments in the Statement for a ceasefire and an end to hostilities but, at this moment, one has to ask what trust Israel could have in the words of Hamas or Hezbollah.

The road to peace may, regrettably, be long and difficult, though I support the Government's intention to strive with every sinew to achieve it. Peace will never come about without guarantees of the security of the State of Israel. The best benefit to the great Palestinian people, who are suffering so much, would be the peace and security that could and must follow from that security for Israel.

As the world becomes more dangerous, with war in Ukraine and the Middle East, the Conservative Party will support Israel and our other allies in the Middle East and around the world. This is not a time for weakness. I am grateful for the noble Baroness's resolute condemnation of the events of 7 October and her unqualified expression of solidarity with Jewish people everywhere. I expected no less. So long as this Government support Israel's right to self-defence and the search for a just, secure and sustainable peace, they can count on our support.

Lord Newby (LD): My Lords, I too thank the Leader for repeating the Statement. Today, we mark an extraordinarily sombre anniversary. The barbarism of the Hamas attack was almost beyond imagining, and our thoughts today are very much with Jewish people, wherever they may be—not just in recognition of the sorrow and grief felt by those directly affected but because the events of 7 October were only the start of a year of fear and anxiety for the entire Jewish community, wherever they live, which continue to this

[Lord Newby]
day. Of course, it has also been a horrendous year for the Palestinian people in Gaza and the West Bank, as well as for the population of Lebanon, which now finds itself engulfed in a cycle of increasing violence and destruction.

The last 12 months have amply demonstrated that the British Government's ability to influence events in the region is limited. Neither Israel, Hamas, Hezbollah nor Iran is exactly in the mood to be told what to do by the United Kingdom. But that does not mean that we should do nothing. The Statement mentions three areas where we can and are doing something distinctive, and where we might do more.

First, we can do more to aid the innocent populations of Gaza and Lebanon. In the case of Gaza, we are now funding UNRWA again, which is most welcome. The Statement is unclear about how much our new commitment to UNRWA amounts to and how far this provision of aid is constrained by our financial resources and how far by the unjustifiable Israeli restrictions on the flow of aid into Gaza. Can the Leader clarify this? What is the Israeli Government's response to our requests for the opening of more crossings and the provision of a safe environment for aid workers?

Secondly, on Lebanon, the Government are now providing £15 million of support, but this is a small fraction of the £200 million that we were providing in 2019, when obviously there was nothing like the level of devastation that now prevails. Will the Government accept that £15 million, though helpful, is plainly a very small drop in the ocean? Will they commit to increasing it?

Thirdly, the Government have supported Israel militarily in countering the bombardment it suffered from Iran last week. We are sympathetic to this support, but the Statement is totally silent on the form it took, and the Government have been unclear about its limits. At a point when Israel is clearly contemplating a military response to the Iranian attack, it would be helpful if the Government could confirm that the military support they give to Israel in the future will continue to be limited to defensive purposes.

We can and should do everything possible to fight hatred of Jews or Muslims in the United Kingdom. Attacks on both communities have increased greatly in the last 12 months. Passions have been inflamed and, although the situation in the UK will inevitably remain more tense as long as there is severe conflict in the Middle East, calmer voices can and must prevail. In a number of places, faith leaders from Jewish, Muslim and Christian communities have come together to deliver messages of unity in their localities, not least in schools. Such initiatives are hugely important, and we should do whatever we can, as individuals, to support them in the places where we live.

The last year has seen an escalating cycle of violence and destruction across the Middle East, and it seems quite conceivable that this cycle has some way to run. However forlorn it may seem today, we need to redouble our efforts to get the hostages released, to achieve a ceasefire in Gaza and Lebanon, and to add impetus to the political process, with the aim of establishing a two-state solution. Unless and until these aims are achieved, we will inevitably see more death and destruction. Peace and stability in the region seem further away today than ever, but we must continue to do all we can to replace today's despair with a more positive hope for the future.

Baroness Smith of Basildon (Lab): My Lords, I thank both noble Lords for their comments and for the tone of those comments. I think we all feel the weight of what has happened upon us. Many of us have met families of the hostages—I met Mandy Damari in your Lordships' House just before the Conference Recess—and you can almost feel the weight of their dignity and their suffering; it is sort of physical and you wonder how on earth people can cope under those circumstances. I think the tone of both noble Lords reflected our understanding of the pain and trauma they are going through.

Noble Lords are also right to say that under any criteria, there is no justification at all for the attacks that took place on Israel on 7 October. It is hard to see how anybody, including the Supreme Leader of Iran, can seek to justify such comments. It must be understood that Hamas will have known that Israel would have to defend itself, and the horror that would be unleashed in the region as a result. It is deeply shocking. There is no route to peace of any kind—temporary, long-lasting or an eventual two-state solution—that does not involve international diplomacy. That is the only way forward to try to find a resolution to protect people in the region.

Both noble Lords made the point that what is happening in the region is played out in the streets of the UK. Up and down our country, people have been subject to attacks and abuse for being either Jewish or Muslim, and I think everybody in this House will totally and utterly condemn such abuse and attacks. The comments of the noble Lord, Lord Newby, about the tone of the debate that takes place, both in your Lordships' House and in our communities, are very important. I pay tribute to those who have reached beyond their own communities and across the divide, understanding the problem that it is causing within their areas.

I turn to specific points raised by both noble Lords. They will realise that Hezbollah is a proscribed organisation and is treated as such. We all utterly condemn its actions: that is why it is proscribed. How can Israel trust Hezbollah or have trust in progress towards peace? It is precisely because there is no trust that international efforts are so important. The noble Lord, Lord Newby, made the point that the UK is but one voice and that working with partners across the world is the only way that any progress can be made. That is why the Prime Minister has had so many meetings with leaders across the region and others to try to build that coalition, to bring pressure to bear and to do what we can to bring about an initial ceasefire in Gaza but also to protect those in Lebanon.

I do not have the exact number of British nationals remaining in Lebanon. More than 500 have been brought out so far. There are still commercial flights, but about 500 have been brought out, plus the 430 on the chartered flights. We will continue to do that. We have been saying for over a year to those in Lebanon, as did the previous Government—the noble Lord, Lord Ahmad, is nodding at me, because he recalls

saying it—that they should return home and that we will facilitate and give support as best we can. Their safety is clearly a deep priority for us.

The noble Lord, Lord Newby, asked for details of our operations in support of Israel. I say to him that all defensive operations are in line with international law and always will be. He will understand that I will not give any further information than that, but I can give him that assurance.

The key point is, and both noble Lords expressed this succinctly and very sincerely, that we must work across nations to bring people together and be steadfast in our support for the security of Israel, for security in the region but also for the humanitarian aid that is so essential to civilians who are suffering and dying now. We have to work internationally to achieve that or no progress will be made. I am grateful for their support for the Statement.

3.49 pm

Lord Howard of Lympne (Con): My Lords, I have been to Kfar Aza kibbutz and seen for myself the dreadful, terrible devastation which occurred on October 7, and I have visited the town of Sderot both before and after October 7 and seen a terrible difference. The Statement referred to Emily Damari, the only British hostage remaining in Gaza, whose mother I had the privilege of meeting last week. Would the Leader tell us what specific action His Majesty's Government are taking, through Qatar or other intermediaries, to try to secure her release? In view of the part played by Iran in fomenting violence across the region, and the remarks of the Supreme Leader to which my noble friend referred, will the Government reconsider their decision not to proscribe the IRGC?

Baroness Smith of Basildon (Lab): Clearly, Emily's mother had the same effect on the noble Lord as she had on me when I met her. We must try to understand how she must feel, with not knowing. When I spoke to her, she had not heard from her daughter for some considerable time. Not knowing is almost worse than understanding what is happening. Some of the reports of Emily's bravery are quite incredible; that will become evident and hopefully she can be returned home. Ongoing efforts using every means appropriate to ensure that Emily comes home to her family are being taken by the Government. That is an ongoing process.

The issue about the IRGC is under review. It is sanctioned and that will continue. The noble Lord will know that there is never ongoing reporting back or dialogue on these issues, but it is a matter under constant review. We will do everything we can to ensure that we take the appropriate action in that regard.

The Lord Bishop of Oxford: My Lords, I thank the Minister for her very compassionate and clear Statement and the tone in which it was delivered. I also thank other noble Lords who have spoken and no doubt those who will speak about these terrible, terrible events and the effect they are having on our own communities.

On Sunday evening I was privileged to take part in the anniversary of the last day of relative peace, in a large community and interfaith vigil in Oxford, for Oxford and Oxfordshire. Despite terrible weather, well over 200 people came together, drawn from the Muslim, Jewish and Christian communities, as well as those from other faiths and those of no faith. We listened to our local council leaders, civic leaders from the county, the vice-chancellors of our two universities and other representatives of the community. It was an enormous encouragement and comfort to see the way in which different sections of the community were able to come together and make a stand for peace, in remembrance and lament for all that has been lost, and in a common commitment to community cohesion.

As other noble Lords have said already, this is a particular conflict that places almost unique strains on our own communities in the United Kingdom. Will the Minister say what the Government are doing and plan to do in the future to encourage this deeper and greater community cohesion, as these stresses no doubt continue in the year to come?

Baroness Smith of Basildon (Lab): I thank the right reverend Prelate for his comments. Indeed, we had a vigil, or a meeting, in your Lordships' House in a Committee Room yesterday, where Members of both Houses came together—those of all faiths and none. I pay tribute to those across the country who have organised such vigils, particularly, as the right reverend Prelate said, as it was very wet, rainy, cold and miserable when they were doing it. It is an expression of strength and solidarity and it shows that we can achieve that.

I know that this is one of the issues that my noble friend Lord Khan, the Faith Minister, is interested in: bringing faiths together not just in times of conflict but as a general understanding in our communities. In areas where faiths work together and churches reach out, community cohesion is stronger as a result. So we need to look beyond this conflict, as well. As important as it is now, it is also important that community cohesion through faith communities—involving those of all faiths and none—is an ongoing process. We should never lose sight of how important it is, and the contribution it can make to strengthening our communities.

Lord Walney (CB): Do the Government share the deep alarm of so many in this country that on this weekend, the anniversary of the heinous attack on Jewish people in Israel, many felt emboldened to march through our capital with clear displays of support for Hezbollah, an organisation committed to the violent eradication of Israel? The Government—the Prime Minister, the Home Secretary and Ministers—showed commendable focus through the riots in combating the extremism we saw in our towns. Will they bring a similar commitment to root out this evil extremism in our communities?

Baroness Smith of Basildon (Lab): The noble Lord is right that Hezbollah is a proscribed organisation. Its views are abhorrent and there is no place for promoting the role or organisation of Hezbollah at all on the streets of London. The Home Secretary has made comments on that, making her views very clear and in a very strong way. People have a right to peaceful protest and we should always respect that—even when I sit in my office and can hear the amplified voices

[Baroness Smith of Basildon]
across the road as I work. That is peaceful protest, but when people stray beyond peaceful protest and support terrorism, that is a different matter.

Lord Grocott (Lab): My Lords, we all know that, sooner or later, the dreadful violence that has erupted in southern Israel, in Gaza and now in Lebanon will subside. There will then be an uneasy truce and, as sure as night follows day, the violence will occur again until the fundamental problems of the region are addressed. The most fundamental problem, surely, is that there cannot possibly be peace in this part of the Middle East until the Palestinians obtain what the Israelis achieved and love: a state of their own. Until the Palestinians can receive that support, including from this Government, I am afraid that the cycle of violence will just go on and on.

Baroness Smith of Basildon (Lab): The noble Lord makes an important point about everybody in the region feeling safe and secure. That is what the two-state solution is: a safe and secure Israel and a strong and viable state of Palestine. There is a lesson on this. At the beginning of his comments, the noble Lord made a really telling remark that, at some point—we want it to be sooner rather than later—violence will subside and we will move towards peace and negotiation. At no time can the countries involved in negotiation, and in trying to reach the two-state solution, take a step back and think, "It's quietened down now, we can forget about it". The point he makes is that we need constant vigilance to ensure that, until we can guarantee the security and safety of civilians across the region, we have to remain engaged. I take very seriously the points he made on that.

Lord Swire (Con): For some years now, we have had a British military programme, with British military training teams training the Lebanese army extremely successfully. Does the Leader of the House include the remnants of those trainers, if we still have them in Lebanon, in her calls to come away from that country now? If they are still there, does she share my concern that they could be inadvertently drawn into this conflict?

Baroness Smith of Basildon (Lab): I am not sighted on the issue of the trainers that the noble Lord referred to, but he will know that our military personnel will always act within international law, which is defensive. I will double-check the point about whether we have anyone in the region in that regard. I was looking hopefully at my noble friend the Minister of State for Defence, who will come back to the noble Lord and write to him with the details.

Lord Winston (Lab): My Lords, I wonder if I might help the noble Baroness by suggesting some kind of solution that we have not discussed enough. I must thank her very much indeed for the wonderful way she made that Statement. I am also grateful for the feelings expressed around the House.

I have not spoken on this issue before, but I have numerous family members in Israel, including my brother's family and nephews, many friends, PhD students and scientific connections who have helped us in my lab and have been there. There are also many Arabs and Palestinians who have worked in my lab in London and have been funded through various funds that we have raised for them in London, as well as PhD students whom I have been supporting in the West Bank and Gaza, so I have some reason to speak briefly.

I want to suggest to the noble Baroness one thing that has perhaps never really been understood. As Jews, we have been pointed out as different, as everybody knows. Over many generations and hundreds of years, Jews have felt eventually very lonely and extremely alone. There is no question that if you look at the Israeli mind now and speak to Israelis, they feel they are finally alone. Many attempts have been made on both sides to arrive at peace; since 1967, there have been so many attempts at political solutions. Israel has come, eventually, to the awful decision that the only solution for it is a military one.

The loneliness is massively increased by anti-Semitism; the noble Lord, Lord Walney, was absolutely right. Anti-Semitism is so widespread and really affects Israeli public opinion. We need to get public opinion in Israel much more understanding of how so many of us really feel. That, plus the irregular and inappropriate reporting in our news media, is something that we need to think about very clearly. Until that happens, it is very difficult to have better dialogue; with that, we might come to some conclusion where we could have better chances of peace in the future.

Baroness Smith of Basildon (Lab): I am grateful to the noble Lord for the information about his experiences in his medical field. I hope the message that has gone out from this House and across the country is that Israel is not alone. The expressions that have been made, the international support and the discussions taking place are very clear that Israel has a right to defend itself. Both Houses, in Statements yesterday and today and throughout the conflict, have been clear that we stand shoulder to shoulder in ensuring that Israel has a right to defend itself. I hope that Israel and Jews across the country understand that they are not alone, but we want to ensure a peace throughout the region so that everybody, Arabs, Jews, Muslims, Christians, people of all faiths and none, can live together in peace—if not in harmony, at least in safety.

Lord Kennedy of Southwark (Lab Co-op): I want to say quickly that we are taking questions, and I want to get as many noble Lords in as possible.

Lord Ahmad of Wimbledon (Con): My Lords, I thank the noble Baroness for the Statement and all noble Lords who have spoken. There is one important fact which I hope the noble Baroness can focus on. When the attack on Israel happened, there was a majority of Jews who were tragically killed by the abhorrent organisation that is Hamas—and now what we also see from Hezbollah. But let us be clear, as one Muslim leader said to me on my first visit to Israel after 7 October, that there were 26 young Muslim attendees at that very festival. Israel has a rich diversity; places such as Haifa and Jerusalem reflect the three great Abrahamic faiths.

My question is specific to the role of Qatar; I am glad that the noble Baroness, Lady Chapman, is sitting next to the noble Baroness. Qatar is investing a lot, and, as my noble friend Lord Howard has said, plays a crucial role in the release of hostages. Can the noble Baroness update us on the specifics of the peace agreements to bring about a ceasefire in Gaza? We were nearly there, just before the Lebanon escalation, and the United States was also very bullish in what are extremely challenging circumstances.

Baroness Smith of Basildon (Lab): I thank the noble Lord for his comments. I think the whole House, even those of us who were delighted by the election result, would pay tribute to him for his work over many years and for the way that he kept the House updated—I thank him for that. Engagement with Qatar, which he is absolutely right to highlight, is ongoing and we are very grateful for its support. It is a friend in the region and that work continues.

The noble Lord's point about the Muslims who were killed in the October attacks is profound. It illustrates how those who were victims were bringing people together. That is the future: young people, at a music festival, working across faiths and enjoying each other's company. They paid a price for hatred. To get rid of that hatred—the right reverend Prelate commented on this as well—we have to go beyond the boundaries of our own faiths, not just in the UK but throughout the world, to bring people together. The point is sometimes lost, and I am grateful to the noble Lord for making it, that Muslims were also killed in those attacks. For the whole region, whatever someone's faith is is irrelevant; the suffering is beyond any faith.

Lord Purvis of Tweed (LD): Does the Leader agree that, at this time, it is of the greatest importance that we have an independent, impartial media that can provide analysis? That is needed more than ever. Does she share my great surprise that, as I was informed by the head of the BBC World Service, the BBC Arabic radio service in Lebanon has now been closed as a result of funding restrictions? That spectrum has been taken up by Russian state media. This is a time to support the BBC World Service and to expand, not reduce, its provision. I hope that the Leader will take this away for discussion with her colleagues.

Baroness Smith of Basildon (Lab): I am a great admirer and fan of the BBC World Service and the soft power that it has exercised across the world for many years has been great. It was a great shame that the World Service was rolled up into the last funding settlement that was undertaken for the BBC. We are concerned about that and looking at it. I do not make any commitments to the noble Lord, but we certainly share his concern. That the vacuum has been filled by a Russian player adds to the concern that I would have. I also agree with him that it is important to have independent voices who are respected in the region.

Baroness Deech (CB): My Lords, the Minister's words are much appreciated, but does she agree with me that the hatred that has come about since 7 October, which has been widely commented on around the House, has to some extent been fed by the BBC? There have recently been two independent reports, one of which I co-signed, which pointed out in great detail mistakes and bias on the part of the BBC. There have been the most appalling statements on the BBC Arabic World Service by people who hate Israel. Does the Minister agree that it is time for an inquiry into the BBC's coverage? For example, Jeremy Bowen casually reported that Israel had bombed a hospital. This soon turned out to be untrue, but that statement, which he never went back on, gave rise to more slaughter and hatred. It is time for an inquiry into the BBC's impartiality on this issue.

Baroness Smith of Basildon (Lab): The noble Baroness will understand that I am not going to accede to her request for an inquiry, but I think that all news outlets have a duty and responsibility to the truth. One thing I have found difficult in the coverage of this conflict is its focus on the destruction and hurt that have happened; I would like to see some balance around the political efforts to reach a solution as well. That would help people to understand what the conflict is about. I think that many people watching the TV news are obviously horrified, upset and distraught by what they see, but there is no great understanding of the background to it and why things are happening. All news outlets have a duty and a responsibility to ensure that their reporting is accurate.

Baroness Altmann (Non-Afl): My Lords, what evidence can the noble Baroness point to that there is any desire on the part of the Iranian, Palestinian and other terrorist proxies for a two-state solution? Ever since Israel was founded, their determination has been to wipe it off the map. Israel has tried and wants to live in peace, alongside its neighbours. It was not occupying Gaza or Lebanon, but somehow all that seems to have been forgotten, while Hamas builds its terror infrastructure underneath the schools, mosques and hospitals of its own people, seemingly deliberately to place them in harm's way, to attack Israel from them and attract Israel to retaliate. Israel does not wish to kill civilians; it wishes to kill the people who want to wipe it off the map. Can the noble Baroness tell the House what recognition there is that so much of the responsibility for the civilian deaths is on Hamas, which is the aggressor that chose this war, rather than Israel, which is fighting for its very existence?

Baroness Smith of Basildon (Lab): In some ways, the noble Baroness has emphasised the point I made a moment ago about people understanding the background of what has happened. It looks and feels at times as if a two-state solution will be impossible, but if we allow that to take hold, we will never strive or make those efforts to achieve some peace in the region. I cannot see any other way forward but diplomatic solutions. She makes the point about people understanding what is behind this; the very first question I answered today was on the attacks on 7 October, and it was because of those attacks that this wall of violence and terror has been unleashed, but there have been similar intentions for a very long time. As the noble Lord, Lord Grocott, said, unless those intentions are dealt with and addressed, we will not see a lasting peace.

NHS: Independent Investigation

Statement

The following Statement was made in the House of Commons on Thursday 12 September.

"With permission, I would like to make a Statement on Lord Darzi's investigation into the NHS.

Unlike the last holders of this office, this Government will be honest about the problems the NHS faces and serious about fixing them. That is why I asked Lord Darzi, an eminent cancer surgeon who served both Labour and Conservative-led Governments with distinction, to conduct an independent investigation into the state of our national health service. I am sure the whole House will want to join me in thanking him for producing this expert, comprehensive report, a copy of which I have placed in the Libraries of both Houses.

I told Lord Darzi that we wanted hard truths, warts and all. His findings are raw, honest and breathtaking. He says:

'Although I have worked in the NHS for more than 30 years, I have been shocked by what I have found'.

He has uncovered an enormous charge sheet, too long to list in this Statement, so these are just a few: the NHS has not been able to meet its promises to treat patients on time for almost a decade; patients have never been more dissatisfied with the service they receive; waiting lists for mental health and community services have surged; 50 years of progress on cardiovascular disease is going into reverse; and cancer is more likely to be a death sentence for NHS patients than for patients in other countries. It is not just the sickness in the NHS that concerns Lord Darzi, but sickness in society. Children are sicker today than a decade ago and adults are falling into ill health earlier in life. That is piling pressure on to the NHS and holding back our economy.

Those are some of the symptoms; the report is equally damning on the causes. First, a decade of underinvestment left the NHS 15 years behind the private sector on technology, with fewer diagnostic scanners per patient than almost every comparable country, including Belgium, Italy and Greece, and in 2024 mental health patients are treated in Victorian buildings with cockroach and mouse infestations, where 17 men are forced to share two showers.

Secondly, there was the disastrous 2012 top-down reorganisation overseen by Lord Lansley. Lord Darzi's assessment is damning:

'A calamity without international precedent…it took a "scorched earth" approach to health reform'.

'By 2015 … ministers were … putting in place "workarounds and sticking plasters" to bypass the legislation'.

'Rather than liberating the NHS, as promised, the Health and Social Care Act 2012 imprisoned more than a million NHS staff in a broken system for the best part of a decade'.

'the effects … are still felt to this day'.

Just imagine if all the time, effort and billions of pounds wasted on dissolving and reconstituting management structures had instead been invested in services for patients—clearly, the NHS would not be in the mess it finds itself in today.

Thirdly, there was coronavirus. Everyone can see the lasting damage caused by the pandemic, but until now we did not know that the pandemic hit the NHS harder than any other comparable healthcare system in the world. The NHS cancelled far more operations and routine care than anywhere else. As Lord Darzi writes:

'The pandemic's impact was magnified because the NHS had been seriously weakened in the decade preceding its onset'.

In other words, it is not just that the Conservatives did not fix the roof while the sun was shining; they doused the house in petrol and left the gas on, and Covid just lit the match. That is why waiting lists have ballooned to 7.6 million today. If I were an Opposition Member, I would not complain about the diagnosis. I would take responsibility.

Fourthly—this sits firmly at Opposition Members' door, so they should sit and listen—there was the failure to reform. From 2019 onwards, the previous Government oversaw a 17% increase in the number of staff working in hospitals. Did it lead to better outcomes for patients? No. At great expense to the taxpayer, the NHS has instead seen a huge fall in productivity. We paid more but got less—a deplorable waste of resources when so many parts of our health and care services were crying out for investment. As Lord Darzi has put it:

'British Airways wouldn't train more pilots without buying more planes'.

Doctors and nurses are wasting their time trying to find beds for their patients and dealing with outdated IT when they ought to be treating patients.

Too many people end up in hospital because they cannot get the help that they need from a pharmacy, a GP or social care. The effective reforms of the last Labour Government, which drove better performance and better care for patients, have mostly been undone, and that is why patients cannot get a GP appointment, an operation or even an ambulance when they need one today. That is what the Conservatives did to take the NHS from the shortest waiting times and highest patient satisfaction in history to the broken NHS that we see today.

Lord Darzi has given his diagnosis. Now it is over to us to write the prescription, and we have three choices. The first is to continue the Conservatives' neglect, and allow the NHS to collapse. That is the path on which they set the NHS, and the path that it is on today. Or we could—as some of my critics on the left demand—pour ever-increasing amounts of money in without reform, wasting money that is not there and that working people cannot afford to pay. That would be wasteful and irresponsible, so we will not take that path. This Government are making a different choice: we choose recovery and reform. We are taking action today to deal with the immediate crisis by hiring 1,000 GPs whom the Conservatives had left without a job while patients were going without an appointment, and agreeing an offer to end the strikes that they allowed to cripple our health service.

At the same time, we will introduce the fundamental reforms needed to secure the future of our NHS. Earlier today, my right honourable friend the Prime Minister confirmed that the Government would publish a 10-year plan for change and modernisation, on the

foundation of Lord Darzi's report. Our plan will deliver the three big shifts needed to make our NHS fit for the future. The first is from analogue to digital, giving patients proper choice and control over their own healthcare, and finally realising the untapped potential of the NHS app. There will be fully digital patient records so that your surgeon can see the notes that your GP writes. By marrying our country's leading scientific minds with the care of more than 1.5 million NHS staff, we will put NHS patients at the front of the queue for cutting-edge medicines and treatments that we can only imagine today.

Secondly, there is the shift from hospital to community, turning our NHS into a neighbourhood as much as a national health service so that patients can get their tests and scans on their high streets and be cared for from the comfort of their own homes. That means bringing back the family doctor and building a national care service that can be there for us when we need it, able to meet the challenges of this century.

Thirdly, there is the shift from sickness to prevention, which means taking the decisions that the Conservatives ducked to give our children a healthy, happy start in life. It means stopping the targeting of junk food ads at children, banning energy drinks for under-16s, reforming the NHS to catch illness earlier—starting by offering health checks in workplaces and on smartphones—and delivering the Tobacco and Vapes Bill that the Conservatives failed to pass, to tackle one of society's biggest killers.

Lord Darzi's diagnosis is that the NHS is in a 'critical condition'—unless we perform major surgery, the patient will die—but he also finds that

'its vital signs are strong':

an extraordinary depth of clinical talent, and a shared determination to improve care for patients. This is a public service, free at the point of use, so that whenever we fall ill we never have to worry about the bill. The NHS is broken, but it is not beaten. Every person I have met in the NHS during my first two months as Health and Social Care Secretary is up for the challenge. It will take time, but this party—the party that created the NHS—has turned the NHS around before, and we will do it again. I commend this Statement to the House".

4.12 pm

Earl Howe (Con): My Lords, I am glad we are having this debate on the report by the noble Lord, Lord Darzi, even if the tone set by the Statement—which I am sure noble Lords have read—is, as far as I am concerned, rather regrettable. It is regrettable because the noble Lord, as one would expect of that most distinguished man, has produced a thoughtful and carefully argued diagnosis and set of prescriptions for the NHS. It would have been better to treat those findings on their own terms rather than as an excuse for a highly charged political rant. Having said that, I hope that, in this House at least, we can maintain debate on a rational and civilised level.

There are indeed problems in the health service that are there for all to see and others that are less immediately visible. These problems are real and indeed require sustained remedial effort. The noble Lord, Lord Darzi, attributes them to a mixture of causes, one being inadequate central government funding. I do not expect the noble Lord to be an apologist for the previous Government, but it would have been nice if he had acknowledged more fully that, despite so-called austerity, health service funding rose in real terms in every year since 2010 and in the last five years by nearly 3% in real terms per annum. The problem, as Sir John Bell has pointed out, is not a lack of money: it is that too much of the money has been sucked, suboptimally, into acute care settings and not enough into the community. The noble Lord goes on to say that very thing. But let no one conclude from that that community funding has been neglected. The last Government oversaw the opening of 160 community diagnostic centres. As my right honourable friend said in the other place, this is the largest central cash investment in MRI and CT scanning capacity in the history of the NHS.

Is there more to be done? Yes—but the results are there and proving their worth. The NHS is currently treating 25% more people than it did in 2010. It is delivering tens of millions more out-patient appointments, diagnostic tests and procedures than it did when the coalition Government came into office. Some of the community services are being delivered by staff employed by acute trusts—the statistics tend to hide those numbers. Yes, we can talk about the need for greater productivity, but this progress—it is indeed progress—is all down to the efforts of the dedicated clinical staff across the health service on whom we all rely, and who are more in number than at any time in the service's history.

Please do not criticise the last Government for focusing on the numbers. The imperative of planning ahead to train the right number of staff for the right care settings was amply fulfilled in the last Government's workforce plan—a publication heralded by the NHS chief executive as

"one of the most seminal moments"

in the NHS's history.

Can the Minister nevertheless say, despite the fact that the report is not mentioned by the noble Lord, Lord Darzi, whether the Government will embrace the workforce plan and take it forward as the NHS clearly wants and needs? Can she also say whether the Government will adopt the productivity plan announced in the last Government's Spring Budget? That plan—again, unaccountably not mentioned in the report—would deliver the "tilt towards technology" that the noble Lord rightly advocates, with a big productivity gain to boot.

I said that the noble Lord, Lord Darzi's report was carefully argued, but not all of it is well argued. I cannot allow his colourful statements about the 2012 Health and Social Care Act to go unchallenged. To attribute the NHS's current difficulties and challenges in large part to that Act is, frankly, ridiculous. What that Act did was to complete the process that the noble Lord himself started, which was to ingrain quality into the commissioning and delivery of healthcare based on clearly defined standards and outcomes, meaning that providers would be competing with each other based on the quality of care and treatment that they delivered to patients.

The noble Lord, Lord Darzi, now says that we need to move away from the whole idea of competition, but I suspect he has misled himself, because he goes on to say:

[Earl Howe]

"The framework of national standards … incentives and earned autonomy … needs to be reinvigorated",

along with patient choice. What is that framework if it is not a framework of healthy competition between providers based on quality? Therefore, what role does the Minister see for competition alongside collaboration —I do not think the two are mutually exclusive—in driving up the quality of NHS care?

I have a few final questions. We are told that a 10-year plan will be produced based on the findings of the noble Lord, Lord Darzi. Whose plan will that be? Will it be the Government's plan, and if so, how will the Government avoid what might look like a prescriptive top-down set of instructions to the health service? Does the Minister think it important that the NHS takes ownership of the plan and, if so, how will that be achieved?

In essence, the noble Lord, Lord Darzi, believes that we need to get from point A to point B—in other words, from acute settings to community settings; from tired old premises to brand new ones; et cetera. Does the Minister agree that we cannot transition from point A without first finding the money to create a functioning point B? In other words, will she and her fellow Ministers urge the Chancellor to commit to the capital expenditure necessary to achieve that?

Lastly, I quote the noble Lord, Lord Darzi:

"The vast array of good practice that already exists in the health service should be the starting point for the plan to reform it".

Does the Minister agree with that and, if so, how does she reconcile those sentiments with the Government's mantra—which is so discouraging to the men and women of the health service—that the NHS is "broken"?

Lord Scriven (LD): My Lords, I thank the Minister for bringing the Statement to the House. You do not have to be a mastermind to realise that the NHS is straining at its seams. It is only down to the great work of the many thousands of people who work in the NHS that millions of people get great care, even though some fall between the cracks.

The Darzi report is a very good medical history and it gives a diagnosis, but we all know that the treatment plan is going to be the important point if we are to deal with a reformed, new and productive NHS. There are some welcome themes in the report that are not new. Those who know the previous Darzi report will see have seen some of them before: prevention; moving resources from hospital care to primary and community care; dealing with the wider determinants of health; improvements in and parity for mental health; and a bigger role for public health.

I understand that the Minister will answer many questions by saying that we need to wait for the 10-year treatment plan, and probably the Budget, before such specific questions can be answered, but I have a few general questions for the Minister, to get at least a sense of the direction that the Government wish to take.

Is it the Government's intention to restore the public health grant back its 2014 levels? Are there any general views about looking at changing the structure of public health, nationally or locally? On capital, what is the Government's thinking about the general theme of allocation to hospital and non-hospital services, and how will this be managed and monitored? On data, what is the Government's thinking on the workforce plan, particularly when there is a huge imbalance when it comes to digital and data between the private sector and skills within the NHS? That is not to say that there are not some good skills within the NHS, but there is clearly an imbalance.

