Vol. 840
No. 39

Wednesday
30 October 2024

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

Questions
Volunteering Abroad 1109
Unaccompanied Migrant Children 1112
Human Rights Violations: Consular Assistance 1115
Social Media: Catfishing 1118
Great British Energy Bill
First Reading 1121
Contracts for Difference (Electricity Supplier Obligations) (Amendment) Regulations 2024
Carbon Dioxide Transport and Storage (Determination of Turnover for Penalties) Regulations 2024
Motions to Approve 1121
Financial Services and Markets Act 2000 (Ombudsman Scheme) (Fees) Regulations 2024
Insurance and Reinsurance Undertakings (Prudential Requirements) (Amendment and Miscellaneous Provisions) Regulations 2024
Motions to Approve 1121
Communications Act 2003 (Disclosure of Information) Order 2024
Online Safety Act 2023 (Priority Offences) (Amendment) Regulations 2024
Motions to Approve 1122
Property (Digital Assets etc) Bill [HL]
Motion to Refer to Second Reading Committee 1122
Arbitration Bill [HL]
Report 1122
Ministerial Code: Policy Announcements
Commons Urgent Question 1122
Sudan
Commons Urgent Question 1126
Water (Special Measures) Bill [HL]
Committee (2nd Day) 1129

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at
https://hansard.parliament.uk/lords/2024-10-30

The abbreviation [V] after a Member's name indicates that they contributed by video call.

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

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

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

© Parliamentary Copyright House of Lords 2024,
this publication may be reproduced under the terms of the Open Parliament licence,
which is published at www.parliament.uk/site-information/copyright/.

House of Lords

Wednesday 30 October 2024

3 pm

Prayers—read by the Lord Bishop of Newcastle.

Volunteering Abroad

Question

3.06 pm

Asked by ***Lord Wood of Anfield***

To ask His Majesty's Government what plans they have to create new opportunities for young people to volunteer abroad.

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office (Lord Collins of Highbury) (Lab): My Lords, we are exploring options to continue to support young people to volunteer and engage in active citizenship, alongside existing efforts to strengthen civic space. We will confirm our plans in due course. Currently, the FCDO supports volunteering through VSO's active citizenship through inclusive volunteering and empowerment programme, ACTIVE. It supports vulnerable and marginalised people in 19 countries to shape their own communities, claim their rights to better public services and hold people in power accountable.

Lord Wood of Anfield (Lab): I thank my noble friend for that Answer. He mentioned VSO. In February I had the privilege of being a political volunteer for VSO, seeing the extraordinary work that it does in Nepal with local staff and volunteers. VSO and other volunteering providers have been waiting to see whether the previous Government's commitment to a restored international volunteering programme, first mooted in April 2023, will be picked up by our new Government. I appreciate that this may be early, but will that plan form the basis of this Government's plans for a new programme, or will there be something different in the pipeline?

Lord Collins of Highbury (Lab): We will make a decision on youth volunteering in the coming months as Ministers and FCDO officials consider the advice, but the international development volunteering programme was designed as a new programme rather than as a resumption of the old International Citizen Service, so there is a process to go through regarding that.

Lord Maude of Horsham (Con): My Lords, while volunteering overseas is essential, and it is very important that the Government continue to support it, the Minister talked about active citizenship. Will he take the opportunity to assure the House that the Government will continue the bipartisan support for the National Citizen Service programme introduced by the noble Lord, Lord Cameron of Chipping Norton, in 2011? It has commanded widespread support since then. The best part of 1 million young people have gone through it and its