Welcome as it is that the report talks about moving resources from hospital to non-hospital settings, I was a manager in the health service in the early 1990s and I know that this has been said since at least the 1970s. What are the Government going to do to be able to move resources from sunk costs in the acute sector into other sectors? What mechanisms will be put in place? How will this be monitored? More importantly, who will be held accountable for making sure that it actually happens? How will the new neighbourhood approach affect the existing workforce plan? If a new health service is anticipated, what will the effect be on the workforce plan and the implications for capital allocation?

We all want to see a productive and effective healthcare system that improves peoples' health and independence, but that cannot be brought about if we do not have a strong, effective, well-funded social care system. I do not understand why social care has been kicked down to the next Parliament, or how we are going to solve the health and well-being of the population without that being done. If the major reforms of social care are in the next Parliament, what steps are the Government going to take in this Parliament to deal with the social care crisis?

I look forward to the Minister's answers, but, more importantly, to the 10-year treatment plan's arrival in the next few months.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Merron) (Lab): My Lords, I thank the noble Earl, Lord Howe, and the noble Lord, Lord Scriven, for their opening observations. I will seek to deal with as many of them as I can; I am sure a number will be iterated in the course of the Back-Bench contributions.

I start by expressing gratitude to the noble Lord, Lord Darzi—my noble friend, if I can call him that—for what I regard as an open, honest and thorough review. He is known as a man of great service, not just to your Lordships' House but to the National Health Service. He has served Labour and Conservative Governments with distinction. As noble Lords will be aware, he is an eminent cancer surgeon who has driven innovation and speaks up for staff and patients. It is not surprising to me that the Secretary of State asked him to conduct this review, tasking him to provide what we might refer to as hard truths, warts and all. I realise that when one asks for that it can be uncomfortable, but I hope that we in your Lordships' House can sit with discomfort in order to find a way forward for the National Health Service.

The noble Earl, Lord Howe, referred to the terminology that the NHS is "broken". I understand that that is uncomfortable to hear, but when I speak to NHS staff

they recognise that terminology. We are at great pains to say that we are not being critical of NHS staff, but unless we start in an honest and open fashion we will not be able to—as the noble Lord, Lord Darzi, referred to—restore the trust that is necessary. As the Secretary of State said in the other place, this Government have resolved to be honest about the problems faced and serious about fixing them. That is why he commissioned this independent investigation. I very much hope that noble Lords can be of assistance in finding the way forward, because we now have a diagnosis on which we can consult and then move on to the necessary prescription to improve the health of our National Health Service.

The noble Lord, Lord Scriven, referred to the 10-year plan. I am glad that he looks forward to it—as do I—but how will we get there? We now have a very clear explanation of where we are. It is evidenced and has widely involved many people and organisations. It should therefore be regarded with great respect, and I think it largely has been. However, the next stage for the 10-year plan will be to have what will be the biggest consultation we have ever had in this country on the National Health Service. It will involve patients, staff, parliamentarians, stakeholders—all those who have a vested and informed interest in it. That will lead us to the 10-year plan. On the question about this being top-down, this is very much a bottom-up exercise, with the Government's commitment underlying it.

It is important to say that the 10-year plan does not mean that we will wait 10 years for everything. We will identify those areas in which we can make swifter progress and we can then look beyond. The fact is —this came out many times in the report from the noble Lord, Lord Darzi—that this has been a long time in the making and to turn it around will not be quick.

The noble Earl, Lord Howe, acknowledged that there were problems in the NHS. I am grateful for that and for his reference to the need for change. I also listened closely to his reference to what had been done under the previous Government. Facts are facts, but what matters is output. As we are discussing today, whatever the previous investment and previous actions, some of which were very much to be commended, the output has not delivered the results we need. That is why we have the report by the noble Lord, Lord Darzi.

On the issue of dedicated staff, the staff team to whom I pay tribute goes way beyond clinical staff, important as they are, and includes the cleaners, porters and administrators. Noble Lords will recall that, when the workforce plan was published, we said that this was a useful step forward. Our job now, as a new Government, as the noble Lord, Lord Scriven, said, is to adapt the plan to ensure that it brings in one of the three pillars we will be going for: hospital to community. That will absolutely be our focus.

I note that the noble Earl, Lord Howe, does not accept the assessment by the noble Lord, Lord Darzi, of the Health and Social Care Act 2012. I see the noble Lord, Lord Lansley, in his place; I am sure he will have a contribution to make. I have to part company with the noble Earl on that point, as the evidence in the review is that the Act did not work in the direction we were seeking to take.

On capital expenditure, we find ourselves with a massive backlog of capital works, such that the ability of the NHS to deliver is being held back by the buildings and facilities. We have therefore instructed a review of this, which we will then look to.

Finally, the noble Lord, Lord Scriven, was generous enough to say that he does not expect me to respond to the detailed questions about funding. However, I can assure him that all these matters are being considered—in other words, how we can best deliver the output and the improvements in health that the report of the noble Lord, Lord Darzi, seeks to achieve.

4.32 pm

Lord Patel (CB): My Lords, if this were a Committee stage, I would have been delighted to engage in a debate with the noble Earl, Lord Howe, who is a class act at presenting a case even though he might not believe in it. He is a lovely man. I would have taken issue with him on the 2012 Act—maybe not all of it, but a significant part of it.

I congratulate my noble friend Lord Darzi on his report. It is an honest report about the state of the NHS currently, whatever the genesis of that might be. As this is a Statement, I can only ask a question. One of the areas the report refers to is the need for capital investment. This has been neglected for some time, and without it, we are unlikely to be able to deliver quality care in all the aspects the report seeks. So, what is the Government's plan for capital investment in the NHS?

Baroness Merron (Lab): I begin by agreeing with the noble Lord, Lord Patel, in his assessment of the noble Earl, Lord Howe, as I am sure your Lordships' House does. On the issue of capital, the total maintenance backlog stands at £11.6 billion, an increase of nearly 14% on the previous year. As I mentioned in my opening comments, this is holding back the productivity, ability and capacity of the National Health Service. Our financial situation is well documented, but we have asked the department and NHS England to review the health service's capital requirements, and that includes NHS England's assessment of long-term estate needs across a range of areas. We will have to establish the position and where we are to go from there, but I assure the noble Lord of the importance of this matter.

Baroness Thornton (Lab): My Lords, I should declare an interest as a non-executive member of Whittington Hospital, and indeed as its maternity safeguarding champion. I have huge admiration and regard for the noble Lord, Lord Darzi, with whom I worked when he graced these Benches as a very successful and effective Minister. I agree with his analysis of the Health and Social Care Act 2012; I was opposite the noble Earl, Lord Howe, when we were debating that legislation—for what felt like many years—before it reached the statute book, and I agree that despite the challenges to the NHS, the vital signs remain strong.

Page 38 of the report addresses the question of inequality in maternity and neo-natal mortality, which is described. Does the Minister agree that after East Kent, Morecambe Bay and Shrewsbury, we do not

[Baroness Thornton]
need further research into understanding the challenges in our maternity services? What we need is leadership, attention and focus, so that our maternity services can benefit from the proposals in this report and the 10-year plan.

Baroness Merron (Lab): I agree with my noble friend. I am pleased to inform the House that just this week I announced a number of pilot programmes, through which maternity staff will be taught and supported to better identify the signs of a baby in distress in labour, so that action can be taken more quickly, and which will help staff deal with obstetric emergencies during caesarean sections. Such actions help to avoid preventable brain injuries and are right for the baby and the mother. We also need to tackle the issue of the more than £4 billion cost of the lawsuits that have been brought over a number of years.

I have seen good examples of teamwork in Bristol and Surrey, to name just two, and there are many things that can be learned. We know what strategies work—one of which is listening to women—but the challenge is, how do we roll out what is successful, including from the pilot programmes? Following the recent report, which showed a devastating situation in maternity and neo-natal care, that is a high priority for this Government.

Baroness Brinton (LD): My Lords, the excellent report of the noble Lord, Lord Darzi, refers to the stress our GPs are under and how patients are no longer flowing through the hospitals as they should. One issue is that hospitals are constantly referring patients back to their GPs when they are still on the same treatment pathway. Recently, a member of my family was at a post-op review following a pacemaker operation that had gone wrong. Her heart was still giving her problems, and she was told she had to go back to her GP to start the whole process again. Many patients in hospital clinics are being told to go back to their GP to get a scan or an MRI—which is one of the reasons why they were referred to the hospital. This is not fair on hard-pressed GPs and, above all, patients. Can this practice be stopped?

Baroness Merron (Lab): I am sorry to hear of the circumstance that the noble Baroness raises. I agree with her about the pressure on GPs who, of course, are working harder than ever. We know, not just through the Darzi report but through much evidence, that discharge into the community has to take place at the right time and with the right support, and that is not the case at present. I will certainly take up the specific thing the noble Baroness asks for and look into it in far greater detail, because this is clearly a practice, as she described, that is not supporting patients or GPs but working against them.

Lord Lansley (Con): A wholly different report could have been written based on the underpinning evidence. To that extent, the report may call itself independent but it was not objective. If the Minister subscribes to some of the hyperbolic criticisms of the 2012 Act, can she then explain how the NHS in Labour-run Wales—where the 2012 Act had no effect whatever—performed worse on almost every measure of performance? She said that output was what matters. Can she therefore confirm that productivity in the NHS rose after 2010, relative to the preceding period, up until the pandemic? Can she actually agree that it is outcomes that matter most? Will she say that the Government will maintain the progress that needs to be made in making the NHS accountable to the NHS outcomes framework that we established a decade ago?

Finally, to revert to what my noble friend and the noble Lord, Lord Scriven, rightly asked about, in the last decade the 10-year plan has been something that the NHS owned. There was the five-year forward view in 2014 and the 10-year plan in 2019, and now in 2024 the NHS should own the refresh of the 10-year plan, but I do not think that is going to be the case. Can the Minister explain why the Government are taking that earned autonomy away from the NHS?

Baroness Merron (Lab): I do not recognise the description of taking autonomy away; I appreciate that that is the noble Lord's opinion. The National Health Service is so key to not just our health and well-being but the economic health of this country. In my opinion, it is something of a backbone of the country. It is right that the Government have made this an absolute priority and have commissioned a very honest report—I hear his criticisms of the report; they are not ones that I share—and that the Government are held accountable. That does not mean taking away autonomy from the NHS. I accept the noble Lord's point that it is outcomes that matter, and perhaps I should have put that better because by output I mean things not just being done but actually being effective. I thank him for that point.

On frameworks and meeting obligations, one of the points made not just in the Darzi report but elsewhere is on how many of the standards are not being met. We will return to a number of the standards to ensure that people can feel that they know what they are going to get and within what timeframe, and that that will be absolutely possible. We are interested only in what works. We are not interested in scoring points; we are interested in improving the health and well-being of the nation, and I hope noble Lords will want to join with that.

Lord Fowler (CB): My Lords, I say straightaway that I entirely support the concept of an independent inquiry into the National Health Service. Indeed, it was something I advocated to the previous Government —not with notable success. I also pay tribute to the excellent National Health Service treatment and care I received when recovering from a recent heart attack. It was excellent in every way, from the ambulance service right through to the hospital treatment itself. In that context, does the Minister agree that the Government's description of the National Health Service as "broken" is both unjust to the staff and an altogether false generalisation? It takes the language of the recent election into healthcare, and I would have thought that was one of the things we needed to avoid now.

Baroness Merron (Lab): I am very pleased to see the noble Lord in the rudest of health and to hear of his positive experience. Of course, there are many positive

experiences every single day, and the noble Lord is quite right to remind us of that and of the need to thank the whole NHS staff team who make that happen.

On the point about the NHS being broken, I understand the noble Lord's view. However, I think it is important that we lay it bare and say what we have found. Having read the report by the noble Lord, Lord Darzi, I find it hard not to conclude that there are fundamental points within the National Health Service that are just not working. Of course there is good practice and there are brilliant outcomes in some areas, but it is not universal and that is what drives us to make that point. I hear what the noble Lord says. However, it is important to be honest, and that is what we have said we will be, uncomfortable though it might be at times.

Baroness Pitkeathley (Lab): Does the Minister agree that integration between the different branches of the NHS, or rather a lack of it, is one of the problems? It is particularly a problem for patients. It works best when you cannot see the joins between various branches—when you cannot tell who the community nurse is working for, whether it is the hospital nurse and so on. Those are the things that puzzle patients. In thinking about the workforce, therefore, will the Government look at ways—for example, joint training—in which we can better integrate the staff, so that they work less in professional silos and much more across various branches of the NHS?

Baroness Merron (Lab): Yes, I certainly agree with my noble friend about the need for better integration. Joint training is a very practical example and will be part of how we develop the workforce, because silo working clearly is not working, as we can see in the current state of affairs, particularly if we look at the relationship between the National Health Service and the social care service. It is not seamless, and individuals are suffering for that, so I very much agree with my noble friend.

Lord Kakkar (CB): My Lords, I draw noble Lords' attention to my registered interests, in particular as chairman of King's Health Partners and of the King's Fund. In the report by the noble Lord, Lord Darzi, a picture is clearly painted of what now represents a very serious national challenge in securing the long-term sustainability of our health service and, as the Minister has recognised, the parallel need to consider questions of how we develop a long-term strategy for the provision of social care.

On 18 April this year, in a debate in your Lordships' House initiated by my noble friend Lord Patel on the question of the long-term sustainability of the health and care systems, there was a discussion about how one might achieve consensus—consensus among the public, consensus among the professions and political consensus to ensure that a plan might be adopted which will require very difficult decisions and great courage and commitment over a sustained period of time to deliver the kind of objective about which we all agree. How will His Majesty's Government go about developing that consensus in addition to developing the plan that must be applied?

Baroness Merron (Lab): This will take us towards the 10-year plan. There will shortly—really shortly—be an announcement as to how the consultation will take place. It will be available to everybody with an interest in and a commitment to the National Health Service, and to those with lived experience, which is extremely important. It will be the biggest consultation that there has ever been on the National Health Service. I believe that is the way to achieve consensus, but you have to start by asking what the diagnosis is. Although I hear differing opinions in some areas of your Lordships' House about the contribution of the report of the noble Lord, Lord Darzi, for me it makes a major contribution. If one does not know where one starts, one cannot end up in the right place. However, I absolutely agree with the noble Lord that consensus is key. We do not have the luxury of time for arguing the case, so this widespread consultation will get us to the right place.

Baroness Tyler of Enfield (LD): My Lords, the forensic report of the noble Lord, Lord Darzi, shone a much-needed spotlight on the deteriorating state of children's health services and worsening health outcomes for children, particularly the long waiting lists of over a year that some were facing before getting hospital treatment. What plans do the Government have to focus investment on children's health services, which seem to have fallen behind adult health services, and to develop a children's health workforce strategy as part of the overall NHS long-term workforce plan?

Baroness Merron (Lab): I agree with the noble Baroness that that is unacceptable. There are just too many children and young people who are not receiving the care that they deserve. We know that waits for services are far too long and our determination is to change that—not least, as I am sure the noble Baroness has seen, given that children are at the heart of our opportunity and health missions, and rightly so. To ensure that every child has a happy and healthy start to life, among other measures we will train more health visitors and digitise the red book of children's health records, so that parents and children can access the right support. We will be restricting vapes and junk food from being advertised to children, which will assist in the prevention of ill health, and we will ban the sale of high caffeine and energy drinks to under-16s. There will also be specialist mental health support in every school and walk-in mental health hubs in every community. I hope all of those will make a difference.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, I draw attention to my entry in the register of interests as a trustee of the Royal Marsden Cancer Charity. The report of the noble Lord, Lord Darzi, discusses oncology services and life science research, both of which are at risk given NHS England's planned closure of the paediatric oncology unit at the Royal Marsden in Sutton, cited alongside the Institute of Cancer Research as offering bench-to-bedside research and care. Does the Minister agree that such a closure would be devastating to the provision of paediatric cancer services, to research and to drug trials, and that

[Baroness Bloomfield of Hinton Waldrist]
it would undermine the recommendations of the report, which highlights the need to improve cancer survival rates and bolster our life sciences capability?

Baroness Merron (Lab): I thank the noble Baroness for raising this important question, as she has done before with me. I know she is aware that I cannot comment on the individual case. What I can say is that research, diagnosis and treatment in all these areas, as we have heard from the noble Lord, Lord Darzi, are absolutely crucial to ensure that cancer patients are not being failed. We need to improve cancer survival rates, and we need to ensure that patients wait for no longer than they should. We have to research cancer, diagnose it on time and treat it faster.

Commonwealth Parliamentary Association and International Committee of the Red Cross (Status) Bill [HL]

Third Reading

4.54 pm

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office (Baroness Chapman of Darlington) (Lab): My Lords, on behalf of my noble friend Lord Collins of Highbury, I beg to move that this Bill be now read a third time. As I said during—

The Deputy Speaker (Lord Beith) (LD): This is not the moment for a speech.

A privilege amendment was made.

Motion

Moved by ***Baroness Chapman of Darlington***

That the Bill do now pass.

Baroness Chapman of Darlington (Lab): With trepidation, I ask whether now is the moment for a speech. I believe it is.

As I said during Second Reading in July, this is an important Bill which provides two significant organisations with a long-awaited change in their legal status. I again pay tribute to noble Lords across all sides of the House, including the noble Lord, Lord Ahmad, for his continued support and dedication in seeing this Bill through. The Bill has received unwavering support in both this parliamentary Session and the last, demonstrated by the fact that no amendments were tabled ahead of Committee in September. This is a true testament to the value that all noble Lords place on the aims of this Bill.

It is critical that both the CPA and the ICRC are given the correct status in UK legislation so that they can conduct their work and deliver their objectives while operating in the UK. This will guarantee that the CPA remains headquartered in the UK, and that the UK is able to give the ICRC the guarantee that the information it shares with the UK Government is secure and protected.

The UK is deeply committed to the Commonwealth and believes that the Commonwealth Heads of Government Meeting which commences in Samoa later this month will be an important opportunity to mobilise action on shared interests, including upholding Commonwealth values—values which are embodied by the CPA's important work in strengthening inclusive and accountable democracy across the Commonwealth. The UK's long-standing programme partnership with the CPA is testament to the organisation's value. Treating the CPA as an international organisation will allow it to continue to operate fully across the Commonwealth and international fora, and to participate fully in areas where it is currently restricted, including signing up to international statements and communiques.

The ICRC is an essential partner for achieving the UK's global humanitarian objectives. It has a unique mandate from states to uphold the Geneva conventions and works globally to promote international humanitarian law. It has a unique legitimacy to engage all parties to conflicts, and has unparalleled access to vulnerable groups in conflict situations. The ICRC is frequently the only international agency operating at scale in many conflicts. It is therefore critical to enable it to operate in the UK in accordance with its international mandate, maintaining its strict adherence to the principles of neutrality, impartiality and independence, and its working method of confidentiality.

Officials will work closely with the CPA and the ICRC to agree written arrangements, setting out the parameters of the status change as well as the privileges and immunities which the Government have decided to confer on both organisations. These arrangements will then be implemented by secondary legislation. Privileges and immunities will be based on functional need, and other facilities and the relevant exemptions and limitations will be specified in the Order in Council. Once again I assure noble Lords that any Order in Council made under Clauses 1 and 2 will be subject to the draft affirmative parliamentary procedure. This means that both Houses will get the opportunity to debate and approve them.

I thank all noble Lords for their continued support and useful contributions throughout the passage of this Bill. Like many others, I look forward to seeing it progress in the other place, where I am sure it will receive the same unanimous support. Finally, I pay tribute to the FCDO policy officials and lawyers, whose efforts in both this parliamentary Session and under the previous Government have contributed to making the Bill happen. I also extend my gratitude to the drafters in the Office of the Parliamentary Counsel for preparing the Bill.

Baroness D'Souza (CB): My Lords, I add my thanks to the Government for their speedy and decisive actions, without which the Bill may have lingered for a little too long. The Commonwealth Heads of Government Meeting is coming up shortly, and it will be a great pleasure for those involved to announce the acceptance of the Bill. Had it not been accepted, there would have been some rather serious threats to the position of both the ICRC and the CPA within the UK. So my thanks are due.

Lord Purvis of Tweed (LD): My Lords, following the noble Baroness, I congratulate her on her work when this was a Private Member's Bill, which I was able to contribute to in the debate, even though I was not in the country to contribute to the Second Reading of this Bill. I thank the Minister for her remarks. These Benches have been very supportive of the Bill. It is not the biggest of Bills, but it is necessary for the reasons the Minister gave. I thank Mohamed-Ali Souidi in our Whips' Office for his support and for helping us on our way to knowing all the details of these elements.

Following the noble Baroness, I say that this will no longer be a distraction or an issue to be discussed whenever UK representatives take part in international Commonwealth forums. I had the great privilege of serving on the executive committee of the CPA UK branch for a number of years, and I look forward to the AGM—I hope that many Members in the Chamber will be present and will support the CPA UK branch. In the upcoming CPA conference in New South Wales, the discussions among parliamentarians will be on the issues that the Minister raised—about the value and the benefit of the Commonwealth, rather than its status within the United Kingdom. So we support the Bill.

Lord Callanan (Con): My Lords, the noble Baroness has my sympathy. I have lost track of the number of Bills that I have taken through this House, and I always confuse these final two stages and who should speak at what particular stage. The Lord Speaker got it wrong once when I was doing it—so we all make mistakes.

The noble Baroness is due congratulations for taking her first Bill through the House. I assure her that they will not all be as easy as this one, which has the support of all of us—we were supportive when we were in government and we remain supportive now. I too congratulate the noble Baroness on all her work when it was a Private Member's Bill. The support across the House is shown by the fact that there were no amendments after Second Reading, so this remains an easy Bill for the noble Baroness. I promise her a more difficult time on the next legislation she brings forward.

Bill passed and sent to the Commons.

Product Regulation and Metrology Bill [HL]

Second Reading

Scottish, Welsh and Northern Ireland Legislative Consent sought

5.02 pm

Moved by ***Lord Leong***

That the Bill be now read a second time.

Lord Leong (Lab): My Lords, it is a pleasure to open this debate. Safety and effective regulation lie at the heart of this legislation. Whether you place an online order for a new toaster or your business is investing in a new piece of machinery, you should have confidence that what you are buying is safe. At least 300,000 UK businesses, with an estimated market turnover of £490 billion, are affected by existing regulations, which are a critical element of the UK's business and consumer landscape. As we embrace the opportunities of the digital age and exciting new technological advances, it is clear that the products we buy and the way we buy them are changing. It is only right that the rules and regulations that keep people safe and enable businesses to trade effectively are updated too.

This Bill will underpin the UK's position at the forefront of international trade and enable the recognition of EU product requirements where it is in the UK's interests to do so. It supports consumers, businesses and economic growth. However, we have to be honest with ourselves in saying that current outdated product and metrology regulations hinder more than help these ambitions. That is why it is now essential to update our framework and future-proof it to meet the challenges ahead.

Historically, the majority of the UK's product regulation and metrology framework was managed through EU law. From EU exit until the present, the UK Government simply did not have the powers to regulate these areas effectively or efficiently, which is why we are bringing forward legislation now, so we can respond to anticipated changes in the global regulatory landscape next year.

The Bill will preserve the UK's status as a global leader in product regulation, supporting businesses and protecting consumers. It will ensure that the UK is better placed to address modern-day safety issues, harness economic opportunities and ensure a level playing field between the high street and online marketplaces. It will allow the UK to respond to modern challenges, such as the fire risk associated with such products as e-bikes and lithium-ion batteries. Without these powers, we will not be able effectively to contribute to the regulation of such potentially high-risk products. I take a moment to pay tribute to the family of Sofia Duarte, who have been tirelessly advocating for more legislation to better regulate e-bikes, along with the batteries and chargers associated with them, and generally raise awareness of their risks. Sofia sadly died as a result of an e-bike fire on New Year's Day 2023. This legislation will allow us to take action to help prevent similar such tragedies.

I would also like to mention the work of the noble Lord, Lord Redesdale, in this space. He introduced a Lithium-ion Battery Safety Bill in September, which generated a highly interesting debate. I look forward to continued engagement with him on both Bills. I also acknowledge and thank the noble Lord, Lord Foster, for his tireless work on lithium-ion batteries over these years. There are already strict legal requirements in place whereby manufacturers must ensure that such products are safe before they are sold. This includes ensuring they provide instructions for safe use, including safe charging. However, this is a complex issue and our understanding is developing over time. We need to tailor any regulatory intervention in the most effective way. This Bill will allow us to ensure that the responsibilities of those involved in the supply of products, such as online marketplaces, are made clear.

Online marketplaces already have some legal responsibility, but the Bill will enable the Government to modernise and clarify the responsibilities of online

[Lord Leong]

supply chain actors, and any new duties will be in addition to responsibilities they may already have as distributors under the current framework. Without these powers, it will remain far too easy for unscrupulous suppliers to place unsafe products on the UK market through online marketplaces, which also sees them undercut good British businesses. The legislation will enable improvements to compliance and enforcement, reflecting the challenges of modern digital borders. It enables the Government and our regulators to tackle non-compliance and target interventions by allowing greater sharing of data between regulators and market surveillance authorities.

Finally, the Bill will allow us to update the legal metrology framework, which governs the accuracy of weights and measures for purchased goods, to give consumers and business greater confidence in what they are buying. This will allow for technological progress, including in support of net-zero aims—for example, ensuring that energy smart meters are accurate in their readings.

The Government have worked closely with businesses, representatives and consumer groups, which is why organisations as diverse as Which?, the London Fire Brigade, the Association of Manufacturers of Domestic Appliances, Electrical Safety First and the Chartered Trading Standards Institute are all supportive of this legislation.

The Government are bringing forward this legislation as there are insufficient powers to update the existing body of law, either to keep pace with technical developments or to deal with new risks and hazards. Existing legislation recognises EU law as it stood from our date of recognition. Recognising the product rules of key trading partners such as the EU—should we wish to do so—will help to support trade and consumer choice, but current legislation only allows us to recognise EU rules as they currently stand. The Bill ensures we have the ability to end recognition of EU laws where they do not work for our businesses and consumers.

I would like to give a brief overview of the contents of the Bill. While it is relatively short, it deals with some technical matters. It has14 clauses and a schedule. First, it creates new regulation-making powers to allow the Secretary of State to make regulations for prescribed purposes:

"Reducing or mitigating risks presented by products … ensuring that products operate efficiently or effectively … ensuring that products"

used for

"weighing or measuring operate accurately",

or, when making provision that

"corresponds, or is similar, to … EU law",

making regulations to reduce or mitigate

"the environmental impact of products".

The Bill limits the scope of the products we seek to cover to tangible products that are manufactured or result from another method of production, with specific excluded products listed in the schedule.

However, while the Bill will not regulate AI on its own, we need powers in the Bill to cover it when it is integrated into, or as a component of, a physical product. With the expected increase in the inclusion of AI and machine learning in new products, it is likely that we will need to make amendments to regulations in the future to adapt to technological advances that could pose specific risks to consumers, particularly where AI is a component of a product's safety.

It includes provision to continue recognising EU product requirements, where this is in the UK's interest, or to end this recognition. The legislation confers an emergency derogation power to allow for the disapplication or modification of product regulatory requirements in certain emergency situations. This is subject to the affirmative procedure and builds on our experience of needing to bring products to market more quickly during the pandemic.

It creates new regulation-making powers to allow the Secretary of State to make regulations on the quantities in which certain goods may be made available in the UK market: for example, maintaining an average system of quantity control for the sale of packaged goods, including food and drink, and providing legal definitions of units of measurement and measurement standards. The Bill will also confer powers to allow tailored enforcement provision to be made in both product and metrology regulation, including the creation of criminal offences and new civil sanctions, including fines.

The Bill contains a power to amend, repeal or revoke provisions of specific primary legislation that deal with product safety and metrology, namely the Consumer Protection Act 1987, the Consumer Rights Act 2015, the Weights and Measures Act 1985 and the Gun Barrel Proof Acts of 1868 to 1978. This allows us to address the outdated governance requirements placed on the Birmingham Proof House. These were designed during the Napoleonic Wars, when there was a thriving Birmingham gun trade. This trade no longer exists. Again, this is subject to the affirmative parliamentary procedure.

The Bill contains powers to make provisions in future for a charging regime that will allow the relevant authority, such as local trading standards, to recover some of the costs attributable to the operation of enforcing the regulatory regime. Finally, it contains powers to allow the Secretary of State to make provisions in regulations permitting or requiring the sharing of information between relevant bodies, the emergency services and other persons who may be specified. This ensures that we have access to the right information in support of our market-surveillance activities and incident management.

Before finishing, I will touch on two key issues that I am sure will be of interest to noble Lords here today. The first relates to delegated powers. This Bill is what is sometimes called a framework Bill, as the vast majority of its provisions are delegated powers. The Government are fully cognisant of the importance of getting the right balance when it comes to delegated powers and using them as sparingly as possible. For technical policy areas, we believe that it is sensible and proportionate to give powers to Ministers to update and amend legislation, future-proofing the ability to respond quickly and flexibly to new technology and evolving innovation. We have minimised the use of the powers in the Bill as much as possible and we have worked closely with the Attorney-General—who, quite rightly, is a stickler for these kinds of things—to find

the best approach. So we look forward to the report of the Delegated Powers and Regulatory Reform Committee, which we will carefully consider.

The second issue relates to devolution. In line with the Sewel convention, the UK Government are seeking the consent of each of the devolved legislatures for provisions that engage the legislative consent Motion process. Product safety is reserved, and, in the main, metrology is also reserved, but the Bill powers are UK-wide and subsequently touch on some elements of devolved competences. We are actively engaged with the devolved Governments on these provisions and will continue to work with them on any concerns they may have. We want to see that the broad support for the policy in this Bill is translated into legislative consent from the devolved Governments. I will update noble Lords as the Bill continues its passage.

I end by saying that this Bill will protect consumers and support businesses by ensuring that the UK is better placed to address modern-day safety issues. It will let us harness opportunities that deliver economic growth and will create a level playing field between the high street and online marketplaces by putting in place appropriate responsibilities throughout the supply chain. The result is that consumers can buy with confidence and businesses can trade effectively and compete fairly. Ultimately, it allows the UK to decide how best to protect consumers and support businesses on our own terms. To echo an often-used phrase, this legislation allows us to "take back control". But, crucially, it allows us to do so in a way that supports our twin-track approach to trade: seeking a closer, more mature trading partnership with the EU and forging new trading relationships with countries around the world, too. I beg to move.

5.18 pm

Lord Sandhurst (Con): My Lords, this Bill gives the Secretary of State wide powers to make product regulations. The detailed content of these regulations—the what and the how—will affect us all, whether we are manufacturers, importers, retailers or consumers. This Bill provides for yet more criminal offences and gives the power to impose civil sanctions for non-compliance. Yet it contains no detail of how all this will be achieved. What will be the limits on ministerial powers? What oversight will Parliament have in respect to the regulators? These are important questions that are as yet unanswered.

These gaps become more serious when it is appreciated that the previous Government instituted a consultation of all interested parties. That consultation closed a year ago, in October 2023. This Government have yet to publish their response. Why? What is the point of consultation if the Government do not publish a response?

As one who has, on many occasions in the past, answered government consultation papers as an interested party, I know the time and effort that go into responding to such things, often on tight timetables. A year has now passed; the previous Government did not publish a response, but they had not introduced legislation. This Government have now had three months; Ministers have had plenty of time to respond and set out their views before bringing forward this Bill. Sceptic that I am, I none the less believe that the Government would not introduce the Bill if they did not have at least some idea of their direction of travel. Yet we are kept wholly in the dark on important matters: what did the respondents have to say?

The Government have seen fit to introduce this Bill, which lacks particularity on all the issues that really matter to those who will have to live and work with it; that is, business, legislators, consumer groups and environmental groups. We all have different interests in the delivery of this legislation and in its practical impact. We will all have different points of view and things to say, yet we are being asked to legislate completely in the dark as to what the respondents to the consultation said in their submissions, and what it is this Government believe are the right answers to their points—answers have come there none.

This is poor way to begin a new Government's legislative programme. In discussing this Bill, we should proceed today on the basis that the Government have not yet collated firm conclusions they feel could be put in a published response to that consultation—because, if they had, they would surely have published them. The Government would not be keeping us in the dark on purpose, would they?

So I am afraid that we must proceed, in considering this Bill, on the generous basis that the Government do not yet have their own answers to the responses in the consultation—unless, even worse, which I hope is not the case, they are afraid to let us know what their answers are. Are they proceeding, covertly, to ignore very good points made by respondents in the hope that legislators in Parliament will simply miss the point? Whichever it is, this is a shabby and poor way to proceed on a Bill of great practical importance to industry, consumers and the people of this country. What is the rush? We on these Benches accept the need for reform, but this is ill-informed haste and it is discourteous to us in Parliament.

So my first question is: when will we see the Government's response to this consultation, which closed 12 months ago? Secondly, does such a response exist, at least in draft? Whatever the basis, why are we being asked to legislate without that information? We need to know what respondents have said and what the Government's views are. Why is that being kept from us? Is it because they are afraid of the answers? Is it because they have yet to decide their direction of travel: that is, what regulations they propose to introduce and what they will address? Is it because they are afraid that, if they do reveal their plans, everyone will be up in arms? Or is it simply the Government's view that the man in Whitehall knows best and, we—the consumers, manufacturers and legislators—should not trouble our pretty little heads and just do as we are told?

Have the Government formed a view of the landscape? They say that the regulatory regime needs modernisation: surely they must know where we are headed. This is a Henry VIII Bill par excellence, so now we must be told, in much more detail, what direction the Government think we should be taking on the matters of substance and importance that the Bill addresses.

The lack of a response to the consultation is of particular concern because the Bill grants the Secretary of State such wide-ranging powers without full

[LORD SANDHURST]
parliamentary scrutiny. The Opposition would like to seek clarity on a number of areas of the Bill. Where necessary, we will probe these in Committee. I will give some examples. On enforcement, Clauses 3 and 4 grant Ministers the power to designate new relevant authorities to ensure compliance with a new body of regulations and to create new criminal offences by regulation. However, the text of the Bill gives us scant detail on what these new offences will be. Who would bring the prosecutions and gather the evidence? How will these enforcement actions be funded? All these questions are not answered in the Bill.

So, too, Clause 5(3), in the context of metrology—this new word for all of us—includes new requirements for business about units of measure. In practical terms, units of measure and how they are defined will be very important, but there is no clarity on how these rules will be tested and assessed to ensure that they are appropriate, in particular for smaller businesses. It is crucial, as the Government seek to deliver on their stated objective to grow the economy, that regulation does not hinder the growth of small and emerging businesses. Nor, indeed, should we allow a level of regulation that would discourage risk-takers and entrepreneurs from setting businesses up in the first place.

I come back to the issue of consultation. Business and all interested parties, consumers and environmental interest groups must be able to make sensible submissions about regulations before they are laid. Consultation will be critical. So I ask, on this framework Bill, as it has been described—I have described it as a Henry VIII Bill—whether the Government will undertake to publish substantive regulations in draft and consult on them before they are laid. That is really important.

These Benches are also concerned that the lack of clarity in these measures will allow Ministers to align with European Union standards without proper parliamentary scrutiny. It is true that much of our trade is with the EU, but there is a strong case to be made for standards that allow British businesses to trade also around the world. Boosting global trade is vital if we, as the Government intend, are to grow the UK economy. So can the Government confirm that no regulations made under the Bill will prevent or impede United Kingdom businesses from trading globally?

In conclusion, this is a poor way to approach legislation: rushing the Bill without responding to the consultation, without us knowing the Government's view, is inappropriate and discourteous to the many respondents who have put a great deal of thought into their submissions. This is more worrying in the light of the wide-ranging powers to be granted to Ministers without sufficient clarity on what the Government intend. We need clarity from the Government on their real intentions and I hope that the noble Lord the Minister will engage constructively with these concerns and reassure the House of the Government's aims as the Bill makes progress.

5.28 pm

Lord Foster of Bath (LD): My Lords, I thank the noble Lord the Minister for his helpful opening remarks and make it absolutely clear that we on these Benches broadly welcome the Bill and very strongly support its aims. However, the Minister did point out that it is a framework Bill and, echoing the remarks of the noble Lord, Lord Sandhurst, we are acutely aware that none of the statutory instruments is before us: the secondary legislation is to follow. As he also pointed out, neither do we have details of the responses to the previous Government's consultation—so it is somewhat difficult to know whether the Bill will achieve those aims.

In a sense echoing the question asked by the noble Lord, Lord Sandhurst, can the Minister give us a categorial assurance that at least the key draft statutory instruments will be available to your Lordships as soon as possible, and certainly before Third Reading? The devil will be in the detail. We need to be assured that no loopholes remain and that the secondary legislation is robust enough to address the wide-ranging risks associated with product safety and online marketplaces. He will be well aware that we are unable to amend statutory instruments, so we clearly need those assurances before we can give the Bill a Third Reading.

My noble friend Lord Fox will also want to probe how the Bill will relate to the changes to product safety that the EU intends to introduce in December, and how the Bill will take into consideration the United Kingdom Internal Market Act. He and, no doubt, many others will also want to probe the impact of the Bill on the devolved Administrations—an issue the Minister touched on—in respect of common frameworks, the internal market and the Windsor Framework, for example. The Scottish Parliament and the Welsh Assembly have already raised concerns in this regard.

The noble Lord, Lord Sandhurst, rather suggested that there was no rush for the Bill. I will raise address two issues on which I genuinely disagree with him and believe that urgent action is needed: online marketplaces and lithium-ion batteries.

The Minister has made it clear that the Bill is intended to provide a level playing field between online marketplaces and the high street. This is welcome and long overdue. I have raised the concern in your Lordships' House on several occasions that, for too long, unsafe products, especially electrical products, have been freely available on online marketplaces. A lack of adequate regulation and poor enforcement has created a "Wild West Web" teeming with rogue traders. We even have the ludicrous situation where items recalled by manufacturers, often because of safety concerns, can still be purchased online.

The charity Electrical Safety First has long campaigned on the dangers associated with unsafe electrical products sold on online marketplaces. One of its investigations found that 93% of sampled electrical products were non-compliant or unsafe. That is not an outlier: the British Toy and Hobby Association found that 86% of sampled toys tested from popular online marketplaces were illegal.

It is really welcome that one of the aims of the Bill is to remedy this critical safety loophole. However, as I said earlier, we need assurances from the Government that any secondary legislation will confront and tackle the full scale of this issue.

I am sure the Minister is well aware that a number of organisations such as the British Toy and Hobby Association, the Chartered Trading Standards Institute,

Electrical Safety First and Which? have identified three key areas necessary to strengthen the Bill in this regard. There needs, they argue, to be a clear and enforceable duty on online marketplaces, and an extension of liability to the online marketplace for unsafe or defective products sold on their platforms. They argue—and I strongly agree—that the key terms in the Bill must be more clearly defined, and that the definitions of "an online marketplace" and "product" are far too narrowly defined. Thirdly, they argue—again, I strongly agree—that consumer protection should have an underlying primacy in the development of new regulations. I look forward to hearing the Minister's views on these three points.

The Bill also intends to address another issue in which I have been involved for some time: the safety of lithium-ion batteries, which was addressed so well in my noble friend Lord Redesdale's Private Member's Bill. I thank the Minister for his kind remarks about the work I have been doing on this issue. I hope that, very soon, if we can get this Bill through, it can be taken off my to-do list.

I recognise that lithium-ion batteries are increasingly important for the development of our economy: they store more energy than any other type of battery, allowing for longer use. But, if over-heated through incorrect manufacture, misuse, damage or using sub-standard chargers, they can create fierce fires of over 600 degrees centigrade, which are very difficult to extinguish—for example, you cannot use water on them —and release toxic gases.

I have on many occasions provided details of the number of fires caused by such batteries and the damage to property and the tragic loss of life caused by those fires. For instance, the London Fire Brigade attends a fire involving an e-bike or e-scooter once every two days. It is now London's fastest-growing fire risk. This trend is being repeated right across the country, to the point where many local transport bodies now ban them. It is interesting that Chiltern Railways, for instance, has posters everywhere stating,

"NO e-scooters allowed on trains or stations",

and then, in big letters,

"Lithium batteries are a fire risk".

Incorrectly used, they certainly are. Indeed, even the very small lithium-ion batteries, such as those found in vapes, can cause fire and destruction as they enter the waste stream: 84 million disposable vapes are thrown away every single year. Zurich insurers found that the incorrect disposal of vapes led to nearly 250 fires in the last year, an increase of nearly 120% since 2022.

While the majority of lithium-ion batteries are safe, made by reputable retailers already testing their batteries to the relevant safety standards, the lack of third-party safety certification for e-bike and e-scooter batteries, for example, means there is no way of knowing that all the batteries in these products are safe.

The Bill is clear that a product presents a risk if it could, under foreseeable conditions or intended use, endanger health or safety or damage property. Given the statistics, I was very pleased to hear the Minister say in his opening remarks that he believes that lithium-ion batteries should be classified as high risk. That is the first time that has been placed on the record. I hope he will go further and agree with Electrical Safety First, which has argued that there must be third-party safety certification for every battery used in an e-bike or e-scooter before it is placed on the UK market. I hope he agrees that the same should apply to bicycle conversion kits and battery chargers.

There is huge support for that measure from many bodies, including the National Fire Chiefs Council and over 500 local councils right across the country. But there is one omission from the Bill which my noble friend Lord Redesdale's Bill has sensibly picked up: the disposal of lithium-ion batteries. The safety of products applies to their entire lifetime, from manufacture to disposal. As evidenced by the vape fires in the refuse stream, which I mentioned earlier, action is needed. Can the Minister explain why the safe disposal of lithium-ion batteries has been omitted from the Bill and tell us what can now be done about it?

Finally, I raise the issue of enforcement. Changing regulations to improve safety will have the desired effect only if there is effective enforcement of them. The Minister knows only too well that trading standards officers will play a key role in this, yet in the 10 years to 2020, the number of trading standards officers in local councils declined by between 30% and 50%. Continuing budget cuts, an ageing workforce and, frankly, increased workloads caused by Brexit mean that the situation is getting worse. Can the Minister explain what plans the Government have to halt and then reverse this decline? Without action on improving enforcement, the good intentions of the Bill will not be realised.

As I said at the beginning, we support the Bill, but we are concerned that, without sight of the draft statutory instruments, we have little opportunity to discuss, scrutinise and, crucially, seek to amend the mechanisms by which the Bill will achieve its ends. I hope therefore that, in his response, the Minister will start the debate that we need by giving detailed answers to the questions, including mine, that will be raised today. I look forward to hearing from him about them.

I also look forward to hearing the maiden speech from the noble Baroness, Lady Winterton.

5.40 pm

Lord Russell of Liverpool (CB): My Lords, I echo the comments of the noble Lord, Lord Foster, in thanking the Minister for the way that he introduced the Bill. I welcome the Bill, principally because it gives Parliament an opportunity to mitigate some of the problems—or, if I am being charitable, some of the unforeseen consequences—resulting from our withdrawal from the EU. As I was listening to the noble Lord, Lord Sandhurst, castigating the Government for introducing a skeleton Bill with Henry VIII powers, I ruminated, as a Cross-Bencher, how much the late, much lamented, Lord Judge, would have enjoyed hearing that—pot calling the kettle black comes to mind, or, if Mandy Rice-Davies had been one of Henry VIII's wives, she probably would have said, "He would say that, wouldn't he?" I should also mention that, as a member of the Secondary Legislation Scrutiny Committee, I have skin in the game, as they say.

The Bill will guide the future regulation of standards for thousands of products. Consistency of standards across key markets helps give businesses certainty about the quality requirements they must be able to meet to be able to sell their products in target markets.

[Lord Russell of Liverpool]
I suggest that one way to provide this certainty might be to consider a formal commitment to dynamic alignment, in the same way that Switzerland, the countries within the European Economic Area and, to a limited extent today, the UK have mechanisms to ensure that regulations with the EU are aligned and continuously updated.

The UK abided by the "CE" European conformity marking system until our exit from the EU. The 2019 EU withdrawal Act created a UK-only system, using the new UK conformity assessment marking "UKCA", introduced on 1 January 2021, which it required all UK businesses to adopt by 31 December this year—not very far away. The response from businesses has been lukewarm or rather negative. In May this year, after repeatedly extending the UKCA transition deadline, the UK Government acknowledged its impracticality and extended the recognition of many CE goods in GB markets indefinitely; covering 21 regulations across products that are estimated to save UK businesses £640.5 million in net savings from not having to manage two standards regimes.

The powers contained in the Bill allow Ministers to decide whether to recognise or end recognition of EU requirements. In practice, this would have to be decided on a case-by-case basis, either aligning them or ending that requirement, without needing any additional primary legislation. This will help with the smoother management of the somewhat contentious Windsor protocol for Northern Ireland. It also requires Ministers to have regard to the social, environmental and economic input before any decision.

In paragraph 4, in the third bullet point, the Explanatory Notes state that:

> "The Bill aims to support economic growth, provide regulatory stability and deliver more protection for consumers by … ensuring that the law can be updated to allow a means of recognising new or updated EU product requirements, with the intention of preventing additional costs for businesses and provide regulatory stability".

As I read this, it is the Government's intention that the Bill will allow the UK to align itself to EU standards in circumstances where they judge it sensible to do so. Working with others across the House, I will lay amendments in Committee to probe whether there is a case for the Government to commit formally to a policy of dynamic alignment; to clarify how best to measure and assess the costs or benefits of alignment; and to set out a process of parliamentary scrutiny and accountability when a Minister determines that divergence is in the best interests of the UK. The intention is simple: to place the delivery of consistent regulatory standards beyond the reach of short-term thinking and to ensure the restoration of long-term stability in regulation, to the benefit of British consumers and British businesses.

I finish by wishing the noble Baroness, Lady Winterton, well. We met on the staircase that we share going to our joint offices. I have already wished her well once, and I now do so for a second time.

5.45 pm

Baroness Winterton of Doncaster (Lab) (Maiden Speech): My Lords, it is an honour to make my maiden speech in today's debate and to follow the detailed, witty and informed contribution of the noble Lord, Lord Russell of Liverpool. First, let me thank noble Lords from all sides of the House for the very warm welcome I have been given since my introduction. I thank also Black Rod, Garter, the clerks, the doorkeepers, the police and staff of the House who made that day so memorable for me, for my family and for my friends.

I am so grateful to my noble and learned friend Lord Falconer of Thoroton and my noble friend Lady Smith of Basildon for being my supporters. We go back a long way, to when I was head of Lord Prescott's office when he was deputy leader of the Labour Party, and we all three came into Parliament together in 1997. My supporters have always been good friends, always give good advice and, very importantly, are always good fun.

I was rather nervous about the introductory ceremony, but my supporters calmly assured me that nothing could possibly go wrong. In fact, all seemed to pass without incident, but I have more than a suspicion that if I had tripped over my robe, fallen flat on my face and fluffed my words, your Lordships would have smiled benignly and told me afterwards that never had a ceremony of introduction gone so smoothly.

In preparing for today, I looked back at the maiden speech of the late Lord Walker of Doncaster 24 years ago. As a strong trade unionist, he spoke passionately about industrial relations, and I know that he would have been pleased about the current Government's focus on workplace rights. It was a tremendous honour to follow Harold and to represent the people of Doncaster for 27 years as their Member of Parliament. I hope that I can be as helpful to my successor, the brilliant Sally Jameson, as Harold was to me.

Doncaster was where I grew up and where my father was headmaster at Armthorpe comprehensive and my mother was the head of the nursery at the Park school. Such is the power and influence of teachers that, when I would visit the miners' social clubs in Armthorpe, even though my father had ceased to be headmaster 30 years before, they would not say, "That's Rosie Winterton, our MP", they would say, "You see that lass, that's Rosie Winterton, Mr Winterton's daughter."

My first ministerial appointment was in the Lord Chancellor's department, headed by my noble and learned friend Lord Irvine of Lairg. My last one was in the Business Department, run by my noble friend Lord Mandelson. Both were Secretaries of State from this House and both were formidable operators. They had a clear idea of what they wanted to do, led their Ministers and officials, and persuaded their colleagues.

In between, I served in a number of departments including Health, Transport, DWP and Local Government. A key lesson for me from my time in government, especially as Minister for Yorkshire and the Humber, is that the key to achieving economic growth and closing regional disparities in wealth and economic development is devolving power and decision-making to regional and local levels. I believe the same principles of devolution will be necessary to get the NHS back on its feet.

I went on to become Opposition Chief Whip. The noble Lord, Lord McLoughlin, was the Government Chief Whip at the time, and I benefited greatly from

his guidance and good humour in our usual channels exchanges—I thank him for that. In fact, there are so many ex-Chief Whips in this House that surely there must be an exclusive club of them. If there is, I am waiting anxiously for an invitation to join the ex-Chiefs club, not least because it might be therapeutic for recovering Chief Whips.

After being Chief Whip I served on the Council of Europe, along with my noble friend Lord Foulkes, and was a Deputy Speaker of the other place from 2017 until the general election in July. During that time, I came to appreciate the high regard in which our Parliament—the mother of parliaments—is held in the world, and how important it is for us to be passionate advocates of our democracy. I am deeply disturbed by the lack of voter participation in local and general elections. I hope a focus of this current Parliament will be on how we can bring home to people the impact on their lives of the decisions taken by politicians at national and local level, and impress on them how important it is to use their vote—so crucial in a world where so many are deprived of their democratic rights.

What has become very apparent to me during the time I have spent listening to the debates in this House is the high level of expertise here, and the detailed and rigorous scrutiny of legislation undertaken. It is with some trepidation, therefore, that I admit that I am not the world's expert on product regulation and metrology, but I am quietly confident that by the end of this debate, having listened to your Lordships, and with the guidance of my good friend the Minister, the noble Lord, Lord Leong, I will be far better acquainted with the finer details of the subject in hand.

What I do know is that this is an important and very necessary Bill that updates the existing body of law. As consumers, the public need to know that the Government will play their part, through legislation, to protect them. Product safety is not something we give enough thought to these days. We take for granted that the things we buy are safe, but as technology develops rapidly and the products we buy are invented and updated with increasing frequency, it is important that we know what we are getting. In a world of ever-increasing online shopping, it is vital that consumers are not hoodwinked by false claims or put in any danger by unsafe products. We certainly need to know, as others have said, that our e-bike, mobile phone or tablet is not going to catch fire, with all the tragic consequences that can follow.

It is the job of government to horizon-scan technological changes and ensure that protections are in place because, as always, it will be the most vulnerable in our society who will become victims if the Government do not act to curb the predators. That is why I welcome the Bill and, in closing, thank your Lordships once again for the warm welcome I have been given.

5.54 pm

Baroness Crawley (Lab): My Lords, it is an absolute delight to follow the maiden speech of my noble friend Lady Winterton of Doncaster, who has just demonstrated what an astute, feisty, gifted and yet totally grounded parliamentarian she is. I have known my noble friend Rosie for many years, for more years than she and I would wish to recall. She has always stood out as a true champion of the people, an authentic voice in British politics.

My noble friend has held many senior offices in government, and she referred to some of them. It is a long list so brace yourselves, my Lords: from the Lord Chancellor's Department through Minister of State for Health Services, Minister of State for Transport, Minister for Yorkshire and the Humber, Minister of State for Pensions through to Business and Local Government. She was rightly made a dame in the New Year Honours List in 2016, and we all know that there is nothing like a dame. My noble friend Lady Winterton also spent many years as Labour's Chief Whip in the Commons. She has indeed been there, done that, got the T-shirt. She was a wonderful Deputy Speaker in the Commons, combining being a stickler for the rules with being the epitome of calm and persuasion, especially with the awkward squad—a talent in anybody's language—and all this while wearing the highest heels on the planet.

My noble friend chose this Second Reading to make her maiden speech because it is about the everyday concerns and safety of people and businesses up and down the country. That is, and always has been, her politics. I look forward to hearing much more from her in this Chamber, as I am sure we all do.

I welcome this landmark framework Bill, as does the Chartered Trading Standards Institute in coalition with the British Toy & Hobby Association, Electrical Safety First and Which?. As Which? has said, this Government are prioritising legislation that addresses a growing gap in consumer protections. The coalition also has concerns about the Bill, which the noble Lord, Lord Foster of Bath, has referred to, and which will no doubt be addressed in the passage of the Bill.

The online marketplace in particular is not protecting consumers today and leaves them open to illegal, unsafe and, indeed, very harmful products, with few repercussions at present for those perpetrating these violations and finding gaps in the law. It is also so damaging to the very many good businesses that trade online in safe and legal products. There has been no real domestic reform to product safety regulation since our exit from the EU. The previous Government extended recognition of EU requirements, which had been due to fall away at the end of this year, but did not prioritise what comes next, either in general terms or in relation to the specific known issues, such as unsafe batteries in e-bikes and scooters, counterfeit electrical goods on online marketplaces, children's toys, smoke and carbon monoxide alarms—on and on goes the unsafe products list. Although the powers in this Bill will not solve all these issues, they should allow us to make progress in a number of areas.

Some may see this Bill as EU alignment through the backdoor. I disagree. As I see it, the Bill will allow the UK to align with the EU when it makes sense to do so but also give us flexibility not to if, as a country, we want even stronger safety standards. Given the unique position of Northern Ireland in the post-Brexit trading landscape under the Windsor agreement, perhaps my noble friend the Minister could set out how the Bill's provisions affect Northern Ireland.

[Baroness Crawley]

I welcome the provisions on information sharing, which are designed to make it easier for public authorities such as trading standards and the emergency services to alert each other on cases they are working on across the country. The Bill's enforcement aspects are also welcome but must be looked at in the context of very limited local authority resources—I speak as a vice-president of the Chartered Trading Standards Institute.

We have all been lobbied on concerns over the Bill's metrology regulations, in that they focus on units of measurement and quantities of goods but are limited in scope. For some, the Bill does not grant sufficient authority to test and verify the equipment used for measurements. Perhaps my noble friend could write to me about this, as accuracy is key here.

The coalition of product safety organisations I referred to earlier wants the Bill to safeguard consumers through clear and enforceable duties on online marketplaces, clearly defined definitions of new terms, putting consumer safety on the face of the Bill, and more effective scrutiny processes.

The Regulatory Policy Committee has scrutinised the impact assessment published alongside the Bill and decided that it provides

"sufficient evidence of the problem under consideration and a strong argument for intervention".

However, it suggests that the Bill's impact assessment

"could be improved by including further detail of the impacts expected from the related secondary legislation".

Will my noble friend the Minister comment on that part of the RPC's opinion?

As I understand it, the Government want the Bill to tackle modern safety issues for consumers, grasp opportunities to deliver much-needed economic growth and offer a much improved level playing field to businesses. I am sure many of us would support those aims, and I wish the Bill well.

6.02 pm

Lord Frost (Con): My Lords, it is a pleasure to follow the noble Baroness, Lady Crawley, and a particular pleasure to hear the maiden speech of the noble Baroness, Lady Winterton. She has a distinguished career in government and in the service of her party. I am sure we all look forward to hearing her future contributions to your Lordships' House.

I read the Product Regulation and Metrology Bill with great interest when it was published earlier this summer, and with not a little surprise because it was not foreshadowed in the manifesto of the party opposite. The Minister sought to present the Bill as a technical one, to downplay concerns and to suggest that there is nothing to see here. I agree, of course, that there are technical elements in the Bill, but the technical in this area is often highly political and there is a long history, I am afraid, from those involved in managing the relationship with the EU of obfuscation and lack of clarity about the obligations that are really being undertaken, so it is right that we look under the surface of what the Bill implies.

My basic concern is that the Bill goes further than a purely technical Bill really needs to. It goes further because part of the motivation behind it is indeed to revive a process of alignment of goods with EU single market laws. That is not just my interpretation; it is said in the quite frank briefing prepared for the King's Speech before the summer break. I will refer to that from time to time. The core of the case for the Bill is that the Government need to be able to regulate new products and continue to give status to the CE marking in the UK. I agree with that in principle, but I do not think that aim requires this Bill in this form. I want to explain why and what my concerns are.

I accept that the Government need a power to regulate in this area. Of course, the Government always have that power. I think the Minister said that the UK simply did not have the powers. With the greatest respect, that is not correct. This Parliament has the powers to do anything it wishes. Of course, it has to do it by primary legislation if there is no other route, and in some areas it will probably be better so done, especially for genuinely new products breaking genuinely new ground. But let us accept that a regulatory power is needed.

The current power to update regulations and recognise the CE marking is the retained EU law Act, which we debated with such pain about a year ago. In fact, that power has been used very recently in the Product Safety and Metrology (Amendment) Regulations 2024, which came into force just a few days ago. Therefore, my first question to the Minister is: can he explain why it is not possible simply to extend the deadlines that do expire for those powers in the retained EU law Act? Why can they simply not be extended, and we proceed as we have done in the last year or so?

I think I know the answer to that: the Government want to do more than that. Specifically, I suspect they want a new set of provisions enabling dynamic alignment with EU law. As the briefing for the King's Speech said, it will

"enable us to make the sovereign choice to mirror or diverge from updated EU rules"—

that is, to create a power to make sure that our law can automatically follow changes in EU law. Indeed, that is what we find in Clause 2(7):

"Product regulations may provide that a product requirement is to be treated as met if … a requirement of relevant EU law specified in product regulations is met".

In other words, this is a power to reimport EU law concepts back into our system. It allows UK product standards to be described not in UK law terms but simply by a cross-reference to EU law. When that EU law changes, so ours will change. So my second question to the Minister is: can he confirm or deny that the intention is indeed to make simple cross-references to EU law in that way? Does he agree that such cross-references amount to dynamic alignment with EU law?

Similarly, Clause 1(2) enables the Secretary of State, by regulations, to make provision

"which corresponds, or is similar, to a provision of relevant EU law for the purpose of reducing or mitigating the environmental impact of products".

Again, it is not clear exactly why this separate provision is needed, but EU rules on traceability are certainly increasingly complex and intrusive.

Lord Falconer of Thoroton (Lab): Is it the noble Lord's case that the Government should be prevented in any case from having the same regulations as the EU?

Lord Frost (Con): I will come on to that. I am trying to get clarity about the purpose of this Bill and why it needs to go further than the powers we already have.

My third question is: can the Minister explain the purpose of the separate provision in Clause 1(2) and the situation it is designed to deal with? I will table amendments to this and other clauses.

Why are any of these provisions necessary beyond simple administrative convenience? The answer is that this Bill is entirely in tune with the lack of clarity that so often surrounded the detail of our relationship with the EU. It is simply the beginning of a path on which, without voters noticing—this is my point: we need clarity—we slip back, closer to single market-like trade arrangements.

Obviously, it is already true that, if a British company wants to export to the EU, its products must comply with EU law. What these provisions would do over time is require producers covered by them to produce in the UK, for the UK, to those EU standards, and make those EU standards the only legal standards on the British market, even when they are not good standards, or are complex or costly. This set-up is a core element of the way the single market works.

Simply mirroring those EU laws does not itself improve trade with the EU. There will still be customs and regulatory paperwork in those circumstances. The only way of eliminating that is to satisfy the EU authorities that our laws are in fact the same as theirs, and I suggest that they are very unlikely to be satisfied without the usual panoply of Commission and court enforcement—subordination once again to the EU authorities. After all, what other way is there for the EU to decide whether our laws genuinely mirror its laws, or to settle any disputes arising?

My further question to the Minister is this. Can he explain how he sees these clauses working in practice? What actual trade frictions does he see being removed as a result of using them? Will he give a commitment that, in conformity with Labour's policy not to rejoin the single market, the Government will not agree to subordination to EU law or EU-style enforcement?

The Bill also constitutes another step—and this is rather unfortunate—in using the Northern Ireland arrangements to keep this whole country in line with EU rules in certain areas, as we had always feared. Once the previous Government had given up trying to dismantle or override the Northern Ireland protocol and instead agreed to support and enshrine it as the Windsor Framework, something like this Bill became extremely probable. The previous Government were at least discreet in discouraging officials from proposing reforms to goods standards for fear of complicating the Windsor Framework arrangements. The new Government are quite open about it. Their own briefing prepared for the King's Speech says:

"EU changes to product regulation only apply in Northern Ireland, resulting in divergence within the UK internal market as EU laws are updated. This Bill gives the Government specific powers to make changes to GB legislation to manage divergence and take a UK-wide approach".

The aim is absolutely explicit. So as we always feared, the Windsor Framework is being used as a tool to inhibit reform and change within GB—not that I think this Government plan to do much of that anyway—and to keep this country in the tractor beam pull of EU laws and rules without having any say in them. Does the Minister agree with his own briefing?

Baroness Ritchie of Downpatrick (Lab): Would the noble Lord, Lord Frost, not accept that the Windsor Framework was a necessary instrument to ensure that trade could flow easily on the island of Ireland and to prevent a border being recreated there that would have been an encumbrance to trade, society, the economy and business development?

Lord Frost (Con): The noble Baroness is probably familiar with my view on the subject: I do not agree with that. I think that it would have been much preferable to proceed with the Northern Ireland Protocol Bill that was then proceeded with in 2022, but that is really not to the point now. We have the situation that we have, and the effect of the Windsor Framework, whatever view one takes of it, is to create a massive incentive to push for GB rules to be kept in sync with those of the EU and in Northern Ireland. That is one of the effects that I think this Bill will create.

To finish up, I have a couple of technical questions. The internal market Act has already been raised.

Lord Falconer of Thoroton (Lab): Will the noble Lord give way?

Lord Frost (Con): Nobody else has given way, but go on.

Lord Falconer of Thoroton (Lab): The noble Lord led me to believe by the way he answered my question that he would tell us whether he took the view that the Bill should positively prevent alignment in any area. Is he willing to answer the question now?

Lord Frost (Con): I have not finished my remarks yet. Under the internal market Act, goods that are legally on sale in Northern Ireland—those meeting EU standards—may be sold anywhere in the UK already. That is one of the provisions of that Act. One might wonder about the point of this panoply of rules when we already have the internal market Act. It would seem unnecessary, unless perhaps the Government are concerned that the Windsor Framework might require them to bring in elements of Northern Ireland to Great Britain's border at some point. Again, I wonder whether the Minister could answer that question.

The Government clearly want to go down this road because, whatever they say now, they want to make eventually rejoining the single market and customs union easier. I know from reactions to what I have been saying that many noble Lords regard this direction of travel as a good thing; they doubt this country's ability to prosper as an independent country with its own rules and laws. I am afraid there is nothing to be done about those who have that opinion. To others who want this country to be a global trader, but

[Lord Frost]
without necessarily having our own rules for every single area, I say there is an alternative. It is one more consistent with our global aspirations and membership of the CPTPP, which the Government want to support.

The alternative is to make this country open to the best standards globally—that is my answer to the question that has been raised a couple of times—and to recognise that any goods produced in high-standard, well-regulated economies, such as the US, Canada, Australia, Japan and the EU, would be safe to put on our market. I accept not just the CE standard but similar conformity and standards from other developed economies, and where necessary we can develop our own. This is not just a fantasy; it is what the MHRA is already doing with its new international recognition procedure for medical products. Can the Minister explain why it is not possible to proceed in this way instead?

My speech has been quite long and I will wind up now, but there are important points about the purpose of this Bill that will shape the statutory instruments that will come before us at some point that need to be properly understood. We will put forward amendments in Committee to test the thinking behind some of these provisions and their purpose, and to perhaps reshape some of the more unsatisfactory elements of this Bill. To conclude, I have deep concern about the direction of travel and the direction in which this will take our regulatory framework. I look forward to hearing the Minister's answers to my questions.

6.17 pm

Lord Lansley (Con): My Lords, this has proven to be a more engaging debate on the subject of product regulation than I had anticipated, principally due to the pleasure of hearing the speech from the noble Baroness, Lady Winterton of Doncaster. We both arrived in the other place in 1997—there were a few of us, and rather more on her Benches. I left before she did, but all through that period it was a very great pleasure to work with the noble Baroness. I look forward to working with her in this place and I much enjoyed her maiden speech.

I am also pleased to follow my noble friend Lord Frost. As I will come on to explain, the purpose of my speech is not necessarily to embrace his argument entirely but rather to embrace his solution. I do not need to ascribe to the Government any ulterior motive about alignment with EU regulation, and I happen not to agree with the noble Lord, Lord Russell, that we should aim for dynamic alignment. Much as I would have wished that we were still members of the European Union and all that flows from that, that is not the point. The point is that we are where we are. From my point of view, the worst outcome is if we become essentially rule-takers rather than rule-makers. The risk is that, through dynamic alignment, that is exactly what would happen; that alignment would contribute to the problem.

I know that a number of noble Lords here today took part in the debate on the Product Safety and Metrology etc. (Amendment) Regulations, just before the Dissolution in July. Quite rightly, concerns were expressed about the loss of capability in the standards-making and regulatory processes in this country as a consequence of the continuing extension of the CE marking on the part of the European Union.

This legislation is necessary. Many in industry welcomed the 21 product sectors having the CE marking extended to them, but they said we were getting closer to the point where there will be a divergence between the CE marking and the UKCA marking. At that point, what do we do? Do we allow two different products to be marketed inside the United Kingdom while arguing to consumers that they are equally safe and effective? I do not think that is a tenable long-term solution, so we must have—as I think my noble friend Lord Frost admitted—more powers, which are in this Bill.

I will not talk on some of the many other interesting subjects that I look forward to our discussing in Committee, but I do want to look at the serious question of how we support and maintain the capability in product regulation, in which the noble Lord, Lord Leong, in his admirable opening to our debate, said we are a world leader. We want to remain a world leader in product regulation, so how are we to do that? Many in industry would say, "Let's carry on with CE markings for ever and, as they change, just accept them". I am afraid that is not the solution. I add in parentheses that the Bill's scope does not extend to medical devices, but the same issues arise in relation to them. Although I endorse the solution in relation to medical devices, we still do not yet get the answer we are looking for; we still run the risk that we recognise other people's product regulation but do not sustain our own.

Where should we go to? We need to escape from this outcome, and now is the time for us to adopt a much-strengthened policy in relation to our work in international standards. If our regulations and those of the European Union, and indeed the regulations of other countries, are based on international standards, we can reduce regulatory compliance costs and remove technical barriers to trade. Now is the time for this country to lead in an accelerated push for the development and adoption of international standards as the basis of product regulation.

As my noble friend referred to earlier, I think we are to accede to the CPTPP by 15 December. Article 8.5 of that treaty says:

"The Parties recognise the important role that international standards, guides and recommendations can play in supporting greater regulatory alignment, good regulatory practice and reducing unnecessary barriers to trade".

Article 8.9 says that

"greater alignment of national standards with relevant international standards"

should be pursued,

"except where inappropriate or ineffective".

It calls for the parties to the CPTPP to

"strengthen their exchange and collaboration … to support greater regulatory alignment",

which is absolutely right. Very interestingly, in its February 2022 strategy on standardisation, the European Union said:

"Traditionally, the EU has been a strong leader in international standardisation activities but"—

this is interesting—

"needs to take account of a changed geopolitical situation, as other countries start to approach international standardisation more strategically and gain influence"

in its committees. This is a relatively recent acknowledgement by the European Union—in this case, the European Commission—that its policy of making standards in Europe and then handing them to the rest of the world is not going to be sustainable indefinitely; I think it is right about that. Indeed, Mario Draghi, in his recent report on the competitiveness of the European Union, identified the value of international standards in promoting regulatory harmonisation and reducing trade friction. He sought European Union action to lead in framing international standards.

Article 92.1 of the trade and co-operation agreement refers to the use of

"international standards as a basis for the standards"

that each of the parties develop, so we do not need to change the mandate or renegotiate the trade and co-operation agreement; we need to use that agreement. That is where the negotiations with the European Commission should be aimed: at maximising the implementation of the trade and co-operation agreement.

We know that we all use international standards, some to a greater extent than others. We all agree that we should use international standards more in the future, but that fact is not stated anywhere in the Bill. Could it be? Like other noble Lords, I participated in the debates on the Medicines and Medical Devices Act 2021. Section 16(2) of that Act, referring to how to meet product regulation requirements, says that provision

"may … identify relevant requirements by reference to international agreements or standards relating to the marketing or supply of medical devices".

So where medical devices are concerned, we have statutory backing for a process of recognising international standards as the basis for our own product regulation requirements. I want to see this Bill incorporate the potential for international standards to meet the requirements for product regulation across a broader range of products—not just medical devices, but taking them into the scope of this Bill—and the very wide range of industrial products that are covered. I also hope that in the course of the discussion on the Bill we will give statutory backing to a lead by the United Kingdom to accelerate the development of international standards to be the basis of greater regulatory alignment with our leading trading partners, including our existing agreements both in the CPTPP and the trade and co-operation agreement.

6.27 pm

Baroness Brinton (LD): My Lords, it is a pleasure to follow the noble Lord, Lord Lansley, and I am glad he started referring to international products. Given the earlier contribution by the noble Lord, Lord Frost, I am reminded of this House's scrutiny of the Biocidal Products (Health and Safety) (Amendment) Regulations 2022. The noble Baroness, Lady Stedman-Scott, told the Grand Committee that there was a huge backlog in processing chemical standards given that we lost access to the EU chemical standards database. As a result, the Health and Safety Executive's chemicals division had to have its budget increased by 39%. On those figures alone, any sensible Government would want to be able to use existing standards—in this case, the EU's standards—not least because any organisation manufacturing products in the UK that sell in the EU will have to conform to them. I have not had time to check what the HSE chemicals division's budget is now, but over five years from 2018 to 2022 it increased by 39%.

I was also delighted to hear the maiden speech of the noble Baroness, Lady Winterton. With her wit and experience, she is already being heard very seriously and with some smiles in this House. I wish her well.

As noble Lords have heard, these Benches support the scope of the Bill and the secondary legislation. Others have already explained how necessary it is, but, along with my colleagues, I have some concerns and I will try not to go over the points they have already made. The Government's delegated powers memorandum says at paragraph 5:

"We judge it essential to be able to respond quickly to an evolving evidence base on product safety and metrology issues".

I want to focus on those powers being used in a slightly different way and I hope that the Minister can give your Lordships' House some reassurance that emergency procedures made available to Ministers will not be used on this Bill, as happened on many others over the previous eight years—not least, as we heard from the noble Lord, Lord Russell, on the issue of leaving the EU.

I also saw it at first hand when I was the Lib Dem health and social care spokeswoman from January 2020. The emergence of the pandemic inevitably meant that there was obviously a need to introduce emergency statutory instruments but, to be frank, using the emergency powers completely negated the importance of Parliament being able to scrutinise affirmative SIs before they are introduced. Between January 2020 and March 2022, the Government laid 118 affirmative Covid SIs, of which 66 were introduced by emergency procedures, meaning that they were implemented before either House had any chance to see them, let alone debate them.

The Hansard Society Covid statutory instrument dashboard website is a brilliant resource for this period—perhaps I am extremely sad, but it really is extremely useful. It also noticed that those SIs implemented using the emergency procedure were more likely to have to be amended or revoked, which was perhaps not surprising because of the speed of response needed and the fact that there had been no time to scrutinise them. I hope the Minister will give the House some reassurance that emergency procedures would be used only in true emergency.

I say that because it has become something of a habit inside Whitehall to use them. I had a call from the Paymaster-General in August, informing me that the SI relating to the redress scheme for the infected blood compensation scheme was laid in the middle of August. We do not debate it until the end of this month. We have a debate on the inquiry and the redress scheme generally next week but we have to wait to the end of the month, which is two months after the SI was implemented. I really am keen to hear from the Minister on that.

I turn to one of the examples that was repeatedly raised in the preparation of the Bill and was the subject of my noble friend Lord Redesdale's Private

[Baroness Brinton]
Member's Bill—lithium-ion batteries. I pay tribute to my noble friend Lord Foster for his many years' work in this area. I declare my interests as a vice-chair of the APPG on Fire Safety and Rescue and a vice-president of the LGA. The APPG on Fire Safety and Rescue, the National Fire Chiefs Council and almost everybody involved in manufacturing safety equipment for the fire service want urgent regulation of the use of lithium-ion batteries.

E-bikes and e-scooters present one of the fastest-growing fire risks. In London on average there was a fire every two days last year. There were 143 e-bike fires, three deaths and around 60 injuries. This year, up to the end of August, London Fire Brigade has so far recorded 127 e-bike and e-scooter fires. The real problem is the intensity of the lithium-ion fires, both the heat and the length of the flame. It is not even a flame; it is more like a firework. If you have ever seen a video of such a fire, it is never forgotten. Temperatures get up to 1,000 degrees and substantial damage can be done.

We also need regulation for those who use products with lithium-ion batteries that do conform to very strict regulation. I have a travel wheelchair that uses lithium-ion batteries. It complies with IATA regulations but I have been refused permission to go on a plane because the pilot has the final say on whether or not you can take medical devices on board. He said he was not having any lithium batteries on his plane at all and did not care whether they were IATA-certified. Having regulation would enormously help those of us who rely on these things. It cost me €900 to get back from Bucharest that night.

I also think that lithium-ion batteries stand as a proxy for everything that the Bill is trying to achieve. Many of the e-bikes and e-scooters in these fires have had different batteries or converters bought in an online market and added to the machine, so regulation is vital, as is compliance and ensuring that there are enough people to be able to find out where these are. The below-the-radar sales of these batteries, which often look identical to ones which comply with current safety regulations, mean they can be hard to track down.

It also takes us into what I think is a grey area of the Bill and I have not heard anybody else talk about this: at what point do the product regulations apply to individuals as opposed to businesses or people working in businesses? The Bill sets out those people covered by the regulations in Clause 2(3) and, helpfully, paragraphs (a) to (g) explain those with particular responsibilities and roles, but Clause 2(3)(h) refers to

"any other person carrying out activities in relation to a product".

Does this include individuals who may have bought an e-bike online as an individual, changed the battery to one bought elsewhere online and then after a couple of years decided to sell it on through eBay, which has a mixture of professional sellers and individuals?

I am trying to find the boundaries here because if the answer is that individuals are included, communications to the public about their new responsibilities when they buy and sell will become vital. But if the answer is no, how will the Bill prevent what is happening at the moment, which is individuals buying and adjusting products from a global marketplace, often untraceable, where the UK has no ability to scrutinise or take action? How would this be enforced? If it is helpful, I do not necessarily need an answer now but would appreciate a letter from the Minister before we go into Committee.

I am very interested in who will be the statutory consultees and wonder whether we might have access to lists—again, before we move on to Committee—because there are some professional associations that might be very obvious to include if you are in the fire industry but not necessarily obvious to the Department for Business.

I turn briefly to the creation of criminal offences through affirmative statutory instruments, which has already been referred to. I want to pick up on the earlier comments from the noble Lord, Lord Lansley, about medical devices, which are specifically disapplied in the Bill because of the Medicines and Medical Devices Act. Can the Minister explain why this Bill has a maximum imprisonment of up to two years, whereas the Medicines and Medical Devices Act, which covers at least as sensitive and dangerous issues, has provision for conviction and jail sentences of up to 51 weeks only? Why have those different figures been used?

It was good to hear the Minister say that the Attorney-General had been involved. Is there a formal consultation with the Ministry of Justice once these regulations are drafted? I remain concerned that our court system is really congested at the moment and if there were, for example, a particularly large, concerted campaign to bring people to justice, that might involve breaking gangs, frankly, even 30 or 40 extra people in prison over a short period would put real pressure on our prisons. What can the Minister say on that?

Finally, we need this Bill but we must have access to affirmative instruments in plenty of time to be able to scrutinise them.

6.39 pm

The Earl of Lindsay (Con): My Lords, after a first-class maiden speech and with her impressive CV, I warmly welcome the noble Baroness, Lady Winterton of Doncaster, to this House. Equally, I welcome the Bill, but before I say why, I should declare two interests: first, as the chair of the United Kingdom Accreditation Service, UKAS, which is the Government-appointed body for the accreditation of organisations providing testing, inspection, certification and similar evaluation services; and, secondly, as the president of the Chartered Trading Standards Institute, the CTSI, a role in which I was preceded by the noble Baroness, Lady Crawley.

The provisions set out in the Bill will help to ensure that the UK's product safety and metrology regulatory framework is fit for purpose. I therefore agreed with my noble friend Lord Lansley when he said that this legislation is necessary. As the Minister set out, the majority of the United Kingdom's product safety and metrology framework derives from the European Union, transposed into UK law using powers in the European Communities Act 1972. The repeal of the European Communities Act means that we need new powers to update this body of law and, furthermore, it is timely that we do this. The world is changing, consumer products are changing, and the marketplaces through which consumers access those products are also changing.

The Bill recognises that, as technology continues to develop, new powers will be needed to update our regulations so that they can address both current and future threats and hazards. It recognises that both products and marketplaces are evolving and they will continue to evolve in tandem with new technologies. The United Kingdom needs to be able to keep pace with these technological advances and to be in a position to respond with agility to new product risks and opportunities as they arise.

The increased risk from more complex and often digitally or AI-enabled products may mean that they require additional testing and independent inspection or certification to monitor and assess regulatory compliance. With my UKAS experience, I welcome the fact that the Bill will enable that. UKAS is already a long and well-established part of the product regulation regime. We work closely with the Government to provide trust and assurance that all higher-risk products requiring third-party conformity assessment are subject to assessments that have been conducted by independent, impartial and fully competent organisations, as demonstrated by their conformity with UKAS's robust and rigorous requirements as the UK's national accreditation body.

We are likely to see more higher-risk products in the future, as has been evidenced by some of today's speakers, and the regulatory powers within the Bill—which include the power to place requirements on UKAS and all involved with conformity assessment—will help to mitigate that risk. Importantly, as part of this future-proofing of the regulatory framework, the Bill intends that new and emerging supply-chain business models will also be identified, ensuring that the responsibilities of those involved in the supply of products, such as online marketplaces, are clear. This will enhance compliance and enforcement, and in my CTSI role, I applaud the Bill's intentions to create both a clearer definition of "online marketplace" and a more level playing field between high-street retailers and online marketplaces.

Also welcome is the focus on entities controlling access to online marketplaces. This aligns with the CTSI's call for a clearer regulatory framework to cover intermediaries, such as fulfilment service providers, ensuring that they, too, bear responsibility for the compliance and safety of goods where there is no UK-based manufacturer or importer. These expanded definitions are crucial for ensuring that both current and future innovations in online commerce are regulated effectively to protect consumers and legitimate businesses.

I also acknowledge that the coalition of product safety organisations, as mentioned by the noble Baroness, Lady Crawley, of which the CTSI is a member, wants to see the Bill strengthened to properly safeguard consumer safety, with a clear and enforceable duty placed on online marketplaces. This was also mentioned by the noble Lord, Lord Foster of Bath. This would provide confidence for consumers, businesses, and the online marketplaces themselves, together with the extension of liability to online marketplaces for defective products, particularly those sold by third-party sellers. The coalition similarly sees the need for greater clarity regarding the specific obligations placed on fulfilment houses and clearer definitions of key terms to ensure that all existing and future online marketplaces and products cannot take advantage of gaps to avoid responsibility. Of course, these more detailed points will be explored in Committee and on Report.

Also deserving of special scrutiny in Committee and on Report are the nature and extent of the delegated powers being proposed in the Bill, as focused on by my noble friend Lord Sandhurst. As a member of the Delegated Powers and Regulatory Reform Committee of this House, I am aware that the committee will be considering the Bill tomorrow and reporting to the House shortly thereafter, but for the moment I welcome the Bill. It aims to preserve the UK's status as a global leader in product regulation, supporting both businesses and consumers. It seeks to ensure that the UK can maintain high product standards and be better equipped to address modern-day safety concerns with agility, while also taking advantage of opportunities for economic growth. It strives to create a level playing field between high street retailers and online marketplaces—at long last—and it will update enforcement requirements and the legal metrology framework.

Finally, I welcome that the Bill gives the UK the choice to mirror or diverge from updated EU rules, so that we can maintain high product safety while supporting businesses and economic growth. I also support the specific power to make changes to legislation to manage divergence and take a UK-wide approach where it is in the UK's interests to do so.

6.47 pm

Baroness Bennett of Manor Castle (GP): My Lords, I am going to start with history. I used to live on Leather Lane in central London between the City and Westminster, where, despite Victorian urban expansion, a dairy farm continued to operate in the middle of the city. That was no historical accident. With the adulteration of milk rampant, with filthy water and much worse, the only way consumers could be sure that milk would not kill them or their children was if they actually saw it come out of the cow.

A few years ago I was privileged to visit the Rochdale Pioneers Museum in the home of the first successful consumer co-operative in the UK: the Rochdale Society of Equitable Pioneers, founded in 1844. Its aim was to ensure not just affordable products but safe and genuine products, without sawdust in the flour or arsenic in the sugar. But not everyone had a co-operative nearby. It was eventually conceded back in the 19th century that it was the responsibility of the state to protect consumers.

Amid a huge ideological debate about the freedom of traders to sell whatever they liked, the Sale of Food and Drugs Act 1875 was passed. However, it took time to take effect. In 1877 a quarter of all the milk examined by the local government board was seriously adulterated. However, the law worked. By 1894 adulterated milk accounted for less than 10% of all samples. Campaigning worked to get the law and the law worked for the good of the people. Lives were saved. I welcome the noble Baroness, Lady Winterton of Doncaster, noting in her wonderful maiden speech that such protections are particularly important for the most vulnerable in society.

Today, in 2024, however, we are seriously failing to provide protections. The noble Lord, Lord Foster of Bath, the noble Baroness, Lady Brinton, and others

[Baroness Bennett of Manor Castle]
referred to the fact that it has been clear for some time that there is a huge problem with lithium-ion batteries and chargers. We have seen this problem, yet there has been no action. I would like to ask the Minister specifically about what timeframe the Government see for taking action on this. Do we have to wait for the Bill to go through the many months it will undoubtedly take? I do not know if that is necessary. Could something not be done sooner? As the noble Earl, Lord Lindsay, said in bringing his particular expertise to this debate, in the current age we need a kind of agility in reacting to changing products, circumstances and methods of sale, but we are utterly failing.

Last weekend, I was listening to the *London Review of Books* podcast. James Butler, who closely followed and reported on the evidence to the Grenfell Tower inquiry, was speaking angrily, and rightly, about the decades of regulatory failure that led to the deaths of 72 people. When you read in *Hansard* the debates about the 1875 Act, we had people then making the same kind of arguments that are made today: about the need to protect business from extra costs; about the need to allow business to make profits; about the need to allow freedom of trade, even of substandard products. But what could be more central to the role of government than keeping people safe?

It is demonstrably clear that exercising the rhetoric of cutting so-called red tape has killed and continues to kill. Anyone using that language really should take a good hard look at themselves. Taking the US approach of waiting until a product kills and injures, then setting the injured consumer or their relatives against the enormous weight of multinational companies—or in pursuit of some fly-by-night trader who cannot possibly be located—in the hope of financial recompense through the slow lottery of the courts, years or decades later, when of course that will not restore their life or their health, is indefensible and ineffective. It is fit only for a society that does not care for its people.

Product regulation is not just a matter of life and death. It is also about keeping a basic quality of life and well-being, not just for the purchasers of products but for general society and our disastrously battered environment on this planet, where the boundaries for novel entities have already been exceeded, in addition to the now acutely obvious climate emergency and nature crisis. Product regulation is crucial in the quality of our everyday lives and health, in both obvious and more subtle ways. How much energy your TV or computer uses, how much noise your neighbour's strimmer makes or how much pollution you breathe in as you walk down the pavement affect all of us, every minute of every day. With public health in the UK in such a terrible state, this is even more crucial.

Since Brexit, Europe has demonstrably continued to advance in health, well-being and the safety of its products—even if, as the European green parties regularly point out, still far too slowly—while the UK has been sliding further and further behind. I want to particularly note three briefings that I received before this debate from the Green Alliance, Friends of the Earth and the Institute for European Environmental Policy. Those organisations are, as those names suggest, particularly focused on environmental health. What we need to adopt, of course, is a one-health approach acknowledging that environmental health, animal health and human health are all intimately interrelated. In that context I have to note, as I acknowledge the Minister did in his introduction, that this is an environmental Bill. It therefore contains significant devolved elements which cover areas under the control of the Scottish Parliament and the Senedd. The noble Lord, Lord Wigley, has been listening closely to our debate and I expect that in later stages of the Bill we may well be working on these issues together.

However, it is probably already clear from my comments that the Bill is welcome from the Green Party perspective, if severely insufficient in its current form and approach. I foresee many a debate about "may" or "must" being in its clauses. Surely, the Labour Party will not be reversing the kinds of positions it took in debating such matters when they were on the Opposition Benches. I hope we are not going to see the kind of 180 degree U-turn that we saw from the noble Lord, Lord Sandhurst, much as I am glad to see that the Conservative Party is now concerned about Henry VIII clauses.

I want to focus briefly on a couple of areas. Chemical regulation is a huge area of concern, with the science fast exposing how disastrously we have poisoned this planet. I am looking forward to a commitment from the Minister, either today or down the track, to either a new chemicals strategy or a new chemicals agency. I note that the Royal Society of Chemistry has been calling for this.

I also want to take a brief look at the advances being made in Europe, particularly the EU's eco-design for sustainable products regulation, which entered into force on 18 July this year. This is part of a wider circular economy plan, an approach I hope to see the Government taking forward. It is focused not on a particular problem or product; it is a framework law that aims to drive forward improvements across a whole range of products and product categories by encouraging products that use less energy—so saving consumers money—last longer, can be easily repaired or recycled, contain more recycled content and have parts that can easily be disassembled and put to further use. It ensures that each product should have a digital product passport, so that producers have to collect and record the sustainability of their products. This means we can look at how to best use these products in the future. Do the Government plan to take a similar approach?

I am perhaps surprised that this debate has not focused more on another issue. Chemical substances in toys are an obvious area of grave concern to the health of our current and future generations. We need particularly to protect children from exposure to harmful endocrine-disrupting chemicals. I note that public awareness of PFAS and "forever chemicals" is growing fast; the Government are going to find themselves coming under considerable pressure in these areas very soon. At the moment, the Bill's powers appear primarily to cover products that come under the Department for Business and Trade and the Office for Product Safety and Standards. Are the Government prepared to consider—I would be delighted to discuss this with the Minister—whether the Bill can be extended

to cover the EU REACH restrictions and bans on other consumer products not falling into those categories? An obvious example here is formaldehyde in furniture, an area of growing health concern.

I have two final points to make. One is about Clause 11, which lists the regulations to be considered under the affirmative procedure but misses an opportunity to deal with something that, again, the now Government frequently lamented from these Benches: the impossibility in your Lordships' House of dealing with statutory instruments with regulations that are patently inadequate but which we have no effective opportunity to stop. There is a chance to create further oversight in Clause 11, including perhaps a potential option for the House of Lords to disapprove draft instruments, sending them back for extra homework where significant concerns are raised. This, of course, is crucial, given that in the Bill's current form there are essentially no real commitments.

Finally, I want to pick up one point made by the noble Lord, Lord Foster of Bath. I declare my position as a vice-president of the Local Government Association. The noble Lord rightly highlighted how our trading standards enforcement has been absolutely sliced away by austerity. Your Lordships' House can do wonders with this Bill, but without enforcement—if the Bill is not enforced—that is pointless. I hope that the Government will address the issue of austerity's impact on local government, particularly trading standards, as a matter of urgency.

7 pm

Lord Bourne of Aberystwyth (Con): My Lords, it is a great pleasure to follow the noble Baroness, Lady Bennett of Manor Castle. I declare my interests as set out in the register.

This has been a very interesting debate, not least because of the wonderful maiden contribution of the noble Baroness, Lady Winterton of Doncaster. It was a speech of great elegance and humour. I congratulate her and look forward to her future contributions.

I thank the Minister, the noble Lord, Lord Leong, for setting out the objectives and purposes of the legislation with commendable clarity. The Government set out their intention to update product safety legislation in the King's Speech in July 2024. It is important to note, however, that the scope of the legislation is broader than just product safety. It encompasses, for example, environmental legislation, which will have consequences in relation to devolved competencies. I will come to these.

I understand that one of the aims of the legislation is to keep pace with advances such as AI. This is a very sensible move. Dealing with areas such as this will help business and so promote growth. To that extent, it is laudable. Along with other noble Lords, I welcome this legislation. Its general thrust is right, although I have specific concerns that I will come to.

Another aim of the legislation is to clarify the role of online marketplaces in relation to product safety. Their great growth makes this, again, a sensible and welcome development.

The legislation we are considering is, of course, framework legislation. Substantive content will arise only when the Secretary of State exercises the relevant powers. It can scarcely be otherwise. Detailed product safety and other such regulation should not be contained in primary legislation. It is true that, under the legislation, the Secretary of State will be able to make regulations to correspond with relevant EU legislation—or indeed to not correspond if this is the decided and desired course of action. That too seems commendable and sensible. To proceed in that way will help preserve regulatory stability across the UK and the EU.

I hope that this objective—or at least the option to be exercised in many cases—of the alignment of regulations between the UK and the EU will receive a wider welcome in your Lordships' House, particularly when there is a danger of the deviation from safety laws within the UK. There may be occasions when alignment with the EU is not the correct approach, but that can be debated. It seems entirely reasonable that, as the EU updates its regulations, the UK needs powers to do the same and to follow or diverge, as the case arises.

The impact assessment of the Bill sets out the dangers of not acting. These include business costs, complexity, uncertainty and confusion. Consumer safety risks, businesses choosing not to supply the GB market and, as I have noted, UK internal market divergence are also possibilities and would not be desirable.

I welcome the general thrust of the legislation. There are certain points which I wish to explore and probe a bit further, if I may. The first relates to specific consumer safety issues which have been referred to by the noble Lord, Lord Foster of Bath, and just now by the noble Baroness, Lady Bennett. I agree that it would be good to hear a timescale for dealing with the issues of consumer safety in relation to e-scooters and lithium-ion batteries. These are matters of great urgency which need action. The briefing that we received from the London Fire Brigade and others was very helpful in this regard.

I would also welcome comments from the Minister about the approach of the Government in relation to online marketplaces. Is it the intention to deal with this globally—to have consumer safety applying across both online marketplaces and the traditional retail market—or are we going to see two separate approaches to the issues? Will he indicate the Government's thinking on this? With the great growth of online marketplaces, through institutions such as Temu and so on, action is needed. Once again, the briefings that noble Lords received from *Which?* magazine, Electrical Safety First and others have been very helpful in this regard.

I have a major concern relating to devolution. The Bill centralises decision-making in the hands of the Westminster Government. I appreciate that the UK Government are seeking legislative consent Motions from the devolved nations. It would be good to hear from the Minister the likely timescale for these legislative consent Motions to come forward. However, the matter does not stop there. This framework legislation represents not just product safety—which I appreciate is a reserved matter and therefore certainly within our competence—but matters such as environmental law, which is very much a devolved matter where the Scottish Parliament, the Welsh Parliament, the Senedd, and indeed Northern Ireland will rightly have a role.

[Lord Bourne of Aberystwyth]

Under the legislation, it is not clear what that role is to be or, indeed, if there is to be a role: it is not set out. Is consent from the devolved bodies to be required, as should be the case? There is no mention even of consultation. So I would appreciate it if the Minister could clear up a matter that will certainly be important going forward. The legislation is much wider than the narrow title of the Bill suggests. Indeed, there is considerable power within the scope of the Bill in relation to the marketing and use of products to ensure their efficiency and effectiveness, not just to mitigate safety risks.

With these important caveats, I welcome the general thrust of this legislation, but I would appreciate it if the Minister could clarify these matters.

7.07 pm

Lord Lucas (Con): My Lords, I have a great deal of sympathy with the points made from the Front Bench by my noble friend Lord Sandhurst. I do not like a Henry VIII Bill in this form. I was glad that we killed the Schools Bill in the last Parliament. I very much hope that we, on this side of the House, will be able to collaborate to make sure that either we are shown the draft regulations before we get to Committee or that we send the Bill to the other place with a suitably large number of amendments, so that if, when the regulations finally emerge, we find that they pong, we can ping them back.

This Bill sets out to protect consumers from dubious and dangerous goods. I join with the noble Lord, Lord Foster of Bath, in welcoming the Bill from that point of view. In Committee, I want to explore how it could be extended to make sure that VAT is paid on those goods. That is both to pick up the £1 billion or £2 billion a year that we are failing to collect at the moment, and because that kind of attention and positive cash flow would really help reinforce the consumer safety purposes of this Bill.

In what follows, I will rely extensively on Richard Allen's 20 years of battling to get HMRC to collect the VAT due on imports into this country—a battle that has yet to crowned with full success, though there have been some useful victories. Online retail is just mail order. It is the same business as Pryce Pryce-Jones invented in 1861 and the regulations for dealing with it really date in concept from that era. They have not been updated to address current practices. This has led to a series of past and current abuses.

The abuse of de minimis import tax exemptions is now a global concern. Companies like Shein and Temu have legitimately exploited these outdated exemptions and flooded Asia, Europe and America with low-value goods, assisted by generous Chinese export tax rebates and subsidised international postage rates, overseen by a secretive Universal Postal Union treaty. It appears to me that the business models of those two companies and others are entirely based on the tax that does not get paid. I suspect that, if we collected tax properly, those companies would not exist.

In April 2017, the National Audit Office published its report *Investigation into Overseas Sellers Failing to Charge VAT on Online Sales*. This highlighted abuse by Chinese retailers who ship goods into UK warehouses with misdeclared import values and then sell them on Amazon and eBay, while not accounting for VAT on the sales. HMRC's response was ineffective. As can easily be seen by placing test purchases, those ignoring the UK's obligation to register for VAT can sell goods to UK customers at a distance and send them to the UK in the certain knowledge that, if they are below £135 in declared—not necessarily actual—value, no VAT assessment will be made at the border and the goods will be delivered to the UK customer promptly. That effectively means that these goods can be sold VAT free, which hugely undercuts any legitimate UK business trying to compete. All the business that could be being done in the UK, with the VAT and employment taxes that would result, shifts to these large overseas enterprises.

Large shipments of goods have been sent to the UK individually packaged as consignments of less than £135 in value. Under the new bulk import reduced dataset systems, entire container loads of goods can be declared on a spreadsheet. Undervaluation is hard to detect, and bulk shipments of low-value consignments will not attract VAT or duty if each package is addressed to an individual in the UK and valued at less than £135. Large consignments of goods are thus split into hundreds of smaller consignments and addressed to fake individuals or one of the many hundreds of thousands of mysterious Chinese companies that have been set up at Companies House. Once the goods have cleared customs, these bulk consignments are broken down and the goods are sent to warehouses, from where they are sold on eBay, Amazon or elsewhere. Once the goods are in a distribution warehouse, it is virtually impossible for the customs authorities to determine who is the beneficial owner.

I will outline some simple solutions to these problems. First, make online marketplaces collect VAT on all sales, whether the sellers are established in the UK or not. In the case of those using online marketplaces, as opposed to selling direct, this would greatly simplify collection for the seller and tax authorities and remove the need to determine where the seller is established. As the noble Lord, Lord Foster of Bath, correctly pointed out, in any event, under the Bill, we need to look at how business is conducted in online marketplaces to make sure that the products reaching our consumers are safe. It is not much extra to make sure that the tax has been paid in the correct way. As I said, this would generate a large flow of income that would put a broad smile on the Treasury's face and make it happy to finance the enforcement effort that, as others have said, will be needed to make the Bill succeed.

Secondly, make any non-resident seller who applies for a UK company or VAT number appoint a VAT representative in the UK who is responsible for paying import tax debts should the seller abscond. Clause 2(2)(k) addresses exactly that for product quality questions: it asks for a UK representative who we can go after if something is wrong with the product, so that it gets put right. In Committee, I will certainly look to make sure that this representative is a person of substance who, faced with substantial fines for exploding batteries—I am glad to see that the noble Baroness, Lady Brinton, is seated on a wheelchair with what looks like lead acid ones—can pay the substantial damages involved. These representatives need to be real people.

Thirdly, make customs brokers responsible for the correct value declaration of goods that they import for their clients, for the safety of those goods and for the payment of any VAT and duty. These two things run together: if you are in the business of importing goods, you will, under the Bill, have to take responsibility for their safety. We can run the VAT in alongside that.

Fourthly, legislate so that all imported goods held in UK warehouses are clearly marked with the name of the beneficial owner. We are asking for products to be properly marked in the Bill. Who is the beneficial owner? Who is the representative whom we can go after if the products are defective or if the VAT has not been paid? We need that sort of information to be clearly specified.

Fifthly, abolish the subsidy enjoyed by Chinese sellers, enabled by the Universal Postal Union treaty. I suspect that will be outside the scope of the Bill, however much I may smile at the Public Bill Office.

Lastly, increase the cost of unrealistically cheap imports, whether through increased duty, enforced partnership with a UK company, the extension of duty to more classes of goods or the application of fixed fees for clearance. Other countries faced with the same challenges have adopted measures like these. VAT has recently been imposed on all low-value imports by South Africa, and a similar measure is being considered in America. In India, Shein has been forced into partnership with an Indian company, ensuring that value is added, to the benefit of the Indian economy.

If we do this for the sake of tax, we will make it easier to ensure safety too. To come back to what the noble Lord, Lord Foster of Bath, said, we will have a way of affording enforcement. In any event, part of the Bill should be an ability to charge for the certification work we do on product safety. This should not happen entirely at the cost of us and our Government; we ought to be able to put a charge on the products. Again, that would ride nicely alongside VAT.

7.17 pm

Lord Redesdale (LD): My Lords, I thank the Minister for his extremely kind words, especially about the Private Member's Bill I have taken forward on lithium-ion safety. In this regard, I thank my noble friend Lord Foster for his years of work. Indeed, if he had been successful in the ballot and I had not, I think it would have been his Bill, which would have been fitting. On that basis, I recognise the work of Electrical Safety First, which has briefed many noble Lords, and its work on lithium-ion batteries.

Before I started, I was going to raise an issue with the noble Lord, Lord Frost—he is not in his place, but I can have a go at him anyway. I find it utterly incredible that, although we have moved to a Labour Government from the Conservative Government, there still seems to be this argument that convergence is a bad idea. In the area of standards, convergence is the best idea—it does not matter whether it is European or more international. The idea that convergence on standards is not excellent seems deranged. That is my personal view, obviously, from the Back Benches.

The great thing about a Private Member's Bill is that, whether it becomes law or not, you get the areas of grievance talked about and hopefully prompt the Government into action. The Government have moved extremely fast in this area by bringing forward this Bill of their own. Also, the amount of discussion about lithium-ion does give the impression that this is one of the central tenets of the Bill, although it is of course going to be a great deal wider than that.

I focused on lithium-ion, but it is a very safe technology. The noble Lord, Lord Lucas, suggested that the noble Baroness, Lady Brinton, is sitting on lead acid batteries. I think her wheelchair would weigh about two tonnes if she were. She is actually sitting on lithium-ion batteries, which are extremely safe. However, there are of course situations in which they can be extremely dangerous—and not just the lithium-ion batteries in our e-bikes and their chargers, but any lithium-ion battery that we have in our homes.

Zurich and the British Metal Recycling Association have said that about 1,200 fires per year are caused by lithium-ion batteries in the waste stream—that is, waste trucks and disposal sites—because those batteries, while safe in people's homes, tend to catch fire when they are crushed and put in water. While the Bill covers many of the areas covered in my Private Member's Bill, it does not look at disposal. I say to the Minister that I am happy to shelve my Bill if I can talk to his officials about whether disposal could be added to this Bill.

There is a simple way to stop vast numbers of such fires, which are extremely dangerous, especially to the firefighters: to ensure that the people who sell such products online have a duty to make sure that the deliveries are equipped to take back batteries. Then, the massive numbers of batteries sitting around in people's drawers would be safely taken back, rather than thrown into a truck in water and crushed, which is extremely unsafe and environmentally unsuitable. If we could encourage online marketplaces to take back batteries, as supermarkets do already, I could then shelve my Private Member's Bill.

There is a second issue, of course: transport regulations. You can deliver as many batteries as you like, and that is not seen as hazardous, but if you take the same batteries away after they have been used, even a couple of days later, that is seen as hazardous waste. That also needs to be addressed.

The Minister is obviously going to have vast numbers of organisations, and his officials, looking at including as many areas as possible in the Bill. It is a Henry VIII Bill, but I can see why it needs to be so, because there are many areas it will have to look at. I have the opportunity now, in this House, to put forward one of the issues I would like to be covered: the scourge of bike theft, which had not occurred to me until I read in the *Economist* this week a particularly good article about bike thefts in the UK. Some 200,000 bikes were stolen last year, and that does not even include bikes stolen during burglaries. It is such a low priority that it seems to be almost impossible for the police to catch anybody who steals a bike. There is a solution. The article goes on to talk about work being done on Merseyside to stop people on bikes and find out whether they are stolen. An easy way to find out whether a bike is stolen is to look at its security marking. That would have a real impact on the number

[Lord Redesdale]
of bikes stolen, but also on the number of crimes committed by people on stolen bikes—snatching mobile phones and the like.

A simple solution in this Bill would be to make sure that any online platform has to include in the information given the security marking numbers of a bike. That would be an eminently suitable provision to include in the Bill. I would go further and say that retailers should be encouraged to provide bikes with markings in the first place. The article went on to say that the police have developed an app so that when bikes are recovered—you can do so on the online store—they can be returned to their owners, which is apparently so uncommon that it causes a great deal of surprise.

When I was a student in Newcastle, there was a shop on the Westgate Road called the Westgate Road Bazaar, which was fantastic because you knew you could get anything there and it was almost certainly stolen. Indeed, I know one young man who was done for his crime of passion: taking car alarms. In the days when you had to fit car alarms, he would steal them and sell them back to the garages, to be sold on. I digress, and although that is a humorous aside, the fact that bikes can be sold so easily on online platforms makes a mockery of the law, in a way, and is fuelling a massive trade in theft.

Therefore, I very much hope that I can talk to the Minister's officials about the two points I have raised: the disposal of batteries, which could solve a lot of the problems caused by lithium-ion battery fires; and whether bikes could be included, because it would have a massive impact on crime in this country.

7.26 pm

Baroness Lawlor (Con): My Lords, I thank the Minister for his analysis. It is a pleasure to congratulate him on his appointment and welcome him to the Government Front Bench. I have greatly enjoyed working with him on other enabling Bills, such as the CPTPP Bill, and find myself in agreement with him on many issues. I also welcome the noble Baroness, Lady Winterton of Doncaster, and congratulate her on her winning maiden speech and her extremely impressive parliamentary career. I look forward to her future contributions to this House.

This Bill can be read in two ways. First, it can be read as an enabling Bill, to enable regulation on product safety and consumer protection to be updated, to keep pace with new products hitting the marketplace and new platforms for the market, especially online retail. The Bill, as we have heard, will update product regulation to keep pace with market developments and new marketplaces, and provide, as we have also heard, a means of recognising new or updated EU product requirements, with the intention of preventing additional costs for business. Noble Lords across the Chamber have commented on this, and we have heard many examples of the scary risks from e-bikes, the safety mechanisms that do not work and the calls on the London Fire Brigade. This is all very illuminating and, where necessary, I would totally support the updating of safety and product regulation.

Secondly, in addition to the first way of reading the Bill, it can be seen, as other noble Lords have pointed out, as a Bill to rationalise the UK's product regulation across the UK's internal market and to keep it up to date with EU product regulation, which Northern Ireland has been obliged to accept. The King's Speech guidance illuminates the second reading of this measure, although I am afraid that the Bill is less than forthright about it. I hope the Minister will forgive me if I have questions about that. Page 38 of the guidance says:

"As most product safety legislation falls within scope of the Windsor Framework, EU changes to product regulation only apply in Northern Ireland, resulting in divergence within the UK internal market as EU laws are updated. This Bill gives the Government specific powers to make changes to GB legislation to manage divergence and take a UK-wide approach, where it is in our interests to do so".

The House of Lords Library briefing, for which I am most grateful, highlights this provision as follows:

"The Government has stated the Bill would give it specific powers to make changes to … GB … legislation to manage divergence within the UK internal market. … Under the bill's provisions, the government would be able to amend GB legislation in order to … take a UK-wide approach",

et cetera.

In the impact assessment for the Bill, section 4 explains that the Government's preferred option to change the law on product framework will ensure the framework is

"agile in its response to emerging threats, new technologies and changes in EU law … This option will ensure that the Government can fully implement a framework for recognising existing EU requirements for a range of products"

and ensure powers

"to enable the Government to manage divergence pragmatically".

This suggests that the Government will be empowered, in order to manage divergence, to introduce and impose EU goods and product law as they decide. It implies that the EU goods laws now imposed on Northern Ireland could or will be extended to the whole of the UK. Can the Minister clarify whether this is correct and what precisely the Government intend in order to take a UK-wide approach to the internal market, and under which powers particularly conferred in the Bill?

Are the Government planning to end the dual system either at one stroke or in a piecemeal way? This is a dual system in which we have an EU system for Northern Ireland products and UK arrangements which may diverge from inherited EU regulation. Will that be by imposing EU product laws on the whole UK manufacturing sector in order to promote the integrity of the internal market?

I now turn to specific questions on Clauses 1 and 2. Clause 1(2) gives the Secretary of State powers to make regulations for

"marketing or use of products in the United Kingdom, which corresponds, or is similar, to a provision of relevant EU law for the purpose of reducing or mitigating the environmental impact of"

goods. The Henderson Chambers barristers, Prashant Popat KC and Noel Dilworth, in an analysis published on the web, for which I am grateful, say that Clause 1(2)

"empowers the Secretary of State to harmonise UK law with EU law in order to reduce or mitigate the environmental impact of products".

Can the Minister confirm that he agrees with this analysis and that the UK Government can now decree that our producers must follow such EU legislation as

they—the Government—decide, for the purpose, of course, of reducing or mitigating the environmental impact of products?

If so, can the Minister point me to specific pieces of EU legislation, which, to date, fall in this category—since, of course, 2018—that is, any existing EU regulations, and which UK goods and producers will be affected by and subject to it?

I am sorry for the list of questions, but I hope the Minister will bear with me. Is it supposed to be a dynamic alignment, as other noble Lords have suggested, so allowing the continued keeping up with EU laws on product safety? If so, what is the certainty that producers can have as to whether the rules will change, even when some product is already on the assembly line? Who will judge whether a product falls within the law—in fact, EU law—and who will operate the law?

I now move on to the powers given for product requirements in Clause 2, to require conditions to be met for products in the UK. I refer to Clause 2(7), which allows that

"product regulations may provide that a product requirement is to be treated as met if … a requirement of relevant EU law specified in product regulations is met, or … such a requirement is met and conditions specified in the regulations are also met",

provided due regard has been taken of

"the social, environmental and economic impact of making the provision".

Does this mean that, in addition to the assimilated or inherited EU law, the Government intend to allow or impose a replacement of UK product law with EU product regulation, and in practice, the shadowing of the EU's level playing field laws and EU economic law for goods in a dynamic alignment?

If my reading is correct—I would like some confirmation on this—it suggests that the Government intend, under cover of the Bill, to bring in the Chequers agreement piecemeal by the backdoor, which was rejected by the House of Commons three times. Would the Minister agree with that analysis in general?

To conclude, I urge the Government to embark on their new term of office, for which I wish them very well, by being open and transparent with the people of this country, to rethink the Bill to allow only for standard updating procedure for product regulation and metrology where absolutely necessary, and to drop the enabling powers in the Bill which allow them to impose EU law and regulation alignment by the backdoor.

I conclude by proposing, as other noble Lords on this side have already outlined, that the UK recognises the best international standards, wherever they come from, and that it plays its part in helping to shape these standards for product regulation, as it has done so successfully in so many other areas. I note here international financial services regulation in particular. Indeed, I echo the noble Lord, Lord Lansley, in saying that the UK is well-placed to chart its own course and to reflect the best international standards, without looking over its shoulder to enact EU regulation. Much of it, I fear, is unequal to keeping pace with the best—and the worst—new products as they hit the market and the best international standards.

7.37 pm

Viscount Trenchard (Con): My Lords, it is a great pleasure to follow my noble friend Lady Lawlor, with whose speech I find myself in full agreement. I thank the noble Lord, Lord Leong, for introducing the Bill today and congratulate him on his appointment. I much enjoyed the interesting and entertaining maiden speech by the noble Baroness, Lady Winterton of Doncaster. Your Lordships' House will gain much from her well-informed contributions.

I was initially rather confused about the Bill's Title and kept trying to read "metrology" as "meteorology". As I now understand it, the Bill's Explanatory Notes claim two distinct purposes: to ensure that the product safety and metrology regime established after we left the EU is better able to adapt to AI and better reflects the shift in what consumers buy and how they buy it. Your Lordships' House last debated this subject when it approved the product safety and metrology regulations in May. The effect of those was to extend indefinitely the grace period given for businesses to conform to the new UKCA markings in place of the EU markings, and to permit the use of UKCA markings in cases where products have conformed with EU assessment procedures.

This Bill is completely different from the regulations that were debated at that time. It is sure to have a large impact across the UK consumer market. Products in scope of the Bill are used by every person in the country, covering nearly all manufactured products. The Government's own estimates suggest that there are 220,000 UK businesses currently affected by product safety legislation, with an estimated market turnover of just under £280 billion. The "Policy background" section of the Explanatory Notes states:

"The Bill is intended to enable the UK to maintain high product standards … by allowing the UK Parliament the power to update relevant laws".

I cannot see how the Bill achieves that. It is easy to see that it gives very considerable powers to the Secretary of State to do that, but that is not the same thing.

Nevertheless, I welcome the fact that the Bill addresses the growing problem of unsafe products being marketed online. Noble Lords will have noted the briefings produced by Which? and the London Fire Brigade, and good points are made in both. In particular, the dangers of fires from lithium-ion batteries in consumer products, in e-bikes and, although outside the scope of this Bill, in grid-scale projects such as the controversial Sunnica solar farm at Newmarket need to be properly regulated. I support the London Fire Brigade's wish for the word "safety" to be included in Clause 1(1)(b). I strongly agree with my noble friend Lord Lucas in asking that the draft regulations be made available to your Lordships as soon as possible.

I am as concerned about what is excluded from the Bill as about what is included. Can the Minister explain why the Bill excludes food and SPS-related products? I can understand why it excludes aircraft, military equipment, and medicines and medical devices, but the exclusion of such a wide range of products would appear to tie the Secretary of State's hand. How could the Government negotiate the SPS changes necessary to enter into trade agreements? Can the Minister tell the House how this would affect the USTR's negotiating mandate for a trade agreement with the UK?

[Viscount Trenchard]

The Government have set out clearly their intention to negotiate a veterinary and SPS agreement with the EU. Can the Minister explain whether the reason that food products are specifically excluded from the Bill is that the type of agreement that the Government intend to strike with Brussels is one that requires dynamic alignment with EU regulation? As the Minister knows, there are only two types of agreement that the EU will countenance, given that returning to the customs union or the single market have both been ruled out repeatedly since the Government took office. Those two types of agreement are exemplified by the agreements that the EU has with Switzerland and New Zealand. Of these two types, does the Minister agree that our only option is a New Zealand-style agreement, providing for mutual recognition of different regulatory regimes and equivalence of outcomes? Could we not negotiate a similar agreement to that applied to medicines and medical devices, where our regulator, the MHRA, unilaterally recognises approvals given by the EU, the US, the Japanese and certain other counterparts?

Does the Minister acknowledge that to enter into dynamic alignment with the EU on SPS and food products would provide very limited benefits in return for a considerable surrender of authority and sovereignty over our SPS regime? We would not be able to do anything differently from the EU, even where it is in our national interests to do so. However, food importers would still have to deal with the extensive bureaucratic form-filling.

Can the Minister also explain how the Bill will affect existing trade agreements, since after the passage of the Bill the Government will no longer be able to control the UK's rules? Furthermore, if the EU changes its rules in a more restrictive direction, would the law of unintended consequences apply, in that the Secretary of State would have no powers to follow suit and make similar changes to the UK's rules?

The Minister will be aware that the UK's accession to the CPTPP will become effective before the end of the year. My noble friends Lord Frost and Lord Lansley already referred to that. The CPTPP agreement contains good chapters on SPS and on regulatory coherence. Regulatory practice should be based on sound science. This agreement assumes that all partners to the agreement can exercise sovereign powers over their own regimes. Article 2 of Chapter 24 states that the parties affirm the importance of

"each Party's sovereign right to identify its regulatory priorities and establish and implement regulatory measures to address these priorities".

If, under the Government's plans, we are to lose authority over our own rules, does the Minister not agree that we would be open to sanctions brought against us by other CPTPP members and would be required to negotiate under the partnership's dispute settlement process? Surely we would be at risk of losing the benefits that we would enjoy as a partner to the agreement.

Is this not also a problem for products that are covered by the Bill? Clause 2(7) seems to indicate that a product requirement will be "treated as met" if it conforms to EU law, whether or not the EU law may have diverged from its previous alignment with UK law. My noble friend Lady Lawlor also referred to this.

I hope the Minister will agree that it is essential that the Secretary of State must retain sovereign powers over all UK rules. That would enable him to be able to choose whether a particular EU rule is or is not in the UK's interests. If the Secretary of State does not have that power, would it not have profoundly damaging effects on the UK's trade policy? Would it not also damage the UK's capacity to improve its regulatory system in the SPS area through taking advantage of technological advances in areas such as gene editing?

Clause 11 explains which powers can be exercised by the Secretary of State under regulations subject to the affirmative procedure and which shall be subject to the negative procedure. It seems fair enough that authority to enter premises should be made subject to the affirmative procedure. Authority to seize products is not subject to the affirmative procedure, but it is hard to understand how products can be seized without entry to premises where the products are held.

I look forward to working with other noble Lords in seeking to improve the Bill in its future stages and to hearing the Minister's winding-up speech.

7.47 pm

Lord Browne of Ladyton (Lab): My Lords, I am grateful both for the chance to contribute to today's consideration of this important legislation and for the opportunity to follow so many well-informed and forensic contributions. As we have heard enumerated extremely well already, this Bill is broad in scope and application—as it needs to be to achieve its objectives. Against that background, and conscious that I am the 17th speaker today, I do not intend to detain your Lordships' House for longer than it will take for me to focus on one or two specific elements of the Bill.

Before I do that, I commend and thank my noble friend the Minister for his excellent introductory speech to legislation that is complex and difficult to understand. He has taken to the Front Bench of your Lordships' House as a duck does to water, and I commend him for that too. As other noble Lords have, I also commend, thank and congratulate my noble friend Lady Winterton of Doncaster, who made her maiden speech today. She made what I thought was a speech that can be made only by someone who has a flawless political touch.

For half of my noble friend's 27 years in Parliament, in the House of Commons representing Doncaster, our careers as parliamentary politicians followed a similar path. We were both elected in 1997 and we were both given ministerial responsibilities in 2001, after our first term on the Back Benches. My noble friend went on to have—I think I have got this right—six additional jobs. In my case it was five, and that took us to 2010. At that point, our careers diverged; I retired from the House of Commons and was introduced to your Lordships' House. My noble friend went on to hold, entirely appropriately for a parliamentary democracy, senior positions in the Government for a period of time and then senior parliamentary positions. I retired because I had this conviction that three terms in the House of Commons was the appropriate time to spend there and one should then move on. She is, in that respect, the living contradiction of my judgment.

In anticipation of having this opportunity to speak about her, I made some inquiries and did some research in the media that covers the Doncaster area, of which there is quite a lot. I can tell you that, whatever she says about why this is the case, it seems very clear that, in Doncaster, she is deeply respected, greatly admired and loved for who she is—there is no question of that. I can say, from the time we were together in the House of Commons, that she was deeply respected, she was universally admired across the House and she was loved. From the reaction of your Lordships to this one speech from my noble friend, it is clear that she is deeply respected and deeply admired—the love will come.

This Bill makes no mention of the UK single market act. In that sense, it is somewhat like "Hamlet" without the Prince. These two pieces of legislation may turn out to sit awkwardly together on the statute book, both purportedly governing UK internal trade. But, to introduce my first point, I draw your Lordships' attention to the fact that this Bill does seem to be adopting an approach slightly distinct from that of the UK SMA in respect of the devolved Governments. I do not plan to explore that topic in any great depth today as I am sure this will be examined very thoroughly in Committee; if my former colleagues in the Law Society of Scotland have anything to do with it, they will guarantee that is the case. But I have a couple of questions to ask the Minister.

First, I understand from the Explanatory Notes that a legislative consent Motion is being sought from the Scottish Parliament. Given that the Notes further make clear that this process will apply only to Clauses 1 to 4 and 8 to 11 of the Bill, I ask my noble friend whether the Government plan to detail the discussions they have had with the devolved Administrations in respect of the legislative consent process. If they do not have such intentions, I urge them to get them because, from the point of view of our joint politics, it would be much easier to deal with these matters in the Scottish context if that is done.

Secondly, Clauses 1 to 4 and 8 to 11 empower the Secretary of State to make regulations in areas of devolved competence, but there is no requirement for him to consult with, or obtain consent from, Scottish Ministers before such regulations apply to Scotland. To forestall any possibility of this fact becoming yet another matter of unnecessary controversy during the implementation process, can my noble friend outline the circumstances in which regulations would be made without such consent being sought and granted—and, if it is not possible for him to do that today, will he write about it?

On the question of alignment, in the reaction to those elements of the Bill which concern the EU regulations, there are those who seem to believe that they can glimpse what TS Eliot described as

"the skull beneath the skin"—

that, behind what they regard as a designedly prosaic Bill, the Bill seeks to smuggle measures on to the statute book that would all but reverse Brexit, establish us as little more than a satrap of the European Union and condemn us, unthinkingly, to eight new European regulations as they emerge from the infernal bowels of the European Commission.

In that spirit, the *Daily Express* greeted this Bill with the typically understated headline "The Great Brexit Betrayal", while another somewhat fevered headline suggested that this measure reduces Britain to nothing more than an "EU district". Perhaps they are overstating things a little. This Bill offers nothing so apocalyptic, even for those who would regard greater EU alignment as inherently undesirable. Clause 2(7), for instance, would give the Secretary of State the power to declare UK product regulations met where these fulfil the requirements of the relevant EU law—this has already been referred to by others. This is caveated a little by the succeeding Clause 2(8), which makes it clear that this is subject to prior regard being given to the social, environmental and economic impact of EU alignment.

I know that Clause 2(7) has been particularly controversial, but there are a few points to make. First, this is an enabling power. It does not oblige the Secretary of State to accept EU regulations but gives him or her, an elected British Minister accountable to a sovereign Parliament, the ability so to do where it is believed that this would be in the UK's national interest. Secondly, as the background briefing notes to the King's Speech make clear, harmonisation is to be pursued only when

"it is in our interests to do so".

This legislation also gives the Government the power to end recognition of EU product regulations where it is in

"the interests of UK businesses and consumers"

to do so.

The notion that regulation is inherently undesirable is flawed, to say the least. I will take the specific example of the chemical sector, where the enactment of the powers in this Bill could make a substantial beneficial difference. The last Government decided to leave REACH, the EU's registration, evaluation, authorisation and restriction of chemicals regulation, to set up a parallel body. Since then, we have not adopted a single restriction on a harmful substance, compared with 10 new protections offered by EU regulation, including on harmful microplastics deliberately added to products. While REACH has regulated PFAs in the EU, not a single river or water body in England is in good chemical health.

As well as damaging wildlife and water bodies, these PFAs—so-called "forever chemicals"—have been found in high concentration in our drinking water, in pollution hotspots across the UK and even in our blood. Since we left REACH, the EU has initiated 23 risk assessments related to harmful substances while we have initiated just three. It may be that this is a function of a more vibrant, freebooting approach, or that we have superior data or a more effective methodology, but I fear it may just be that our duplicate body has simply proven less effective—which, in turn, imperils the safety of people in this country.

I have lost track of the number of Conservative Ministers I have seen in my 27 years in Parliament announcing their determination to kindle a bonfire of regulations, to take an axe to red tape or some similarly strenuous deregulatory measure. But the powers in this Bill that offer the chance for greater regulatory alignment will make trade with the EU easier across a variety of sectors, without any need for duplicate regulations.

[Lord Browne of Ladyton]
Indeed, Make UK, the manufacturers association, describes the Bill as "removing the uncertainty" created by the EU retained law Act, and giving Governments "the ability to assess and implement EU product regulatory requirements into GB law for specific markets and categories".

If I properly understood the noble Lord, Lord Redesdale, I agree with him when I say that few things damage trade law more than uncertainty and asymmetry. It is therefore unclear, at least to me, how the British Government being empowered either to adopt or end EU regulations according to a calculus of self-interest represents an irreversible slide into geopolitical irrelevance.

In case your Lordships have not got it, I welcome the legislation before the House today. I look forward to participating in the later stages of its passage and offer the Government my support in ensuring that it reaches the statute book.

8 pm

Lord Jackson of Peterborough (Con): My Lords, it is a pleasure to take part in this important debate on the Bill. I welcome the noble Lord, Lord Leong, to his place on the Front Bench and congratulate him on his appointment to the Government. I am sure he will do an excellent job. I also welcome the noble Baroness, Lady Winterton of Doncaster. We were sparring partners in the other place and I am sure she will make a very strong contribution in this House.

The Bill appears beguilingly straightforward, benign and innocuous, but it contains some clauses that cause me a deal of concern and alarm, both for what is written in the Bill and—as my noble friend Lord Trenchard said—what is not written but omitted. I will concentrate my remarks on product regulation.

Naturally, we all support the imperative of responding to new product risks and opportunities, updating the law in respect of new and emerging business models in the supply chain, enhancing powers for market surveillance, working towards better product safety, including for products sold online, and addressing product recalls and traceability. The previous Government were committed to replacing and updating EU-derived regulations that were part of UK law, aiming to create a more coherent and effective product safety regime.

There is a consensus on the Government's focus on innovation as a driver for the delivery of economic growth. That includes the safe development and supply of new technologies. As we know, a new modernised product safety regulatory framework has been needed for some time, as the Office for Product Safety and Standards pointed out in its 2018 report. New legislation was, of course, inevitable and probably advisable following the OPSS's product safety review of March 2021, with the focus on updating the General Product Safety Regulations 2005. The previous Government legislated in secondary legislation that came into effect this month.

However, as noble Lords might expect, I have some reservations, particularly on Clauses 1(2) and 2(7), which contain powers to align UK laws with any EU environmental rules and a general power to provide that the EU standards shall apply respectively.

The language in Clause 2(7) is oddly technocratic but, at the same time, vague. It has significant ramifications in terms of a policy shift towards aligning with EU standards over time—dynamic alignment. Other noble Lords, such as my noble friends Lady Lawlor and Lord Frost, mentioned this. The Bill also does not fully elucidate the details of what types of products are covered by its provisions—it references "nearly all manufactured products"—so will the Minister clarify this for the House? Will alignment with the EU regulatory regime include the EU's 2023 safety regulations, due to come into force in the EU in December 2024, and the revised EU product liability directive, in the next few years? What steps will Ministers take to both consult with business and allow Parliament appropriate scrutiny and oversight of ministerial decisions? If the latter is not the case, will the Minister tell us whether the Government will bring forward primary legislation on product liability in the near future?

As Which? has rightly stated, this is an enabling Bill, a Henry VIII Bill, which allocates vast powers. The devil will of course be in the detail of the secondary legislation. I had a wry smile when I heard the noble Lord, Lord Russell of Liverpool, reproaching my noble friend Lord Sandhurst for referencing the Henry VIII powers in the Bill. We were tripping over legal experts on the Cross Benches during the Retained EU Law (Revocation and Reform) Bill, who pontificated and opined on that Bill's traducing of parliamentary sovereignty by its Henry VIII powers. But I fear that the noble Lord is alone today and that his Cross-Bench noble friends who share his views are not present. The strange thing is that we now have a Labour Government, which might account for that.

The briefing paper from Which? rightly points out the lack of detail in the Bill on the duties and obligations of those supplying products in online marketplaces, for instance. I therefore invite the Minister seriously to consider the proposals outlined by Which? in the helpful briefing paper: an explicit set of provisions to detail key duties on online marketplaces and a commitment to publish, in good time before the duties come into force, any draft secondary legislation on how these duties will work in practice, and to consult key stakeholders on the design of those regulations.

Which? also made the very important point that a new parliamentary committee should be dedicated to scrutiny and to reviewing any proposed changes to product and metrology regulations, especially where the UK is opting to diverge from existing rules. I do not have a problem with defending the divergence of rules if it is in the long-term interest of UK businesses, looking outwards to global regulatory regimes—if it is defensible, of course.

Which? also proposes a commitment to ensure that, in the future, consumer and industry groups are given consultation rights over any significant rule changes that impact specific products and markets, in good time and before draft secondary legislation is published. I hope the Minister will address that in his speech.

As has been mentioned, in fairness, the Bill also contains provisions that allow the UK to end recognition of EU product regulations. I concede that, but the Minister might explain how such a decision might be triggered, what scrutiny Parliament will be able to exercise on that policy and what evidential basis will be required.

On the specific content of Clause 2(8), can the Minister explain the likely scenarios that would cause him or her to make reference to

"the social, environmental and economic impact"

of the Bill's provisions and the rationale for this subsection, given that the Bill already complies with human rights provisions and environmental legislation? Dare I say that Clause 2(8) might just invite more litigation and judicial review? On that basis, it is perhaps unwise to place it in the Bill.

The Bill is opaque in many respects. It is a concern that the impact assessment prays in aid the enabling nature of the powers in this primary legislation and is therefore silent on the likely monetary costs of the Bill to business. Page 11 of the impact assessment specifically states:

"Impacts have therefore not been monetised and are discussed qualitatively".

While the rationale for the Bill appears clear and unambiguous—that, at present, the UK lacks the power to end recognition or to recognise new and updated EU regulations in Great Britain—I am unconvinced of the corollary argument that, ipso facto, the UK will fall behind the EU and other jurisdictions and markets in its innovation, technological advances and competitiveness. I have great respect for the noble Lord, Lord Foster, but I think it is important to take our time with the considered scrutiny of the Bill, because the devil will be in the detail—notwithstanding what he said about specific product issues, which are of course very important.

At the risk of being labelled deranged by the noble Lord, Lord Redesdale, I refer noble Lords back to recent history and the ill-fated Chequers White Paper of 12 July 2018, the most consequential part of which considered the future economic partnership between post-Brexit UK and the European Union. These proposals were thrice rejected in the other place, and indeed by the EU in September 2018. The May Government proposed a common rulebook—I am sure we all remember that—for all goods, including agri-food, and a treaty commitment to harmonisation to provide frictionless trade. In addition, the PM promised binding commitments on state aid and competition, and non-regression clauses on level playing field issues, and the UK was de facto to remain in the customs union, which was then labelled the combined customs territory. Amazingly, senior civil servants briefed the EU that Chequers would give the UK no competitive advantage in business and commerce in the future, which seemed an odd position for the UK Government to take. There was no mandate, electorally or in Parliament, for what was effectively dynamic alignment —without a vote or a voice, as my noble friend Lord Lansley said. I say in passing that I agreed with the vast bulk of my noble friend's very well-articulated remarks.

Finally, the Bill potentially undermines His Majesty's Government's manifesto commitment to remain outside the single market, opens up disputes over the reach of the European Court of Justice in its interpretation of legacy EU law, and traps entrepreneurs and innovators in the UK into a legal and regulatory framework that is inimical to British competitiveness, global ambitions and economic growth and prosperity. Let the Minister be assured that a number of us noble Lords will watch the progress of the Bill hawk-like and will fully hold him and his Government to account.

8.11 pm

Lord Fox (LD): My Lords, it is a great pleasure to follow the noble Lord, Lord Jackson of Peterborough—I think it was in Peterborough that I got caught in a ring road and went round and round without ever getting anywhere. It is also a pleasure to wind up this debate, but it was more of a pleasure to hear the excellent maiden speech by the noble Baroness, Lady Winterton of Doncaster. While other colleagues were describing her huge and lengthy parliamentary CV, they failed to observe her last two jobs. The most recent was that of Deputy Speaker, and before that she was buried in the shady depths of the Whips' Office. Neither of those afforded much opportunity for her to stand up on the green Benches and make speeches. It is good to have her back making speeches, and I am sure she will contribute fully to the work of your Lordships' House.

Brexit is the present that keeps on giving. I naively hoped that the post-Brexit replumbing of the statute book was done, but no. As the Minister explained, the Bill is another piece of work that we need to do as a result of the Brexit process and, while we have managed thus far, it provides a welcome—from these Benches—and much-needed legislative mechanism to introduce changes to regulations. On these Benches, as I think noble Lords have understood, we will work positively with the Minister. I welcome him to his new role, and we thank him and his team for the engagement that they have already given us and that I am sure we will get in future.

Overall, we will be looking for ways to ensure that the Bill advocates for strong consumer safety and well-being. Consumer safety should be built into the Bill and should ensure that all future secondary legislation must be designed to maintain a high level of consumer protection and well-being and to require that products be safe. Future regulation should also cover product recall and other areas, such as disposal. In these regards, there is tremendous scope to strengthen the Bill.

There is more joy in heaven over a sinner who repents. While it might not be heaven on the Liberal Democrat Benches, there is some ironic joy when we hear the voices of some on the Conservative Benches complaining about Henry VIII legislation. During a debate on one of the many Bills, I warned them to be careful what they wished for; what they wished for is what they are now getting. As the Minister explained, this is a framework Bill so there is no subterfuge, but it is one with few or no guard-rails. As we go through, I think that will be important. I look forward to hearing what the Delegated Powers and Regulatory Reform Committee has to say about this, because I suspect we may have to think through some areas around it.

Your Lordships' House is familiar with, and a number of noble Lords have mentioned, the time-honoured complaint that secondary legislation is unamendable when it comes before us. In the absence of any details in the Bill, it is for this reason that colleagues are starting to raise issues, and many of these issues will come forward. They are anxious to pursue how the regulations will work on really important issues. An important subset has been the issue of lithium-ion batteries. It is not the only priority but is clearly one for some Members of your Lordships' House.

[Lord Fox]

I believe, as others have said, that the best way for the Minister to draw the sting of this debate is to show us what the proposed regulations will be. I think there will be a number of other areas, particularly around markets, where that strategy will be the best way to satisfy your Lordships' House. Also, publishing the details of the consultation—which, in our meeting with him, the Minister told us would be coming forward—is very important and will draw some of the sting from the Conservative Front-Bench speech. More generally, there should be a commitment to publish that draft legislation and to give your Lordships an opportunity, once the Bill has passed, maybe in Committee or otherwise, to review that.

A real issue, raised by the noble Lord opposite and by my noble friend, is chemicals regulation. Chemicals regulation is one of the biggest bugbears facing British manufacturing, and one of the biggest hazards facing British consumers across the country. There is a roadblock thanks to the way in which REACH was to be ported across to this country with a new system—I will not bore the Minister on this issue; I have bored Parliament on several occasions on it. It is still a botch—the idea that data could be ported across from EU REACH into the British system was always wrong and there were warnings from the outset. That is why we have the stasis going on now. I would like the Minister to confirm that REACH is within the scope of the Bill, and if it is not we will table amendments to bring it into scope.

Liberal Democrats also believe that we should make future regulations that have regard to the sustainability of products, including the right to repair, reuse and safe disposal, which was mentioned by my noble friend—building in circular economy principles into future regulation. We will table amendments to enshrine that as part of the guardrails that I have talked about.

Next, the accompanying notes and ministerial communications have lauded how the Bill will respond to new and emerging business models. This is important and, as noble Lords heard from my noble friend Lord Foster and others, we will be probing the regulation of online marketplaces. Current product safety laws were developed before the evolution of online marketplaces. The Office for Product Safety and Standards thinks that the responsibilities on these online marketplaces are currently insufficient, and that the rules are unclear. We agree with that and will be seeking that clarity. We will seek an enforceable duty on online marketplaces to provide confidence for consumers. In addition, we will propose the extension of liability to online marketplaces for defective products, particularly those sold by third-party sellers. This needs to be supported by clearer definitions of the key terms, as some of my colleagues, including the noble Baroness, Lady Brinton, I think, mentioned.

The crucial issue of enforcement was also raised by my noble friend and it is clear that without an obligation to deliver resources to enforce them, these new regulations are essentially worthless. There can be no level playing field for bricks-and-mortar shops if these new rules are not properly enforced on the digital players in the economy.

Moving on, can the Minister please explain, as a number of your Lordships have asked, how this regulation will mesh with the United Kingdom Internal Market Act and with the Windsor Framework? The noble Lord, Lord Browne, and others pointed out that although product regulation is a reserved issue, the effects of the product being regulated are often not reserved. So can the Minister explain how the Bill will proceed, and how it will proceed if it does not receive legislative consent from one or other of the devolved authorities? Meanwhile, we have cross-border issues in the island of Ireland. This has been mentioned around the scope of the Windsor Framework. In some cases it has been mentioned as a menace, in some cases I think the Bill has the opportunity to solve some of those problems, and it will be good to know the Minister's and the Government's philosophy on that.

Part of the post-Brexit issue in dealing with the internal market was to create the common framework process. Nobody has talked about those common frameworks for a very long time. I would like the Minister to update your Lordships' House, probably by letter, on where those common frameworks are, because this is an ideal topic for one of those frameworks, probably the environmental framework, to deal with. At the moment it is not clear to me whether those are completely moribund or whether there is a channel there to deal with it. If there is not, I think we will have to table something in Committee that has a way of bringing together the nations of the United Kingdom so that they can contribute to the process of the regulation that is going forward, rather than have it done to them all the time. That speaks to the spirit that the noble Lord, Lord Browne, was talking about just now.

I would like to use what remains of this speech to clarify two points. First, what is a product? This is not the start of a philosophical discussion. I was struck by one of the conversations I had with the Bill team—for which I was grateful—that the Bill is aimed at tangible products, such as an alarm clock, a vacuum cleaner, or a car, if it is in the scope of these regulations. Historically, the operationality of such things was self-contained. It had all the features that it had, and they were not mutable. That is no longer the case. Almost every product can be internet-enabled and can have its software updated, remotely, overnight, without me even knowing. So the properties of that product, which might have been legal, decent, honest and truthful at bedtime, can be positively dangerous by the morning unless the process of the software operating system updating is also part of the regulatory process. The Bill does not in any sense capture the spirit of that. We will certainly probe that in Committee.

My final point is distinctly Brexity—noble Lords would not expect otherwise. Interestingly, and unusually, the noble Lord, Lord Frost, and I have a shared interest, in that both of us would like some clarity around how the Bill will be used, though we definitely come at it from opposite angles. He and other noble Lords raised the spectre of Clause 2. I will not quote Clause 2(7) again, but a number of my colleagues have said that this is starting to look like a change of tone by the Government. Although some noble Lords on the Conservative Benches might consider this to be a sinister plot, those of us on these Benches would

consider it cause for hope, and a sign that some sense is beginning to emerge from the chaos that this Government have been left by their predecessor. Can the Minister tell us whether this is cause for hope? Should I be hopeful? When will hope come riding through the corridors of Parliament?

What most manufacturers want to know is how adhering to future UK regulation will affect their ability to export to probably one of their biggest markets. They do not want two different standards, and the failure of UKCA is a good example of why having two regulatory structures does not work. The previous Government recognised that and kept kicking it into the long grass, while pretending it still existed.

There is a real and present issue—I think it was the noble Lord, Lord Jackson, who raised it at the last—in that the EU General Product Safety Regulations are coming down the line. This is a new instrument in the EU product safety legal framework which replaces the current general product safety directive and the food imitations product directive, and it comes into effect on 13 December 2024. This Bill will not be in place to deal with it, and there is a good deal of uncertainty and ignorance among our manufacturers about the very existence of the directive.

I know that the DBT has started to do some workshops, but there is a tremendous amount of work that needs to be done to explain to people exporting to the EU at the moment that they will have new regulations. These apply to non-food products and to all sales channels within the EU and exports to the EU; the aim is to ensure safety on their grounds. There will be new responsibilities for UK exporters, and these changes will be particularly impactful on SMEs and on businesses using online sales channels. It really is important that the DBT gives us a gap analysis as to what these new regulations bring that current UK regulations do not bring. Separate to this Bill but within the spirit of it, that would be an important communication for us to have. There are a number of issues around this directive, relating to producer responsibility, precautionary principles, internal risk analysis, product safety and traceability information, to name but a few. I know that Make UK is extremely concerned about the lack of activity around telling UK businesses what is going on.

On a more general basis, it would make a lot of sense for the UK Government to develop and create a monitoring capability so that divergence at EU level is communicated to British businesses. That would be to take the view that this Bill does not bring dynamic alignment and that there will always be changes going on. There is no sense that any alignment can be dynamic; it can be created, in that Governments can make alignment case by case, but there is no automation in this Bill. As far as international standards go, I do not think there is anything in this Bill that stops what the noble Earl, Lord Lindsay, wanted to do.

This Bill has a very anodyne title—it perhaps wins the prize for one of the more boring titles. Some have concluded that it is a wolf in sheep's clothing. I hope that, with the help of your Lordships during Committee, we can make sure that it is a sensible approach to helping UK consumers get the safety and well-being they require from products, and that UK manufacturers have a fair wind behind them to trade with the EU and help to deliver the growth that everybody in this House craves.

8.29 pm

Lord Johnson of Lainston (Con): My Lords, it is a great privilege to follow the noble Lord, Lord Fox. He was highly eloquent—although I feel he got slightly stuck on the Peterborough ring road towards the end of his speech when talking about Europe.

There were phenomenal contributions from across the House, including, obviously, from my noble friend Lord Sandhurst. I also pay tribute to the noble Baroness, Lady Winterton, who gave a phenomenal maiden speech, but I was confused as it was filled with compassion, humility and personability. I do not see those as qualities at all relevant to being Chief Whip from my recollection, so I assume she filled her other roles with excellence. I welcome her to this House and look forward to working with her over the coming years.

The Bill is a very important evolution of our product safety processes. It continues much of the work undertaken by the previous Government to ensure that consumers can be safe in the knowledge that what they buy conforms to high standards and that shops on our high street do not have to compete unfairly with online providers through a derogation of standards. I congratulate the Minister, the noble Lord, Lord Leong, for continuing the excellent work, if I may say so, of previous Ministers in the DBT. To follow on from that, the metrology part of this Bill has its roots in a sensible need, quite rightly, to update the legislation to ensure that we can have control over our measurements and standards following our departure from the European Union.

However, as we heard from a number of noble Lords, we have some significant concerns about how these measures will be implemented, as well as the risks contained within the Bill, which could easily lead to less protection for consumers, less choice and higher costs to businesses, and have the exact opposite effect from our desire to have greater freedoms to be an independent trading nation.

I have a few points. This has been a fascinating debate on what could have appeared to be a Bill with a rather anodyne title. I will add to the list of questions, some of which are overlapping and some of which follow on from the excellent speech given by my noble friend. I have not received very clear responses back on questions following the last few debates I have spoken in, so I would be grateful if we can get those, because these are technical points. We want to create good legislation and I think the whole House is agreed that this is an important Bill, but we have to do it correctly.

It is relevant that we are having a philosophical debate. I think the noble Lord, Lord Fox, mentioned the principles around the philosophy of this legislation. It is important; we are changing significantly the principle of responsibility and where it lies for online marketplaces. That is complicated. At the same time, we do not want to distort the new gig economy. Millions of people trade online. I should declare an interest that my sons spend a great deal of their time trading football shirts

[Lord Johnson of Lainston]
on various websites. We have to be very careful to ensure that we are not affecting or limiting the prospective future of the online economy because we are concerned about product standards in some respects. Having said that, we have to ensure that the responsibility is properly delineated and that there is a high degree of product safety. I would like to hear the Minister's thoughts on the philosophy relating to some of the more intellectual concepts around the changes to where responsibility lies, and for him to give us some security that this is about product responsibility rather than necessarily trying to overregulate people's activities when it comes to online marketplaces.

I would also like some clarity, if the Government can provide more to this House, on the costs of enforcement and how they will ensure that the fees levied will be incidental, or indeed affordable. I have a fear that we will see a whole raft of new regulators. It is clearly important that we have enforcement, but this has to be paid for. This could create an entire new web of regulatory activity, which can often be misguided and expensive.

I am very concerned, as I think are many Members of this House, both noble friends and noble Lords, about the range of criminal offences that will be created, with different tariffs. For some reason we love locking people up in this country and then seemingly releasing them soon after. It would probably be sensible to outline here and now what the real constraints are in this area. I do not think it is good enough, as we have repeated many times in this debate, simply to have that be defined at a later date.

I would like to see the consultation outcomes on product safety. My noble friend Lord Sandhurst mentioned this. It seems absolutely bizarre that we have not seen the outcomes of the consultation that was done a year ago. I am very aware that there was an election, but that should not have stopped officials doing the work to understand the responses. It is impossible for us to legitimately say that we can have a proper debate in this House if we have not seen the feedback from the consultation around product safety and how we need to go forward. I believe, from an informal discussion we had earlier this week, that there is a commitment to produce at least a summary of the findings before Committee, so I call on the Government to do that.

I also press the Government further for more work on battery safety. A number of noble Peers with great expertise have contributed to that part of the debate. It is essential that we deal with this urgently. In response to the noble Lord, Lord Foster, I would not like to confuse some of the comments about battery safety—not that he was confused in any way—with the importance of having proper legislation on consumer safety in general in this Bill.

I want to follow up on the points, well made, by the noble Baroness, Lady Lawlor, about the effect of this legislation on the Windsor Framework. Other noble Lords have raised this issue too, and it is very relevant; we are dealing with complex, sensitive webs of legislative activity and it is essential that we really consider what the impact will be. It is not good enough to say—I fear that I predict this response from the Minister—that there will not be an effect. There clearly will be, because this is a complicated issue. It is very important that we have an open debate about that.

The noble Lord, Lord Browne, and other noble Lords rightly raised the issue of the devolved nations. Have they consented? Where are we in the process of gaining legislative consent? How will this affect the internal market of the United Kingdom? Again, this is not straightforward. It is simply not good enough to say that we hope to get it at a later date, or that if we come back in a few months' time, it will all be fine.

Then, there is disquiet about how these measures may be used—when they are eventually defined—to align our standards ever further with those of the EU. This is especially relevant in areas such as environmental protection. We know well that, in many instances, blindly following the EU will have negative impacts on our economy. Can the Minister please respond to these important questions? I am concerned that this has somehow been negated in the discussions we have had. It is very important to get the philosophical elements of this correct. An element of openness and transparency will be welcome; it will solve problems in the future if we have an open discussion now.

It is true that this is relatively technical legislation designed to play catch-up with a new modern digital economy. Unfortunately, however, the phrasing is very broad and the powers are ill-defined. Trying to ensure that the Government can evolve their regulatory frameworks as technology evolves is fair, but, at the same time, we need more detail. There is also a growing body of opinion that these plans do not go far enough in genuinely ensuring that consumers are protected, and that trust can be properly vested in the online marketplace industry.

Giving such broad powers to a Government who, by their own admission, do not have a clue as to what tomorrow holds is extremely dangerous and goes against the principles of good lawmaking. It is crucial that we have a proper debate now to ensure that we understand what we are doing and have thought clearly enough about how these marketplaces will operate and how consumer product safety can be properly engaged.

I am also extremely concerned that, if we rush this and simply use secondary legislation to bring in criminal offences, fines, costs and other regulatory structures, we will end up with a clunky, heavy-handed set of regulations that do not protect the consumer. They will end up checking boxes and denigrating out business base, reducing consumer choice.

Finally, it is clear that this House, and, indeed, the nation at large, need to be properly reassured that this Bill is not a simple attempt to realign us with every aspect of EU regulation, but that we have thought clearly about the ramifications of how the world has changed and how properly to police that to ensure consumer safety in a growing economy. I very much look forward to a far higher level of detail as we enter Committee, and I look forward to Minister's response.

8.38 pm

Lord Leong (Lab): My Lords, I would first like to thank all noble Lords for their very kind remarks; they are much appreciated. I also thank noble Lords for

taking part in today's debate, and for the contributions from all sides of the House. Today's debate has been not only informative and wide-ranging but also illustrated the depth of expertise and experience present in your Lordships' House.

I was particularly pleased to hear the maiden speech of my noble friend Lady Winterton. She brings much experience and wisdom, having served with distinction as Deputy Speaker in the other place and as a Minister in multiple government departments between 2001 and 2010. Freed as she now is from the necessary neutrality of a formal role, we welcome her warmly to the government Benches, where I suspect that, like her former boss, Lord Prescott, she will pull no punches. I look forward to hearing from her many more times in the future.

As we have heard, product safety failures can have devastating consequences. We are determined that our regulatory framework is agile and flexible in its response both to new threats and to complex supply chains. For innovation to flourish and potential for growth to be realised, it is essential that consumers can have confidence in the safety of the products they buy and in the businesses that they buy from.

I will try my very best to address as many of the issues and questions raised today as possible within my timeframe of 20 minutes. If I do not have the time, I will get my office to go through *Hansard* and provide written answers to noble Lords and have a copy placed in the Library. Finally, let me assure all noble Lords that I want to work constructively and proactively in the passage of this Bill, and I will have many more conversations and share information with noble Lords through Peers drop-in sessions—my office is always open, so feel free to contact me and my private office.

The noble Lords, Lord Frost, Lord Browne and Lord Jackson, and the noble Baroness, Lady Lawlor, raised concerns that this Bill is tantamount to the UK rejoining the EU through the backdoor. Let me be extremely clear: this Bill is not rejoining the EU by the backdoor. This Bill gives us the flexibility to ensure that product regulation, now and in the future, is tailored to the needs of the UK. There will be some instances where we will want to take a similar approach to the EU, and there will be others where it makes sense for the UK to diverge. Those decisions will be based on the best interests of the UK's businesses and consumers, and any secondary legislation will be subject to the usual parliamentary scrutiny. As I said in my opening speech, we are taking back control, seeking closer, more mature trading partnerships with the EU and forging new trading relationships with the global world out there.

The noble Lords, Lord Foster, Lord Browne of Ladyton, Lord Bourne, Lord Fox and Lord Johnson, and the noble Baroness, Lady Bennett, raised questions about devolution. The vast majority of product safety and metrology legislation is reserved, with some specific exceptions. We expect the overwhelming majority of secondary legislation brought forward under the main powers in Clauses 1 and 5 to be reserved. Given the technical nature of product regulation and metrology, it is possible—as many noble Lords have mentioned—that some elements of secondary legislation may touch on devolved aspects, such as regulating the environmental impact of certain products, as we consider safety impacts alongside.

Following meetings with my counterparts, I welcome their broad support for the policy intentions behind the Bill. However, we recognise that the devolved Governments have raised some concerns about the drafting and breadth of delegated power in the Bill. As outlined in our manifesto, this Government are committed to reset the UK Government's relationship with the devolved Governments in Scotland, Wales and Northern Ireland. I have had positive meetings with my counterparts in the Welsh Government and Northern Ireland Executive and will be meeting with the Scottish Government this week. My department is engaging with all devolved Governments in an open and collaborative spirit, and we hope that we will gain legislative consent Motions from the devolved legislatures. I will keep the House informed of those discussions.

On the specific case of Northern Ireland, which has been raised by several noble Lords, in order to ensure dual access to both the UK internal market and the EU single market, Northern Ireland applies certain EU product regulations and metrology rules under the Windsor Framework. The Bill provides the Minister with the ability to make a sovereign choice and effectively manage upcoming regulatory divergence between the UK and EU, and therefore to ensure continuity across the UK internal market, where it is in our domestic interest to do so. As such, we expect that the Bill will have a positive impact on trade between Northern Ireland and the rest of the UK.

The noble Lords, Lord Foster, Lord Fox and Lord Johnson, raised the importance of ensuring that the enforcement authorities have adequate resources to fulfil their function. With this Bill we intend to improve enforcement capability, leading to more efficient and effective use of time through a better suite of notices and better data-sharing opportunities. The Office for Product Safety and Standards will continue to provide a range of support to enforcement authorities. This will include support on technical queries, access to product testing and an ongoing programme of training and continuous professional development. The Office for Product Safety and Standards will also produce guidelines for the application of any new powers so that enforcement authorities are equipped to use them efficiently.

The noble Lord, Lord Lansley, and several other noble Lords raised an important issue relating to international standards. The Bill will enable us to continue to amend product regulations as well as allow the designation of international standards for products in scope. In line with WTO obligations, the UK recognises the benefits and supports the use of international standards, as well as regional standards, to break down trade barriers with our trading partners. The British Standards Institution regularly reviews UK standards, replacing domestic standards with appropriate international ones. This is also something that the UK pursues in its international agreements.

The noble Lords, Lord Sandhurst, Lord Foster, Lord Lucas, Lord Jackson and Lord Fox, and the noble Viscount, Lord Trenchard, asked whether any

[LORD LEONG]
draft regulations under the Bill would be produced. The Government are working through policy positions on a range of issues following the election, including addressing the sale of unsafe products via online marketplaces. Additionally, we are reviewing changes the EU is proposing to its registration regulations and considering the applications. Throughout, our response will depend on the outcome of our call for evidence and policy discussions with stakeholders.

The noble Lord, Lord Sandhurst, asked about the poor way we are approaching legislation. The review he referred to was issued by the previous Government. It was clear then that to make fundamental changes to product regulation requires primary legislation because the powers were not available to us, hence bidding for this Bill to ensure that we secure the powers to act in good time to address emerging risks.

The noble Lords, Lord Foster and Lord Sandhurst, asked about online marketplaces. It was right for us to bring forward this Bill to give us the powers we need to address sales of unsafe products by online marketplaces —an area on which the product safety review consulted. Consumer groups such as Which? have also been calling for us to take action. This Bill will allow us to take action now.

The noble Lords, Lord Sandhurst, Lord Foster and Lord Johnson, asked why we have not published a response to the product review consultation. We have bid for the necessary powers to make changes to our regulations and have introduced this Bill, which will deliver enabling powers to allow us to implement a lot of the policy proposals emanating from the product safety review to which the noble Lord, Lord Sandhurst, referred. That review received 126 responses covering regulatory changes. Action on online marketplace enforcement was supported by all respondents. The powers in the Bill are available powers and we have continued conversations with a wide range of stakeholders on the detail.

Lord Sandhurst (Con): I appreciate that, but we have not actually got any detail at all, or even a summary, of what the responses are. We really do require that; it is normal.

Lord Leong (Lab): I thank the noble Lord, Lord Sandhurst. I will ask my officials and come back to the noble Lord on that request.

The noble Lord, Lord Foster, asked about lithium-ion batteries. I am pleased to advise that, while we have been in this debate, Minister Madders, my colleague in the other place, is in Paris at the OECD global awareness campaign, which this year focuses on lithium-ion batteries. The UK and the Office for Product Safety and Standards have been leading on this campaign. The noble Lords, Lord Redesdale and Lord Fox, raised additional points about disposal. Ministers are referring proposals to consult on reforms to UK battery regulations before setting out next steps.

The noble Lord, Lord Russell of Liverpool, asked why the UK wished to be able to continue recognising the CE marking. This Bill will allow the Government to choose to recognise updates to EU product regulation to provide continued regulatory stability and avoid extra costs for business where this is in our interests. It will also allow us to end recognition of EU requirements where it is in the interest of business and consumers. We presently recognise current EU regulations for a range of products. Legislation passed in May 2024 to continue CE recognition for 21 product regulations is estimated to save UK businesses £640 million over a 10-year period, largely from avoiding duplicate compliance and labelling costs. Provisions in the Bill allowing us to continue or end recognition of EU requirements will enable us to provide the certainty that businesses need to plan for the future and innovate, supporting economic growth. The UK and EU share information on trade, including changes to the trade and co-operation agreement.

The noble Lord, Lord Foster, and several other noble Lords asked about the disposal of lithium-ion batteries. The Government are committed to cracking down on waste as we move towards a circular economy, where we keep the resources we use for longer and reduce waste. The existing product responsibility scheme for batteries and waste electronics makes producers responsible for the cost of end-of-life treatment. Under existing UK legislation it is already mandatory for all batteries placed on the market in the UK to be clearly marked with the crossed-out wheelie bin.

The noble Baroness, Lady Crawley, asked why there have been no changes to legislation on product safety since our exit from the EU. I can reaffirm that this is real, hence bringing forward powers in this Bill to allow us to make changes before divergence happens and we fall further behind.

The noble Lord, Lord Frost, asked why we cannot use existing powers. The new Bill powers are required to enable the Government to modernise and future-proof product regulation, ensuring that it is tailored to the needs of the UK. The powers in the retained EU law Act 2023 are limited, in that they can be used only to revoke and replace assimilated law and have other inbuilt restrictions—for example, secondary legislation that is made under REUL must be deregulatory. This means that we would not be able to use the powers to increase safety requirements to respond to new and emerging threats through further amendments and legislation which was not assimilated law before.

The noble Lord, Lord Frost, also asked whether the Bill will make the UK a rule-taker or a rule-maker. We are definitely not a rule-taker. We are a rule-maker, and the Bill will provide powers to give the UK greater flexibility in setting and updating its own product-related rules, as well as enabling the UK to choose whether to recognise relevant EU products requirements. Any further changes made using these powers will be subject to appropriate parliamentary scrutiny. The noble Lord asked whether the Bill protects internal markets. The Bill will give us flexibility to ensure product regulation and metrology now and in the future. It is tailored to the needs of the UK as a whole. It will enable us to make changes to product regulation and metrology legislation that will benefit businesses and consumers.

The noble Lord, Lord Frost, also asked about the Windsor Framework. In updating its regulation, the EU will be seeking to deal with many of the same

challenges that the Bill will address: for example, online marketplaces and batteries. The Bill will enable a choice to be made as to whether it is in the interests of UK businesses and consumers for UK regulations to take the same or a similar approach, or indeed a different one.

The noble Baroness, Lady Brinton, asked whether the Government will commit to a policy of alignment with EU chemical protections. This Government are committed to protecting human health and the environment from the risks posed by chemicals. We are currently considering the best approach to chemicals regulation in the UK separately to this Bill and will set out our priorities and next steps in due course. The noble Baroness also asked how the Bill will help the Government respond to emergencies.

Lord Fox (LD): Am I to understand that, if there is to be separate consideration for chemicals regulation, it will not be in this Session because it was not in the King's Speech? So all those businesses that are currently struggling with where we are now have at least a year, and probably 18 months, to wait before any sense of a Bill—never mind that Bill becoming law.

Lord Leong (Lab): I am coming back to that in the later part of my winding speech.

National emergencies such as Covid-19 highlight the importance of ensuring that our product regulation framework allows for flexibility in times of national emergency. This enabling Bill will allow the Government, in response to an emergency, to temporarily disapply and modify product regulation while maintaining high safety standards, thereby providing a faster process by which critical products are able to reach the market in order to sustain an adequate supply of such products.

Baroness Brinton (LD): I apologise, but that was not my question. My question was: will the Government make sure that, if emergency powers are used, both Houses of Parliament are kept informed prior to that happening?

Lord Leong (Lab): I will get back to the noble Baroness in writing. I see the time flashing, so I might have to write to other noble Lords in response to their questions. Let me conclude.

I would like to thank everyone across this House for their contributions in today's debate. I specifically thank my counterparts on the Opposition Benches, the noble Lords, Lord Johnson of Lainston and Lord Fox. This is not the first time that we have sat across from each other in such debates, albeit in different spots. I look back fondly on our debates during the passage of the CPTPP Act last year. I hope and expect that debates on this Bill will be as good-natured and as enlightening as those were.

I should like to stress my willingness to meet noble Lords to discuss further the detail of the Bill. I take the firm view that dialogue is essential to building public and parliamentary support.

To sum up, this Bill allows us to keep pace with new technologies, gives us the tools to stop dodgy suppliers placing dangerous goods on the market and allows us to make sovereign choices as to how we diverge or align with the EU and other trading partners. It gives enforcement bodies the tools they need to tackle modern problems facing the transit of goods coming across our borders, be they land, maritime or digital. Finally, it will allow us to update the legal and technological framework that underpins economy and trade. This Government will never compromise on safety. The Bill is essential to strengthening the rules and regulations needed to protect consumers, businesses and the public.

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

House adjourned at 9.01 pm.

Grand Committee

Tuesday 8 October 2024

House of Lords Conduct Committee: Code of Conduct Review

Motion to Take Note

3.45 pm

Moved by ***Baroness Manningham-Buller***

That the Grand Committee takes note of the review by the Conduct Committee of the House of Lords code of conduct.

Baroness Manningham-Buller (CB): My Lords, this is not going to be a conventional debate. I am not going to pose as a Minister, attempt to sum up or answer or deflect questions. The aim of the debate is for me to listen—other members of the committee are here—and feed noble Lords' views and opinions into the review that we have in hand, on which we have already had some excellent contributions, including from people in this Room, and on which we are continuing to take evidence until the end of October. This debate was suggested by some Peers. I welcome it because it is a further opportunity for us to collect information before we come back to the House, probably towards the end of this year—perhaps early next year—with our recommendations for changes to the code. We hope we will get as broad a range as possible.

I come to the timetable. Following the launch of the review in April, the suggestion of the Conduct Committee—it was our view—was that the code needs reform. This was disrupted by the Dissolution of Parliament in late May, so we have extended the deadline for contributions until the end of this month. For the record, I ask Peers who wish to say things but who are not able to be here this afternoon to please write to us, because we want to have all views. Also, party leaders and the convenor are coming to give evidence quite soon, so another way would be to put contributions to them.

Let me say something about the scope of the review. We start with the existing code. As your Lordships' Conduct Committee, we operate within parameters agreed by the House over many years. These include the House's decision in 2009 to appoint an independent Commissioner for Standards—at that stage, I also chaired the precursor of this committee, the Sub-Committee on Lords' Conduct—and its related decision a decade later, in 2019, to appoint four lay members of the committee to add to the five Peers who sit on it. I take this opportunity to thank the commissioners—we now have two of them—and lay members for their insight and help.

Why are we suggesting a review? There are several reasons. The code and its guide are too long. Regular amendments since the first major overhaul in 2009 have led to the code and the related guide, taken together, doubling in length since 2010. Some changes have been forced on us by statutory change or outside events or to clarify points of uncertainty—for example, in the processes of investigation or the rules governing financial issues. With the greater length has come complexity with, for example, the distinction between general principles and specific rules being unclear. It is a bit of a patchwork document which may confuse. It is also clear that many Members have never actually read it and have certainly not got to appendix B.

I know that some noble Lords feel that we need only a simple statement of general principles of conduct. I agree that the code should articulate these principles clearly, including the Nolan principles, that guide us as Members of the House. However, it is worth pointing out that the Code of Conduct is not just to guide Members but to reinforce public confidence in the House. To that extent, it is an outward-facing as well as inward-facing document. It is clear from the comments we get that the public, whom we serve collectively, expect Members of the House of Lords, like MPs or other public servants, to abide by clear rules requiring high standards of conduct to try to ensure that we meet the Nolan principles of openness, accountability, selflessness, objectivity—that of course is not possible in politics, but never mind; the others still stand—integrity, honesty, and leadership.

The registration of relevant interests lies at the heart of this. In past generations, noble Lords declared their interests in debate, largely for the benefit of other Members, but for the past 30 years it has been accepted that we should make those disclosures in a public and lasting form, by means of the register. To support the process, we need clear rules, covering categories of interests, thresholds for registration and so on. Expectations of radical change to the code probably need to be tempered, because some length and complexity will be difficult to avoid. I am none the less of the view that we can make it very much better than it currently is.

It is also clear that some noble Lords feel that the reach of the code has gone too far and are apprehensive that this review is another excuse for mission creep. I assure all noble Lords that it is not. The committee, including the lay members, fully understands the value to this House of our Members having extensive experience, in many cases elsewhere, and bringing it to bear on current issues.

We have asked some difficult questions in our call for evidence, but these are questions that regularly reach us. That is why we need noble Lords' views. A particularly difficult question is whether there should be a general rule to prohibit conduct that causes significant reputational damage to the House as a whole. This is not a new issue. Our predecessor committee, the Committee for Privileges and Conduct, recommended such a rule as far back as 2016 in a report entitled *Undermining Public Confidence in the House*. That report was never taken to the Floor of the House and nor has the Conduct Committee ever brought forward firm proposals, despite repeatedly being invited to consider the issue, usually in the wake of some media uproar. There is no easy answer and it may still be too difficult, but it is right that we are asked the question once more.

We aim to satisfy ourselves that the code is fit for purpose and the rules are expressed as clearly and succinctly as possible. I will end there. I emphasise that we really are listening. We see this as an evidence-collecting

[Baroness Manningham-Buller]
session. I welcome the proposal that we do this, but I will not respond in detail, as I said at the beginning, because we have not had all the evidence in yet; we still have to hear from the heads of the parties, the convenor and the Leader of the House. Then we will be ready, at some stage, to put proposals to your Lordships' House. I thank noble Lords for coming. We will listen very carefully.

3.53 pm

Baroness Donaghy (Lab): My Lords, I am very pleased to speak after the noble Baroness, Lady Manningham-Buller. I had the privilege of serving under her as a member of the Conduct Committee. I am no longer a member, but I felt that this was an issue which needed people to speak out on it. Now is not the time to be seen to go backwards on standards. As well as having been a member of the Conduct Committee, I was on the appointment panel for the two Commissioners for Standards, one of whom has just taken up a new role outside Parliament. I was also on the appointment panel for the independent lay members; I am pleased that at least two of them are here today. I was also co-opted on to the predecessor committee, along with the noble Baronesses, Lady Anelay and Lady Hussein-Ece, to prepare for the new rules around sexual harassment and bullying. So, as your Lordships can see, it is all my fault.

Perhaps I should repeat that I was a member of the Committee on Standards in Public Life—it is good to see the noble Lord, Lord Evans of Weardale, who I think is now the former chair—and I was an interim chair of that committee in 2007.

We need a system which is sufficiently robust to see off the frivolous and vexatious cases that anybody in public life is subject to—that is a given. I think there is an increased feeling of vulnerability among Peers and, to a much greater extent, MPs. However, as the noble Baroness, Lady Manningham-Buller, said, this is an outward-facing exercise, and anything that looks as if we are trying to water things down will go down extremely badly with members of the public.

I, like others, left the Chamber while the noble Lord, Lord True, was speaking on the one-year anniversary of the Hamas attack. As usual, his tone and response was wholly appropriate. I just remind noble Lords that he said, when the code was being debated in May:

> "The Chief Whip and I have taken the liberty of discussing this with some colleagues in the usual channels and, of course, with my noble friend Lady Manningham-Buller, the chair of the Conduct Committee, in whose work I think I fairly say the House has the fullest confidence and trust … The Motion will be neutrally worded to enable all Members to express their—no doubt varying—views before the evidence-taking period concludes. The purpose must not be to rake over the coals of specific cases ".—[*Official Report*, 20/5/24; col. 863.]

I will not quote the rest of it but I thought that it was an extremely useful statement, and I see this as the continuity of that particular effort.

I do not want to go on for a long time and I will certainly not suggest detailed changes. To some extent, this is a necessary tidying-up exercise, and I thought that this was what the Conduct Committee was trying to do. It had left open questions which had been asked over a number of years, and the answers may well be the same. However, it is quite right that it should ask those questions, such as about bringing the House generally into disrepute. Should we take that forward or leave it well alone and keep the issue of "on one's personal honour" as a way of interpreting cases?

I do not have an awful lot to say except something about the importance of the confidence from staff. It is not that long ago that staff did not really have much confidence in any complaints being dealt with fairly. They would say to new members of staff, "Don't go into the lift with that person". These issues were well known; they were not well known to us as Peers but were well known among staff. There was no confidence that any complaint would be upheld or dealt with fairly, and it is not that long ago. It is extremely important to recall that staff will listen to this debate and get a feeling of the direction that we want to go in. Even though that is not part of the public point of view, it is extremely important from the internal point of view that we have a system which means that staff feel that they are dealt with fairly. When we first took over as a Conduct Committee, some of the cases were of extremely long-standing. They were called historical cases, which just meant that somebody had been misbehaving for a very long time indeed and had not been dealt with. We do not want to go back to those bad old days.

I have an open mind about a number of the questions that the Conduct Committee has asked. I shall put my views in, but I wanted to make the point that the world will be looking at us to make sure that we are not slipping backwards. If we have different processes from the House of Commons, that is absolutely fine, as long as our standards are the same. That is the difference. The processes have to be different because MPs are elected and have a larger number of members of staff—and to some extent the issue of salary versus fee income is a difference. We do not need necessarily to be consistent in our processes. I happen to think that our system is better, because the role of the commissioners has made it better, but that is not to say that the standards are different. I would defend that difference as not being harmful in any way.

I should have declared—I apologise for not doing so earlier—that I chair the Steering Group for Change, which was set up by the commission. That has been working for five years. It started off as a response to the Ellenbogen report about sexual harassment and bullying, but is now moving into wider directions of how we consolidate the culture change in the House, which I firmly believe has improved since the Conduct Committee was established, with the wonderful work that the members do—both the Peers and the individual lay members.

4.01 pm

Lord Forsyth of Drumlean (Con): I thank the noble Baroness, Lady Manningham-Buller, for giving us this opportunity and for the brilliant way in which she has carried out the chairmanship of this committee, which I hope will go on for many more years. It is a pleasure to follow the noble Baroness, Lady Donaghy, who is

very wise—and I think that we are all grateful for the work that she has done. However, the world has changed a bit, and we need to reflect that.

The noble Baroness, Lady Manningham-Buller, said at the beginning that the code was too long and too detailed, and I could not agree more. It is not just that it takes a long time to read it. Incidentally, the copies that have been provided in the Printed Paper Office do not include the appendices that were in the original document, including appendix B on page 56, paragraphs 19 and 20 of which were frankly just offensive. I hope that the fact that they are not included means that they are going to disappear for the foreseeable future.

There are trivial complaints made that should really be dealt with by the usual channels and not by the commissioner, and an abuse of the complaints system for political purposes is now happening, often through social media. The reputational damage done to an individual who may be subject to a vexatious complaint when the complaint is made public is enormous. The noble Baroness, Lady Donaghy, urged us not to talk about individual cases, but I am going to talk about one. We can see what has happened to the noble Lord, Lord Alli. Someone apparently made a complaint that he had not declared a particular interest. I do not know whether that is right or wrong, but it has resulted in pages and pages and day after day of coverage about him, and he is in a position where he is not allowed to comment on this or defend himself, which to my mind is neither fair nor right. One sees people doing this again and again. I do not make this accusation about any one party; we all have people in political parties who think that this is an appropriate way to behave, but I do not.

The other issue that worries me, which is again to do with Members' vulnerability, is that if the commissioner is investigating a particular complaint Members are not allowed to have any legal representation.

Baroness Manningham-Buller (CB): I said I was not going to interrupt. Anybody can have legal representation. That is not improper. What they cannot do is ask their lawyer to answer the questions for them. In fact, most people who are subject to serious allegations seek legal advice immediately and have it beside them at all stages.

Lord Forsyth of Drumlean (Con): I am aware of that; it is actually spelled out in the document on the basis that this is seen not as a legalistic procedure but as a more informal one. However, if your entire reputation is on the line, you should be able to have the basic standards of natural justice. In the case of a criminal prosecution, for example, no one would argue that your lawyer should not be able to make representations on your behalf. It is the business of confidentiality not being able to share that with colleagues; that is probably observed more often in the breach but, if you have been wrongly accused of something, it is all over the newspapers and you are not allowed to talk to any of your colleagues to get advice and help, that is a very unpleasant position to be left in. There is also the issue that it takes for ever for the matter to be decided. By the time it is, if you have been found to have been traduced, nobody is interested. You might get a single line in a newspaper. I worry about the process.

I am conscious of the strictures of the noble Baroness, Lady Donaghy, not to mention particular cases, but I also worry about a recent case where the commissioner decided on a particular sanction and then asked the complainant what they thought of the sanction. The commissioner then changed the sanction to make it more severe as a result of talking to the complainant. To me, that feels a little dodgy, to put it mildly. It is true that, in the legal system, we take evidence from people who have been subjected to a crime about its impact on them, but we do not allow them to decide what the sentence should be.

Picking up the comment made by the noble Baroness, Lady Donaghy, I agree that the House of Lords is different from the House of Commons. We should be. However, we are a part-time House while the Commons is a full-time House. Look at the sanctions that are applied in the other place: if people who have committed quite serious breaches of the code there and done some pretty stupid things are suspended for more than a set number of days, they can find themselves subject to a recall petition. The sanctions over exclusion therefore tend to be small numbers of days. However, colleagues in this House have been excluded for months—six months, in one case. The difference is that, in the House of Commons, if you are excluded for less than the recall period, you continue to be paid and to receive all your allowances, while Members of this House are unable to gain any of their allowances and go unpaid. Therefore, an extended period of exclusion is a far more severe penalty than would apply to Members of the House of Commons. Although I accept that we should be different, I do not really see why we should have such broadly different tariffs for breaches of the codes.

The other issue where I hope we will be different is where people have been accused of some criminal offence. It is essential that any decision to exclude them should be made only after they have been charged, not on arrest, for the obvious reason of maintaining the principle of innocent until proven guilty. I know that a different view has been taken in the other place but I very much agree with the noble Baroness, Lady Donaghy, that we should decide our own rules on these matters—although that does create a slight anomaly.

I am also worried about what I would describe as the committee's mission creep; the chairman touched on that. It is highly inappropriate that Peers' conduct not related to their parliamentary activities or role should be within the scope of the commissioner. I do not think that it is for him or her to look at that. I also cannot for the life of me understand why, under the code, you have to inform the Clerk of the House if you are subject to an investigation by a professional body. What has that got to do with the Clerk of the House? A doctor subject to a complaint to the GMC would have to tell the Clerk of the House about that. Why is that appropriate? Why should a company chairman, perhaps found to be in breach of health and safety legislation and subject to an investigation by the HSE, have to tell the Clerk of the House? What business is that of the House of Lords?

It is just wrong. We have a number of Peers in high-profile public and private roles. Where does it end? Does it apply to a head teacher who is accused of

[Lord Forsyth of Drumlean]
breaching employment law, or to a landlord/tenant dispute? I felt that the noble Baroness, Lady Donaghy, got quite close to touching on this: there seems to be a suspicion growing that anything that damages the reputation of a Peer damages the reputation of the House. That cannot be right, and it is dangerous.

There was a recent example in the debate the other day about VAT on school fees. A colleague on the Government Benches made an accusation about what had happened in a particular school. Someone then said that it was not true and made a complaint to the commissioner and, as a result, got a whole load of coverage about this person having misled the House. The newspapers put it rather more strongly than that. It is none of the business of the commissioner to look at what is said in the Chamber. Lots of things are said in the Chamber that are a matter for debate. If people think that someone has misled the House in some way, there are lots of processes by which that can be corrected or debated. I worry about the idea of mission creep and the perception of the role of the commissioner. They will say, "We've had a complaint that so-and-so didn't tell the House the truth", which then becomes a story. That is a real-life example. This is not a partisan point; in both cases I am defending people who are members of the government party. I was going to say opposition party, but that is me now.

I am sure that the independent members of the Conduct Committee do a great job, but I worry about the balance between external members and people who have detailed knowledge of parliamentary procedure and an understanding of the political process. I wonder if the balance is too far in one direction. An example of that is the requirement to declare your interests. It is absolutely impossible to declare your interests at Question Time without irritating the House. Therefore, people stand up and say, "I refer to my interests in the register", which is frankly a waste of time. We do not have the register and we do not know what the interests are. If you are watching from the outside, you think, "Ah, he or she must be in someone's pay". It is a fatuous requirement. We end up in a situation where people are breaching the code, as is explained in the document.

I also want to re-emphasise the difference between paid advocacy, which is speaking in the House or to Ministers specifically about a business interest—it is quite rightly forbidden—and speaking on the generality of policy, which may impact negatively on a company from which they receive payment. While I was chairing a bank, I never asked any questions about issues which affected the bank because I felt vulnerable to being accused of paid advocacy, even though I know that the rules would have provided for the general position. It is undoubtedly the case that people are afraid of speaking on certain areas because this is not widely understood. Because it is not widely understood, mischievous journalists can make hay from it.

In short, I really welcome what the chairman of the committee said, because the committee needs to rewrite the code and to undertake a review of the approach which is taken, so that it takes account of the impact of social media and the increasing exposure of Members to unjustified reputational damage from malign political influences.

4.15 pm

Lord Hope of Craighead (CB): My Lords, it is a pleasure for me to follow the noble Lord, Lord Forsyth. I wish particularly to endorse what he said about the dangers of mission creep, particularly the risk that complaints made about things that we say in the House might be taken forward as a ground for some criticism under the guide.

I join the noble Lord in welcoming and congratulating the noble Baroness, Lady Manningham-Buller, on securing this debate and on the way she opened it, as it were for general discussion rather than anything else so that we can really put across ideas and they can be taken on board by the committee.

I am afraid that, as a lawyer, I have fallen into the trap of looking into the words of the code to see whether I can find things wrong with it. I have picked up three questions which are in the call for evidence. The first is whether there are

"any elements of the Code and Guide"

which are "unclear or confusing", the second is whether any

"provisions of the Code or Guide"

are "unnecessary", and the third is how

"the presentation of the Code and Guide"

could be

"improved, to make it more accessible and user-friendly".

I will take the first two questions together, because my points about them relate to a particular issue, which is the way the guide deals with the registration of interests by arbitrators. I have to declare an interest here because I sometimes engage in international arbitration. I am engaged in one just now, which is listed in the register, as I was nominated to act as one of three arbitrators by a foreign state; that is declared in the register, and I have no complaint about that.

The introduction of this requirement into the code had a rather uncomfortable birth. It was suggested that it was needed for reasons of national security. It is not unusual for those who engage in arbitration to be nominated by the Government of a foreign state or an organisation controlled by a foreign state. However, the then chairman of the committee, the noble and learned Lord, Lord Mance, had to recuse himself because he was engaged in many of these arbitrations and felt he should not take part in the debate. The discussion was then chaired by Lord Brown of Eaton-under-Heywood, the only remaining lawyer, who found himself in a minority of one when the matter was debated.

The matter then came before the House for approval. The noble Baroness, Lady Donaghy, is smiling at me because, like me, she remembers very well the nature of that debate. It was—I think I can put it this way—rather highly charged. Those noble Lords who opposed the proposal, which did not include myself, were all arbitrator lawyers, and they did not win the sympathy of the House. We now find two provisions in the guide, paragraphs 56 and 63, which deal with the issue.

The first point about this is that it is unnecessary for the point to be dealt with in two separate paragraphs. The two paragraphs I mentioned say exactly the same thing, and one of them is plainly in the wrong place

because it is under chapter 1, which deals with directorships. Arbitrators are not directors at all of the party by whom they are nominated. They are acting as independent adjudicators on the issue before them. It should not be in paragraph 56, and if it is taken out nobody will miss it because it is repeated in exactly the same terms in paragraph 63. That is the first point. It is simply a provision which is unnecessary and should be taken out.

Paragraph 63 itself is a bit confusing because it deals with the problem of arbitrators by saying that:

"Members providing legal and arbitral services need to register the identity of registrable clients … under this category only once (a) the identity of the client or party has entered the public domain or (b) they have been paid for the work (wholly or in part), whichever comes first".

The problem is this that point (a) seems to suggest that registration is required only where the fact that the arbitration is taking place has entered the public domain.

There is something to be said for that because, on the whole, arbitrations are meant to be private affairs and there are some cases where it is in the interests of the state that the fact that the arbitration is proceeding should not be known by the public. I had some experience of this when I advised the governor of one of our overseas territories. I declared my interest to the register, but I said that it would be unfortunate if the name of the governor or the identity of the territory were identified because there was a considerable political debate and she did not want it known that she had applied to London for advice. Very wisely, the register simply said that I had advised the governor of an overseas territory, the details of which could be provided on request. I thought that was a very sensible way of getting around my problem.

However, it comes back to the point that there are cases where there is a reason for something not entering the public domain. The problem is that the second branch of this clause states that you have to declare when you are paid, and that could happen before the public knows about the arbitration or in a case where arbitration is meant to be confidential. I am not suggesting a solution to this, but I suggest that the committee might like to look more carefully at what exactly it wants to be declared by arbitrators. I am sure we will follow the guidance. At the moment, it works reasonably well for me, and I am not complaining, but there is a lack of clarity that needs to be addressed.

On the third point—presentation—I hope I am not treading on any toes when I say that our code does not stand up very well in comparison with the House of Commons code of conduct. I am not talking about content, and I endorse what the noble Lord, Lord Forsyth, said about the differences between our two Houses. That is not my point. It is a question of presentation. Its code is much better presented than ours.

Perhaps I can put forward some basic requirements. First, the content should be divided into distinct sections under clearly labelled headings. Secondly, the contents of each section should be set out paragraph by paragraph, each of which is designed to deal with one topic only. These paragraphs should be kept short, ideally no more than about six lines, so that the point that they are making can be easily and quickly understood. People tend to speed-read when they look at documents of this kind, and they need to be able to grasp the point quickly. If a paragraph runs beyond about six lines, they will miss the point, so there needs to be brevity and clarity. It is all about presentation, and I do not think our code meets that test as well as it should. It is partly because things have been added, but as it is there is a bit of confusion.

The purpose of our code is set out in paragraph 3 under the heading "Introduction". It would be better if it said "Purpose". Paragraph 3 is divided into sub-paragraphs (a) and (b) which, quite correctly, set out propositions that are clear and simple, but the clarity of that original presentation is undermined—indeed, cluttered—by adding two sentences to sub-paragraph (a) which deal with the scope of the code, not its purpose. They are important sentences. The first states that

"the Code does not extend to members' performance of duties unrelated to parliamentary proceedings, or to their private lives",

but that deals not with the object of the code but with its scope. It should be set out in separate paragraphs, separately presented. I would keep sub-paragraphs (a) and (b) in paragraph 3, but the middle sentences should be set out in two separate paragraphs after that.

Paragraph 7 is another paragraph that needs to be broken into separate paragraphs for clarity. It talks about three different things. First, it talks about the application of the code to the Lord Speaker and the Senior Deputy Speaker, then it deals with its application to candidates for those offices, and then to the spouses or partners of officeholders. All that is bunched into a single paragraph. It would be much easier to follow if it was divided into three paragraphs, one by one.

Another one is paragraph 28, which is 17 lines long and contains six sentences. It is far too long, and it should be broken down into separate paragraphs. Paragraph 12 sets out the seven principles identified by the Committee on Standards in Public Life. That, of course, is good and helpful, but it also states that it should

"act as a guide to members in considering the requirement"

in paragraph 10

"to act always on their personal honour".

I understand the intention to say a bit about what that time-honoured phrase means, but it is not helpful to then say, "Have a look at the standards in public life", because not all of them relate to that. The first two are related—for example, integrity—but then it goes on to other things. There are a whole lot of things to go through.

This is my point about simplicity; if you are going to make a point, it should be pure and simple. A better way of doing it would be to refer to the passage in the guide which sets out, in paragraph 7, what the committee on standards suggested we should understand by that phrase, rather than going on to the principles. We should keep the principles as they are, but not make that cross-reference. If a reference is needed, it should be to refer to the guide.

Finally, I will make a brief comment on the question asked in the call for evidence:

"should there be a rule covering behaviour … that causes significant reputational damage to the House as a whole?"

[Lord Hope of Craighead]
As the noble Lord, Lord Forsyth, suggested, we move into quite dangerous territory if we try to make provision about that. The question reminds me, and I am sure many other noble Lords, of the case of Lord Sewel, whose conduct, as reported in the *Sun*, was clearly of that character. The problem was that the conduct took place entirely in private. As he pointed out, the code relates only to standards of conduct expected of Members in the discharge of their parliamentary duties.

It was a very anxious period. As convenor, I know well how difficult it was for our Leader, the noble Baroness, Lady Stowell, to deal with. In the end, fortunately Lord Sewel recognised that his conduct was not compatible with membership of the House and that he could serve the House's interests best by leaving it. That solved the immediate problem, but the point remains that the code applies only to a Member's parliamentary duties and does not extend to what they do in their private lives, however damaging that may be.

Nothing was done by altering the code at that stage, but it would have been very difficult to extend it to private lives. I am not suggesting that we should do that. However, there is a question we might like to think about. I suggest that to broaden the code to cover private lives, or professional lives outside the House, by sets of rules would be unacceptable. However, it might be sensible to contain a note of advice, advising Members that they should at all times avoid engaging in conduct likely to cause significant reputational damage to the House. It would be advice, not a rule, but it would serve as a reminder of the inescapable fact that Members need to have regard to the reputation of the House, whatever they do and wherever they are.

4.28 pm

Lord Howard of Rising (Con): My Lords, I add my thanks to the noble Baroness, Lady Manningham-Buller, for arranging this. I will not keep noble Lords long, but I would like to make one important point. As was mentioned by my noble friend Lord Forsyth, there was a recent newspaper report which claimed that a noble Lord had misled the House and that a child had not been allowed to run in her state school's playground because there was insufficient space to scamper about. The noble Lord pointed out that this was because some of the school's property had been sold to an adjoining private school.

Apparently, there has been a complaint to the House of Lords commissioners, claiming that the noble Lord's statement was incorrect. Whether that statement is true or false, it is not the place of the Lords commissioners to have any say in what is said in a Chamber of this House. It is an issue of paramount importance that there should be complete freedom for Members of this House when speaking here to say what they will, with no outside interference of any sort. To go down the road of censoring or adjudicating speeches in the House would inevitably end up stifling free speech. We have parliamentary privilege specifically to be able to speak freely, and I would be most grateful if the noble Baroness, Lady Manningham-Buller, could clarify in her report that the Lords commissioners have no role whatever in overseeing what is said during debates in the House of Lords.

4.30 pm

Earl Attlee (Con): My Lords, I am grateful to the noble Baroness, the chairman of the Conduct Committee, for initiating this debate, because it gives us the opportunity to comment on the direction of travel, which I do not believe to be ideal. It is unfortunate that there are so few speakers—despite the evident quality of the speakers.

I suspect that most Members of the House think that, provided that they declare their interests and do not stick their fingers in the till, they will not experience any problems, even if they omit to carefully scrutinise our Code of Conduct—a point noted by the noble Baroness. Sadly, this is not the case, because the direction of travel hitherto has been to increase the number of possible transgressions—and she touched on the length of the code. For instance, how many noble Lords realise that it is against the Code of Conduct to pay for sex? It is not something that I intend to do, but the term is very imprecise—and the noble Baroness talked about lack of clarity. For instance, does the prohibition catch paraphilic infantilism? I hope that I have the pronunciation right. What it certainly does is to create vulnerabilities where they did not previously exist, just as homosexuality did, sadly, in the past.

In the past, Conduct Committee reports were debatable and divisible, and the House demonstrated a clear willingness to discipline Members when they had transgressed. However, in the aftermath of a highly controversial debate and Division we, wrongly I believe, decided that Conduct Committee reports would not be debatable. The case that I am referring to involved a Peer who was a leading human rights lawyer. He was my political opponent, and I was always on the other side of his argument. I am not a lawyer, I am of a different creed, and I had never socialised with him. Nevertheless, I voted in support of the amendment proposed by the noble Lord, Lord Pannick, against the conduct Motion. I did this because the report of your Lordships' Commissioner of Standards was full of holes, in my opinion. For instance, the investigation took place more than 10 years after the events in question; no documentary evidence was available, as there would be in a paid advocacy issue; and the commissioner interviewed witnesses by telephone about crucial telephone conversations that had taken place 10 years earlier.

All the other conduct reports that I have ever read made a cast-iron, open and shut case. In a recent case, one noble Lord became intoxicated and, regrettably, abused other pass-holders, resulting in an official complaint to your Lordships' Commissioner for Standards. The noble Lord made a sincere offer to meet the victims as part of a reconciliation process, and I am confident that, if that meeting had taken place, there would have been reconciliation. Regrettably, the victims declined that offer, as was their absolute right. No doubt the Commissioner for Standards took this into consideration when recommending one week's suspension. However, your Lordships' Conduct Committee decided to treble the sanction, safe in the knowledge that it would not be challengeable in debate.

Some issues that are drawn to our attention require considerable moral courage to address. For instance, right now, I am dealing with the systemic harassment of the heavy haulage industry by a few police forces,

but I am not getting very far despite the risks I am taking in taking on the police. In the last few Parliaments, I attempted to get Section 40 of the Crime and Courts Act, better known as the Leveson reforms, commenced. This was not some niche issue as, in the past, I had won a Division against my own party when in government—in other words, a majority of the House was with me. At the time, one noble Lord privately suggested to me that I was brave to take on the press. I gently pointed out that I knew I had no skeletons in the cupboard. I must note that few other Peers would engage the press in the way that I and the noble Baroness, Lady Hollins, did. Only one Conservative MP would even discuss the matter with me; that was the late Sir David Amess.

At the very end of the previous Parliament, the media Bill provided one final opportunity to get the carrot component of Section 40 retained, while the stick component would be repealed in line with the Government's manifesto commitment. I tabled a suitable amendment and was working up my speaking notes and arguments when I glanced at the Conduct Committee's proposal to make a transgression of the Code of Conduct be considered as bringing the House "into disrepute", or words to that effect; in essence, that means how much adverse publicity the Peer in question has generated. I must tell the Committee that all my moral courage evaporated immediately. I immediately withdrew my amendment and persuaded the clerk to take it off the Marshalled List, even though I was technically too late. I confess that I left the noble Baroness, Lady Hollins, to move her amendment in Committee on her own. It was a complete lack of moral courage on my part.

I did have some powerful new arguments about why IPSO was not fit for purpose. As it happened, the advent of the election and procedural issues put me in a strong position, so I ran a Report stage amendment but without the benefit of having made a detailed argument in Committee. In the end, I was unsuccessful. I must tell the Committee that I am not confident that, if my conduct had been called into question, I would have been dealt with fairly. My noble friend Lord Forsyth just talked about the position of the noble Lord, Lord Alli. A major reason for this lack of confidence is the inability to defend myself, or to have someone defend me in front of the whole House, before the House decides on the matter.

I intend to retire next year, despite being two years short of the average age of the House of Lords. I can assure the Committee that only 10% or 15% of this decision is due to the issues we are discussing today; most of it is due to demotivation caused by constant and unfair criticism of your Lordships' House, which the House authorities appear to do nothing to counteract. Nevertheless, this issue is a factor.

4.39 pm

Lord Evans of Weardale (CB): My Lords, I am grateful for the opportunity to contribute to this debate. I should declare that I am the former chair of the Committee on Standards in Public Life.

The Committee on Standards in Public Life is the custodian, so to speak, of the Nolan principles—the Seven Principles of Public Life—to which the noble Baronesses, Lady Donaghy and Lady Manningham-Buller, have already referred. When Lord Nolan drew up his seminal report on public standards, he envisaged that the principles would stand at the apex of the system but would not stand alone and would not be justiciable. He envisaged that there would also be two other key parts: first, codes of conduct, which we are discussing today, in order to read down those overarching principles into the particular circumstances of different institutions; and, secondly, training and an opportunity for people to learn and consider what standards meant in their particular environments. It seems to me that that model of how standards should operate has stood the test of time.

One of the privileges of being in that job as chairman of the Committee on Standards in Public Life is that one got exposure to a very large number of different organisations and the way they approach these problems. We took evidence from government, Parliament, the private sector, charities and other organisations. Of course, the issues are different in different parts of the system, although one of the things that I was struck by was that the seven principles seemed to command considerable support even, for instance, from people in the corporate sector. They took notice of them and an interest in them and in how we applied them in public life, so we have something there that we can be proud of. I was also struck that quite often there would be delegations from a variety of countries coming to talk to the UK about the way in which standards issues were managed here. You might say from a purely UK perspective that that was slightly surprising if you read the papers at the time that I was chairman. Respect for public standards was not the most evident aspect of what was going on, but nevertheless we have traditionally had quite a strong reputation in this area.

Of all the areas that we looked at, the most difficult was Parliament. I say that for two reasons. The first is the immense complexity of the arrangements in Parliament at both ends, and of the systems, some of which are specific to particular Houses, some of which are common across Parliament. The interplay between them takes a considerable amount of detailed work to understand. I remember spending a lot of time talking to all the relevant stakeholders to try to work out how the bullying aspects, the conduct aspects and so on relate to each other, so I strongly support the suggestion that there should be greater clarity. However, I do not underestimate how difficult it is to achieve that clarity, partly because it is much easier in an environment in which everybody is an employee and you can set a policy and say that if you do not like it, you can leave. That does not apply in political life or in your Lordships' House.

The Code of Conduct in the Lords in some ways bears even more weight and does more work than is the case in the Commons. The reason I say that is that ultimately in the Commons there is a political price to pay for individuals who breach public standards. Partygate and the many other scandals that we saw over recent years led in due course to a political price, but Members of your Lordships' House do not have that electoral jeopardy if they breach standards in a way that the public would find unacceptable. Therefore, it is particularly important that the Code of Conduct here should be as effective as it possibly can be. It is also particularly complicated because of the fact that Members of the House are not on a salary, and in that sense what is

[Lord Evans of Weardale]
and is not acceptable in terms of payment for various aspects of individuals' lives is difficult, and some of the complexities in the Code of Conduct reflect that. I suspect that, looked at from the outside, most people in the street would find the system perplexing. Certainly, the postbag that I used to receive when I was in that role suggested quite low levels of confidence that standards were being appropriately upheld in Parliament—probably more critical than the reality, so there is an issue of reputation and an issue of credibility that is an important part of the work that is currently in hand in the Conduct Committee.

Certainly, from my perspective, the Code of Conduct needs to do two things. It needs appropriately to regulate the business of the House so that we can be confident in the integrity of the way in which Members approach their responsibilities in the House, but it also needs to protect the House's reputation and project the integrity of the House to a very sceptical public. Without that, our role, and the role of the House in general, is undermined.

Against that background—I have submitted specific evidence in writing—I highlight two things. The first is that I support a clause that suggests that anybody who undermines the reputation of the House is breaching the Code of Conduct. I recognise that there are those who feel that that is overreach, and I hear that, but it is completely normal in many environments for that to be included. If you look at the way in which the professional bodies look at their responsibilities today in the regulated professions, the question of who is a fit and proper person is taken into consideration.

I declare an interest as a member of the board of the KPMG Anglo-Swiss partnership. The regulator for audit looks at the way in which audit is done but also takes at least a glance at whether individual auditors are fit and proper people to take on that trusted role as an auditor. I find it difficult to understand why we would not expect a similar approach to those who are taking on the trusted role as a member of a parliamentary body. I believe that there should be a clause in respect of reputation, and that in doing so, we are not over-reaching; we are doing what is actually quite widespread in many organisations. If you looked at the concerns that certainly I have seen expressed about Parliament, you would see that people do not understand why things are so different now. In many ways they need to be different, but in a number of other ways they are different without needing to be so.

I have a second suggestion. I realise that in suggesting this I am tilting at windmills, but I will tilt anyway. I personally believe that—

Lord Forsyth of Drumlean (Con): On this point about the reputation of Parliament, which is obviously very important, what is the noble Lord's view on former chairmen of the Committee on Standards in Public Life who appear regularly in the media to provide a commentary about how dreadful standards are? Is that not far more damaging than anything any individual would do?

Lord Evans of Weardale (CB): I do not want to comment on my predecessors in the role, but I point out that I have not appeared myself in the media to comment on that, despite many invitations. Rather similarly to the people who run the security service, it is probably better to shut up and go. Although predecessors in the committee take their own judgments on these things, it does not seem to me that opining on matters about which you have no current knowledge is necessarily a wise approach. But that is a matter for myself.

My second point, my windmill, was that I personally do not think that the phrase "acting upon personal honour" is very helpful. As the noble Lord, Lord Forsyth, said, things have changed a bit. Although we in the House of Lords understand what we mean by that, almost anybody looking at it from the outside would roll their eyes and say, "What on earth is that about?" I realise that we have definitions which are derived from it, all of which I think I support. Nevertheless, the use of the phrase, despite the fact that it is time-hallowed, is difficult reputationally to present. It suggests an approach to standards which is not actually the one that we see. There has been very considerable progress on the way in which standards issues are tackled in your Lordships' House, but I do not think that that is the way in which it would be perceived through use of language which I think would be widely misunderstood.

4.49 pm

Baroness Fox of Buckley (Non-Afl): My Lords, I too thank the noble Baroness, Lady Manningham-Buller, for this discussion. I share a lot of the concerns already raised, especially those from the noble Lord, Lord Forsyth of Drumlean, because I have a dread of mission creep. Like the noble and learned Lord, Lord Hope of Craighead, I will look at some of the specific wording in the code, because I have read it several times and will raise some things that worry me.

I encourage one aim of the review—that is, to shorten the code. At present, there seems to be an overly complicated deluge of details on rules that, dangerously, threaten to drown out the general principles around standards that we are so concerned about—the very standards that the noble Lord, Lord Evans, has just indicated are so important. We have to be able to see them very clearly. At present, the problem is that the rules are all you can see.

There is also a danger of turning the code into a counterproductive box-ticking exercise, if it is dominated by rules in this way. It means that you can feel virtuous obeying the letter of the rules rather than believing in or having any feel for their spirit. We have seen over recent weeks with the "glasses for passes" or Taylor Swift ticket sagas and so on that the "We are acting according to the rules" defence does not engender public trust, regardless of whether it was within the rules.

My main reason for wanting to speak today is that my interests and knowledge are in relation to how, in broader society, straightforward do's and don'ts about, for example, professional conflicts of interest have gradually seeped into the more subjective and intimate spheres of interpersonal relations and the problems that can create. The devil is often in the detail, and later I shall raise questions around problematic parts of the small-print definitions of bullying and harassment. But there is actually an absence of detail in the part of the code that is mandatory for all noble Lords. The code demands attendance at seminars designed

"to raise awareness of, and to prevent, bullying, harassment and sexual misconduct".

Yet there is no detail about the contents of these compulsory sessions. How can we debate their effectiveness here without being able to scrutinise what they say? That is hardly transparent. These compulsory seminars have created headlines in the last couple of years when various high-profile noble Lords were disciplined—indeed, named and shamed—for non-attendance. But I challenge the value of these courses per se.

I raise this with some trepidation, because the implicit accusation lurks in the code that not taking these courses somehow implies that you are not taking bullying or harassment seriously. Yet these sorts of training modules, which are ubiquitous throughout the public sector and of notoriously mixed quality, can be politically contentious, deploying the worst and most divisive EDI stereotypes and using an insultingly patronising and hectoring tone. Worse, they act as a form of compelled speech. You have to nod along and give the correct answers to prove that you are not guilty of harbouring some dodgy or malign attitudes. Why are there compulsory seminars only for these behaviours? Why not have courses on financial propriety or the correct use of political donations? Given the mission creep front, I am not suggesting that, of course. Yet somehow, bullying, harassment and sexual harassment are treated as especially grievous.

The backdrop to some of my reservations over the part of the code relating especially to bullying and harassment is the way that, over the last 20 years or so, interpersonal relations in the workplace have become politicised while, conversely, the ordinary conflicts of public life, such as political disagreements, are being conducted in personal terms. Politics has become personal in the worst possible way. What is more, the accusation that a public figure has behaved inappropriately towards another person can exact a far greater price than any amount of corruption. That alone means that it can be too easily weaponised.

I first encountered this a couple of decades ago when I cut my teeth as a trade union rep at an FE college. Shortly after management added bullying to its disciplinary procedures, there was a spate of complaints. I represented two members of staff, one of whom was accused by an incompetent fellow member of staff and the other by a student who struggled academically. Both, as it turned out, were victims of false allegations and were eventually totally exonerated, but the process dragged on for months. At the end of it all, one of the accused took early retirement and, after an exemplary 30 years as a lecturer, was left feeling bitter and betrayed. The other had a nervous breakdown.

I learned then that, often, the process is the punishment. I have tracked similarly destructive ways in which anti-bullying and harassment codes have spread in universities, as well as how they are often used by activists to cancel speakers and hound and silence lecturers whose so-called toxic views are deemed bullying by some students.

Only recently, closer to home, the Equality and Human Rights Commission eventually closed the case against the noble Baroness, Lady Falkner of Margravine, after many hellish months. She was being investigated because EHRC employees filed bullying complaints that seem to have been ideologically motivated because of her completely correct stance, as chair of the EHRC, in clarifying the protection of biological women's rights.

One reason we see such cases is that the charge of bullying can be used as a political weapon in a witch hunt to discredit opponents, since the definitions of bullying are so nebulous and subjective. This is even admitted in the code's appendix, which details these definitions:

"Bullying may be characterised as offensive … behaviour … that can make a person feel vulnerable, upset, undermined",

et cetera. We are told:

"Whether conduct constitutes bullying will depend on … the perception of the person experiencing the conduct".

Perhaps less cynically, the data shows that, once anti-bullying procedures are formalised by an organisation, claims of victimisation inevitably grow. That is hardly surprising; increasing prevalence may be less a response to actual behaviour and more about people's changing interpretation of that behaviour.

Much of what is listed in the code seems almost to incite complaints about minor incidents. Under bullying, we have "being sarcastic"—I mean, what? I have just done it. It also lists using "inappropriate nicknames" and "practical jokes". We are told that bullying can be verbal or non-verbal,

"may be persistent or an isolated incident and may manifest obviously or be hidden or insidious".

That is a very wide brief. Can the committee explain how such vast parameters will not encourage trivial complaints? What procedures exist—

Lord Forsyth of Drumlean (Con): I think I am right in saying that, in the case of bullying, the identity of the complainant is kept from the person being complained about, which makes this even more egregious.

Baroness Fox of Buckley (Non-Afl): It just gets worse and worse; that is all I can say. I want to know what procedures exist, or will exist, in any review to avoid vexatious complaints. How will the use of accusations, either in pursuit of vendettas or due simply to misinterpreting harmless personality clashes, be dealt with? Who decides what is actionable, and using what criteria?

The definition of harassment in the code is arguably even more troubling. We are told that harassment

"can be intentional or unintentional"

and, again, that it depends on perception. There are some extraordinary quotes; I urge noble Lords to read them because they are frightening. It says:

"A person may … be harassed even if they were not the intended 'target'".

The example that made me gulp was that

"a person may be harassed by jokes about a religious group that they do not belong to".

What on earth censorious identitarian doors does that open? Then there is—wait for it—this example: "Deliberately"—I do not know who decides on that—

"holding meetings or social events in a location that is not accessible for an individual … by reason of religious prohibitions".

So, a get-together in a bar, which some practising Muslims will not want to attend, could be seen as harassment; that is the word used.

[Baroness Fox of Buckley]

Finally, the code refers to the use of "unacceptable or inappropriate language"—again, who decides what is unacceptable or inappropriate?—

"or racial or other stereotypes (regardless of whether the complainant is in fact a member of the group stereotyped)".

Is this harassment? It insults the victims of proper harassment to say that. Using a recent controversy, perhaps I can claim harassment here. I heard one noble Baroness call a member of the public a "coconut", which I consider a racial slur. Well, it does not affect me, but I heard it. I am harassed, am I? I am certainly offended, but let me assure noble Lords that I do not need a code to say that; I will just argue back instead.

It is a mistake to encourage people to police their conduct or language using an ever-prescriptive code. If anyone actually read this code and took it literally, or if it was heavily enforced, it would stifle frank and open debate and undermine us holding each other to account in public. Two of the seven Nolan principles denoting standards in public life are openness and honesty. What gives us the ability to be honest and open is not a bureaucratic code but an unapologetic commitment to free speech, so I am glad to see on page 6 of the code—I hope this will stay and be highlighted even more—a recognition of the primary consideration of the principle of free speech in parliamentary proceedings to allow Members to express their views fully and frankly. Hear, hear to that.

I wonder how we all feel about a rather disappointing letter, not directly to do with the code but part of mission creep, that we were sent by the Chief Whips across all the parties in which we were asked to mind our language. At the start of the new term on 2 September, we were asked to ensure

"debate that does not descend into vitriol … or use of rhetoric designed to offend and inflame".

I find that chilling, perhaps because I wrote a book entitled *I Find That Offensive*. I know that attempts to purge so-called offensive speech can be a less than subtle code for telling people "You can't say that". I want us to avoid reducing political rhetoric to carefully manicured, rehearsed lines from a sanitised script and instead stand up for what we believe to be right with passion and plain speaking. If that sounds vitriolic, so be it. To be honest, there are so many challenges in national and international politics at present that deserve our vitriol that maybe saying it out loud is the mark of honourable public service, far more evidently than following any code of conduct, which, broadly speaking, I would cut, cut and cut again.

5.02 pm

Lord Balfe (Con): My Lords, I add my thanks to the noble Baroness, Lady Manningham-Buller, for initiating this debate. We have just heard an excellent presentation from someone who should be the next chair of the committee.

I was for 10 years a member of the European Parliament's house administration committee. We looked after the administration of Parliament—no politics, but lots of administration. We did not have a lot of time to keep on looking at complaints. Although we did, that was a very subsidiary part of our job. My first concern about this committee is that it exists at all, that we have four independent experts and five Members of the House as, basically, a voluntary police force. I am not sure we need it. It should be part of a general committee looking at the administration of the House, the way Members are treated and what we get. We might then get some of the few demands that we make attended to—at the moment, after 11 years in this House, I still do not know how on earth to get some quite simple things done.

I think my noble friend Lord Forsyth mentioned the declarations of our interests that we make in the Chamber. Frankly, saying "I draw attention to my interests in the register" is absolutely meaningless. People look at me and think, "Balfe is on about his engineering unions", but I bet they do not know them. We need to look at how we present that. Do we need to get up every time? Do we do it at the beginning of a speech that is nothing to with those interests, or somewhere else? There is no real guidance about it.

The second point I will make is that it was said that the House of Commons has a better set of rules than we have. Well, they have certainly got themselves in a bit of a mess at the moment with, "My clothes were within the rules" and, "These glasses are from Specsavers". Perhaps I could introduce someone down the Corridor to the virtues of Specsavers. What went on, which was supposedly within the rules, is certainly not in the spirit of what is acceptable to the general public, and that is what really matters. My view—I say sorry to the noble Baroness, Lady Manningham-Buller—is that this committee has gradually had mission creep and is now busy looking for things to do. I think the best thing it could do is to amalgamate itself with the House's administration committee.

I will give one example, which is to do not with the committee but with what has been mentioned: reputational damage. Those who know me will know that I have my own definition of what should constitute foreign and defence policy. It is quite a respectable definition, but it is not supported by any political party in this House. It led me—because I believe the Russian Federation is part of Europe—to attend a function at the Russian Federation embassy. I have warm words to say about the Russian ambassador; I think he is a nice chap. I have served in the Foreign Office and know how difficult it is to go abroad to lie for your country—that, of course, is what most ambassadors have to do. That visit drew the attention of the *Sunday Times*, which put me and my good friend, the noble Lord, Lord Skidelsky, who sits next to me, on its front page.

I got into the House on the Monday, as I normally usually do, and received a telephone call saying that the Chief Whip would like me to see her. I went to see the Chief Whip, who rather sheepishly led me into the office of the Leader. The Leader, the noble Lord, Lord True, said "I have received a complaint that you are doing reputational damage to this House by going to the Russian embassy". I said, "Oh, really?". He said, "I could withdraw the whip". I said, "That would be very good. It would really go down well in Moscow if you were to withdraw the whip from me for going to the Russian embassy to a national day reception, together with the high commissioners of India, Pakistan and Sri Lanka and lots of European ambassadors. Maybe you could ask for them to be sent home and

withdraw their accreditation?". Of course, the Leader being sensible, he said that he did not say that he would withdraw the whip, but that he could. That was the last I heard of it. I will oppose anything that tries to bring a concept such as reputational damage into our rules because what is one person's reputational damage is another person's legitimate political expression of belief. I think that is very important.

Before I sit down, I want to mention two particular cases that have concerned me. One is my good friend the noble Lord, Lord Maginnis, who was sentenced—for want of a better word—before the noble Baroness, Lady Manningham-Buller, was chair of this committee. Ken is well over 80. He is—I think I will say—a curmudgeon, but a very nice one. He came over one night from Belfast, and he had mislaid his pass. He was shot during the Troubles, and he has suffered for many years from severe pains in his leg. His leg was hurting badly. He got to the barrier, and he ended up in a dispute—I put it no higher than that—with the man behind the glass box. We all know the way in from Westminster tube station. A noble Lord tried to sort it out, but it got into a confrontation. It was reported to the committee. Ken was suspended for six months, I think, and he was told that he had to go on a course to make him racially aware, or some such thing, and he refused to go on it. He still has not been on it, and he has not been back to this House because it was made a condition. Frankly, I think that was totally over the top.

My next case is that of the noble Lord, Lord Ranger, who had a few too many, shall was say, and instead of choosing the Red Lion, chose the bar in the House of Commons in which to fall out with a member of staff. Had he chosen the Red Lion at the bottom of Whitehall, nothing could have been done, because the Conduct Committee's remit, as far as I know, does not run as far as the Red Lion. None the less, as has been mentioned, the noble Lord, Lord Ranger, was sentenced to a week's suspension, which miraculously turned into three weeks and, which has not been mentioned, a year's ban on ordering alcohol in the House. This is totally over the top.

Both those cases demonstrate—and nowhere in the report is it mentioned—not even a shred of compassion or understanding. By all means know the Nolan rules and be able to recite them in your sleep, but if we do not know how to treat people with compassion—and both these cases showed that—we are failing, and we are failing considerably. No one said to Ken, "Look, old boy, we realise you were a bit over the top, but"—this is what I would have done in the European Parliament—"I'm going to arrange a meeting between the two of you. You know you were over the top and you have got to apologise". Ken told me that he would have apologised if he had been able to. We have to look more at the human compassion that is needed to run an organisation like this. You cannot run it on the basis of a set of rules. I am terribly sorry, but it is not the way you run an organisation of human beings with human foibles.

I have read these rules thoroughly, and I will be quite honest: I stay away from the staff. Apart from with Simon Burton, I make it a point not to engage with any of the staff in this place beyond the absolute minimum necessary because I do not want to be landed with some sort of complaint. I am not a particularly bad-tempered person, or anything; I am just a careful person. Part of the fault of the rules is that it is ruining the interaction within the building itself.

The final point I shall make is that it is totally unacceptable to have reports that we cannot debate or question. Even if it has to be in a private committee room, such as this, without minutes, there should be an opportunity for these reports to be questioned and to be justified. It is absolutely unacceptable that we can have something worse than a Star Chamber because at least the Star Chamber goes to the Cabinet. What we have is a group of people, four out of the nine of whom are not even Members of this House, who can pass sentences which ruin and wreck people's careers. That is not acceptable, and we need some very fundamental reform.

5.14 pm

Lord Skidelsky (CB): My Lords, in taking part in this debate, I must declare an interest: recently, I was a victim of the committee chaired by the noble Baroness, Lady Manningham-Buller. Although this is not the kind of interest a Member is normally obliged to declare, I believe that my personal experience has given me a certain insight into the way the system works, which may be of public interest.

I welcome the committee's aim to shorten and clarify the code and guide wherever possible—they require drastic pruning—but, because their expansion is part of a more general demand for increased transparency in public life, it is very hard to know how and where to stand out against the tide; one then sort of looks rather like King Canute. That is a problem the committee must face.

When I was made a Peer in 1991, there was no register of interests, Code of Conduct or daily attendance allowance. New Peers were given a brochure telling them not to be vexatious in speaking—I have tried to stick to that faithfully—but that was about it. The custom, which continues to this day, was that Lords with a pecuniary interest in the subject under discussion should declare an interest.

In 1996, that was extended to non-pecuniary interests. I have done a bit of research on this. Had I taken part in a debate on crossbows in 1996, I might have had to declare my interest as chairman of the crossbow association, whether I was paid or not. In fact, this example is not entirely fanciful because there was a debate on crossbows in the early 1990s; I did not take part in it, but that was the kind of interest you were supposed to declare. Unlike MPs, Lords received no pay. They could claim actual expenses incurred for attending Parliament.

This relaxed system started to unravel in the 1990s. A register was created in 1996 to "restore confidence" in parliamentary institutions even though it was MPs, not Peers, who were involved in the "cash for questions" scandal. That register was not particularly intrusive: Lords were required to register their interests under two compulsory registrable categories, one covering paid consultations for providing parliamentary services and the second covering any financial interest in businesses involved in parliamentary lobbying. Registration under

[Lord Skidelsky]

category 3, which included all other interests, was voluntary. About 10 Lords registered their interests under the first two compulsory categories. Some 308 Lords registered interests under the third, voluntary, discretionary category, while 208 Peers had failed to register any interest whatever. In an attitude of lordly disdain, Lord Jenkins of Hillhead registered his discretionary interests as:

"Chancellor of the University of Oxford (unpaid) … President of the Royal Society of Literature (unpaid) … Writer of books and articles … Occasional lecturer … mostly but not invariably unpaid".

Then came the Williams report in 2000, which really started the regulatory escalator. There was now to be a short Code of Conduct built on seven principles, which, by virtue of repeated incantation, have come to be regarded as sacred: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. No one can be against these virtues, but they do not do any work in the code. They are vestiges of a pre-code attitude to behaviour that has somehow survived into this world of contractual obligation.

More importantly, the number of registrable interests shot up from two to 10. In effect, discretion as to what or what not to register was abolished. Peers who aspired to be legislators could no longer decline to register their interests. As a direct result of the new requirement, eminent hereditary Peers such as Lord Cranborne resigned their membership of the House.

The next flurry of reform followed the parliamentary expenses and "cash for amendments" scandals of 2009, which involved both Peers and MPs. As a result, the expenses claim system was turned into one of attendance allowances and the Code of Conduct was expanded. There was a new independent commissioner for standards and an explicit sanctions regime was introduced, allowing for expulsion or suspension.

That was not the end of it. The 2010 code was extended to Members' staff on 1 April 2019, while a new section covering bullying, harassment and sexual misconduct was added to the code in April 2021. At the end of this process, noble Lords could no longer be trusted on their honour to behave decently in matters, either monetary or sexual affairs; they must sign a contract promising to do so.

As has rightly been said, there has been a huge mission creep since the 1990s. Some detail of that makes it a bit more vivid. The register, which started with 59 pages, two registrable categories and one discretionary category in 1996, now has 10 mandatory categories and 414 pages. This partly reflects an increase in numbers, of course, but, much more importantly, it reflects the incentive to register an interest in almost anything for fear of being sanctioned for missing something. Among the monumental collections of interests that it has been my privilege to look at, one Peer has listed no fewer than 200 relevant interests—I counted. It is impossible to say whether he was being boastful or merely prudent.

The code and guide have expanded from 137 paragraphs and 27 pages in 2009 to 262 paragraphs—including appendices—and 57 pages in 2023. The enforcement procedure alone now comes to 79 paragraphs and 15 pages. Although the ritual appeal to Lords' honour continues throughout all this, honour has been completely devalued. In fact, in an extraordinary passage, the Committee on Privileges says that

"any definition of 'personal honour' … would quickly become out-moded"—

that is, personal honour is simply what is expected today: a contractual promise to do what present opinion decrees to be honourable. So much for Edmund Burke. But the phrase should be dropped, perhaps because it has stopped having any relevance to the code. In the same period, from 2010 to today, the daily attendance allowance has dropped by 50% in real terms—that is, the cost of membership of the House has risen relative to the rewards for membership.

I come to the last set of things I want to say. How do we explain this regulatory explosion? What, if anything, can be done to stop it or even reverse it, as a number of noble Lords have suggested? I suggest that one source of the explosion arises from a defect of language. "Interest" is always defined in terms of private benefit or profit. This sets up an automatic conflict or potential conflict between interest and duty. The older idea that it is in the legislator's interest to secure good government has gone and interest has become something completely apart from duty. In that confusion lies a lot of what has gone wrong in the expansion of the code.

The second source of regulatory creep is the importance given in your Lordships' reports to public perception. This has been mentioned a number of times. Again and again, it is stated not that noble Lords should act honourably but that they should be perceived to act honourably. Perceived by whom? Typical is this from the current code:

"The key consideration in determining relevance … is that the interest might be thought by a reasonable member of the public to influence the way in which a member of the House … discharges his or her parliamentary duties".

The code says that a reasonable member of the public is taken to mean

"an impartial and well informed person, who judges all the relevant facts in an objective manner".

Where is this individual to be found? Maybe only on the judicial Bench.

Beneath the stately prose, one can detect a succession of capitulations to two pressures: on the one hand to journalists, who make their living by snooping and entrapment; and on the other to lawyers, who aim to construct cast-iron defences against any possible allegation of skulduggery. These objects, which I completely understand, have only a remote connection with securing public accountability for Members' actions. Again, the word "public" needs clarification.

I would like the committee, first, to go back to the original purpose of no paid advocacy and ask whether the vast regulatory superstructure now in place is needed to achieve it. How many registrable interests are relevant to the issue of corruption? Is it really necessary for Peers to record all their journalistic outpourings? Some are more prolific than others in this respect, but what relevance does that have to their parliamentary duties? Secondly, I suggest the mechanical rule that any addition to the register should be matched

by a subtraction. Thirdly, I would remove the demeaning requirement that Peers attend behavioural seminars. You may need these for children or possibly university students, but not for adults who are determined mature enough to be legislators, as the noble Baroness, Lady Fox, touched on. Either make them real and show up their absurdity, or abolish them. Finally, any Member of the House sanctioned by the Conduct Committee should have a right to test the opinion of the House. We should not be condemned in camera. I beg the committee to set its face against using hammers to crack a small collection of nuts.

5.27 pm

Baroness Noakes (Con): My Lords, it is a pleasure to follow the noble Lord, Lord Skidelsky. Unfortunately, he has stolen some of my thunder, as I was going to go through some of the history of the evolution of the Code of Conduct. I will cover a little of it but will attempt not to repeat what he said.

I welcome this debate, but it is sad that only 12 noble Lords have opted to take part, although perhaps encouraging that others have stayed to listen. It would have been better to see greater involvement.

Baroness Manningham-Buller (CB): Quite a lot of Peers, not all of them here today, have put in written submissions and have been doing so since spring. If noble Lords chose not to come today or preferred the very interesting things happening next door, it may be because they have already sent us a note, of which we have had quite a few.

Baroness Noakes (Con): I accept that point. The choice of the Government to put the debate in this Room may well have affected the willingness of noble Lords to take part, because putting it here usually says "not so important" to noble Lords.

The code has become a monster and we need to do something about it. Like the noble Lord, Lord Skidelsky, when I joined the House there was no Code of Conduct. We managed perfectly well with the rather minimal rules of declaration of interests and very light-touch registration of interests. We had the two foundational principles that Peers should always act on their personal honour and should never accept any financial inducement for exercising parliamentary influence. That served us well.

I had not been in the House very long before we acquired our first Code of Conduct. We got it back in 2000 because the Committee on Standards in Public Life decided to have a look at whether the House of Lords should have a code of conduct. It fully accepted that there was no scandal or issue leading to the suggestion that we needed one, but nevertheless recommended that we have one. The rationale, so far as one was given, appeared to be that, because other legislators and organisations had codes of conduct, we should have one too. That, as far as I can see, is the only reason why we started to have one.

As the noble Lord, Lord Skidelsky, reminded us, in the wake of the "cash for amendments" scandal and, in timing terms, in alignment with the MPs' expenses scandal, it was decided that something more should be done. It is said that hard cases make bad law. I must say, I think that media-based scandals make rotten rules; that is one reason we have got stuck with a Code of Conduct that does not seem to work for a lot of people.

We got to 2010, and we had those scandals. We had the feeling that we had to show public penance—that is, we had to wear hair shirts and do things. Self-regulation, which is a defining principle of the way in which we run our affairs in this House, partially went out the window when we started to get outsiders in, first in relation to the Commissioner for Standards then later in relation to the Conduct Committee. I regret that we went down that route because I could see no necessity for it.

I turn to the code. When the Committee on Standards in Public Life decided that we should have one, it said that it needed to be only a short code, which I think was probably a recognition that we did not really need one at all. I have not been able to track down a digital or physical copy of that first code, so I do not know how long it was, but it was certainly shorter than the version that appeared in 2010; the noble Baroness, Lady Manningham-Buller, said that that one was 28 pages. The earlier one was certainly shorter because, looking at the debates around the time of the 2010 revision, there was a great desire from people to show that they were doing things—that they had to have more rules, more penalties and, ultimately, more pages. We now have a code that is double that length; it particularly grew when the behaviour code and the infamous appendix B was added.

It should also be said that 2010 was the time when all noble Lords were compulsorily obliged to waste their time and taxpayers' money on the completely useless course on the behaviour code. I agree with what the noble Baroness, Lady Fox, and the noble Lord, Lord Skidelsky, said about this. There should be no reason for any compulsion; I include in that the requirement for new Peers to attend the course.

The two foundational principles remain valid and cover everything that is relevant. We should question whether these 56 pages add to or detract from those principles. My own view is that the usefulness of the code in guiding Members' behaviour is inversely related to its length. The mass of detail in the code conceals the underlying principles, in effect; I do not think that it enhances the effectiveness of the code to have so much detail in it. I encourage the committee to go back to basics when looking at revising the code. It should not be just a question of making small amendments here and there; it should be about going back to asking what we absolutely need to put in it and what can be relegated somewhere else or dealt with in another way.

When God gave Moses the 10 commandments, they were written on two tablets. In modern day parlance, I think that is roughly equivalent to one side of A4. Moses did not think that it was necessary to add any more tablets, another 50 or 100, of detailed rules to underpin the 10 commandments. The 10 commandments have endured and are well understood, but I am not sure that the same can be said of the Code of Conduct. I hope that the committee will take as a style guide the

[Baroness Noakes]
conciseness with which the 10 commandments are expressed and the lack of need to embellish them with unnecessary detail.

In addition to focusing the code back more clearly on its roots, and the focus on the underlying principles, I hope that the committee will look at whether material not directly related to the Code of Conduct can be removed. I am not at all clear why the Code of Conduct for Members includes a Code of Conduct for Members' staff. That could be dealt with elsewhere, in a way that is accessible to Members' staff. That is only three pages—but there are 14 or 15 pages about enforcement. I query whether a document intending to deal with the Code of Conduct should have in it detailed rules about how complaints are dealt with. That is a separate issue from the Code of Conduct and can be safely put in another document.

I can just about live with the page of motherhood and apple pie of the behaviour code in the first appendix, but the extraordinary detail in appendix B, which we heard about from the noble Baroness, Lady Fox, is certainly not necessary to Members of this House and exposes this House to ridicule. There is one good place to put the five pages of appendix B, and it is not at the back of the Code of Conduct.

I shall focus my remarks primarily on the issue of the broad approach to the code—that is, that it should be more principles based and less detail based, focused on essentials. I would like to cover some specific additional aspects. First, I very much regret the fact that the rules introduced about declaring earnings from clients that are foreign Governments led to several noble Lords taking leave of absence. Those of us who had careers in professions that regard client confidentiality as sacrosanct were frankly appalled by them. I am not convinced that the benefit of those rules stands up to scrutiny; they are certainly worth revisiting.

Secondly, I do not think that the rules that govern how the commissioner handles complaints meet the rules of natural justice that the Code of Conduct itself requires. The commissioner is the investigating policeman and the prosecutor but also the judge and jury. The accused Member does not have effective legal representation in the sense that he does not have a person who is able to put a case for the Member.

All that is justified on the basis that the proceedings are inquisitorial rather than adversarial in nature. I have talked to several noble Lords who have been caught up in the process of having a complaint against them. Whether they are guilty or not, I do not think that they share that analysis—that it is a mere inquisitorial process. They all find it extremely stressful; it goes on for a very long time, and many still bear the scars a long time after the process has completed. Lives have certainly been ruined by judgments being reached on the balance of probabilities. We really need to look again very carefully at the procedure for handling complaints.

Lastly, although it is not my final concern with the rules—but I have rationed myself to three for the purposes of today's debate—I very strongly believe that we should not extend our code to activities outside Parliament. The requirement to act on personal honour effectively covers egregious matters that can bring the House into disrepute. The most egregious examples have been effectively dealt with by the House without formally extending the rules into private activity. I am absolutely clear that we must not open the floodgates to vexatious complaints based on private beliefs and private activities.

5.40 pm

Baroness Barker (LD): My Lords, my reason for taking part in the debate today is that over the past three or four decades in my professional life, which was in the charity sector, I had experience of advising complainants who believed that they had been subject to inappropriate behaviour or abuse. I advised defendants who were accused of such activities, and I have also advised boards of trustees who had before them both those groups of people and had to implement grievance and disciplinary processes to come to a judgment. Ever since I started to do that more than 30 years ago, I noted the toll it took on everybody involved, not least those whose professional lives were in jeopardy. I have been interested to watch that process happen in different organisations in different sectors—in the public sector and in the private sector too. It is one of those things where, when something occurs that you hear about on the news, you find yourself listening to it and going back to the sorts of questions that you had to deal with many years ago.

I was interested in what the noble Lord, Lord Evans of Weardale, said about issues being different in different organisations. I do not think they are. The issues are always much the same. The details and the context may well be very different and have a very different bearing on the judgment that people make. What is considered to be bringing one organisation into disrepute is very different from what brings another one into disrepute. His point about the role of professional codes of conduct was important. I observe that we do not have a professional code of conduct in this House. We rely on, in the current wording, our "personal honour". I will turn to that in a minute.

My experience in all the cases I was involved in led me to a clear belief that what is needed in any organisation is a system that is robust, that can investigate matters as and they arise to resolve matters so that everyone can work in the organisation without fear and to their full potential, and that is timely and clearly understood. It is important that it is there before an issue arises and is not hurriedly cobbled together as an issue arises. Most complaints and grievance processes, which is what this essentially is, evolve over time. I therefore think that it is important that we have this debate on a periodic basis to make sure that our code keeps up to date.

It is important that we note this afternoon that we are Members and have the enormous privilege of saying publicly what we think about this code, but this code is important to our staff, and they do not have it. We have heard cases made vociferously this afternoon about individual Members who have felt hard done by, by this code, but we have never heard the other side of the story. One thing that I learned from decades of dealing with these things is that there are always two sides of a story, and what matters is the process which is gone through and the judgments that arise.

Processes such as this are very easy targets. They are very often very easy to take apart, and there has been a flavour of that today. You can seize on particular details and score cheap points. What matters is whether they work in practice. Looking back over the history set out for us in great detail by the noble Lord, Lord Skidelsky, we can say that our processes have worked and have brought about, for staff and Members, an improved environment in which we can all work.

Others may disagree with that, but that is the purpose of this. I think that for the majority of Members, and certainly for a lot of members of staff, it has been an important thing. It is very easy to have a go, and we do when these matters occur. It occurred only this morning on the "Today" programme, where somebody was talking about being abused by a teacher many years ago. I am really pleased that over the past 30 years, young people at work are no longer having to put up in silence with the sort of behaviour that I had to many years ago. They have done that only because—it always follows the same pattern—somebody has to be brave enough to speak up about the existing culture in which they work and to point out the damage.

I listened to Members being outraged about the idea of compulsory training. I look back particularly to my experiences in the workplace, and it was always the people who were most hostile to that who were always terribly surprised to find out that they had in fact been doing things which were greatly offensive or harmful to other people. My experience of being on training courses which were put on in this House was that the majority of people who went on them—and maybe people who did not—learned quite a lot from them and were very grateful. They came out of the room having thought very differently about matters from when they went in and some of them, such as the noble Lord, Lord Balfe, did not feel so worried about talking to members of staff afterwards because they felt that they had gone through the training and they had a greater understanding.

I make one plea to the noble Baroness, in so far as she has any influence, which is that she does not listen to the siren calls about that and to make sure that the training is there. One of the biggest and most important things about a code of conduct is that it is there for protection and for protection against vexatious claims. I have had them made against me, and I have also been involved in defending somebody in the House of Commons from a vexatious claim. The fact that our code was explicit in many ways helped in both of those cases.

I agree with the noble Lord who said that what we say in the Chamber has to be protected. I wish that many of the people who sit in the Chamber and make some of the statements that they do would think more profoundly about the effect that they might be having on other people.

I want to finish with just two observations. In all sorts of areas of life, attitudes to work and the expectations of people who go to work have changed. That is for the better. The more I listen to people coming forward and talking about horrible things that happened to them as individuals in the workplace, the more I think it is a good thing, and we should encourage that, and we do encourage that for other groups. More to the point, in this place we not only criticise other people but legislate about other professions: the Metropolitan Police, doctors and all the rest of them. Therefore, it is more important than ever that we have a process for ourselves and that we apply it to ourselves in a way that meets the highest of standards, and that includes transparency and having input from individuals who sit on the board. They are not random individuals who are put there for no reason; they sit on the board because they have relevant experience and advice to bring to it.

I simply point out that this is a protection not just for us but for our staff, and if we do things well, we have nothing to fear. I hope that the noble Baroness, Lady Manningham-Buller, will convey to her committee that, while it has not been the tenor of the debate today, a lot of us believe that this is very important and we do not want to go back, ever.

5.49 pm

Baroness Manningham-Buller (CB): My Lords, I said at the beginning that I was not going to answer all the points and that this was an evidence-collecting sitting. I very much thank all noble Lords who have contributed. The committee—despite the wish of the noble Lord, Lord Balfe, to abolish it altogether—is determined to do a good job on this Code of Conduct. I point out that we are reviewing it not because any Member of the House asked us to do so but because we, looking at it critically and reading it ourselves on a weekly basis, decided to suggest to the House that we should review it. That is the background. A few errors of fact have been stated in this debate, but I will not pick up on them because they are probably caused by some confusion in the code itself.

I suspect this will be like an outcome to a public inquiry; we will not please everybody. Some will say that we have not gone far enough and some that we have gone too far. We have heard and taken in all that noble Lords have said. If noble Lords who have not spoken have additional things they want to say, they should please send them to me or to the committee's clerk, Chris Johnson, in the next three weeks and we will take them on board in the same way as we have the comments this afternoon. Thank you very much.

Motion agreed.

Committee adjourned at 5.51 pm.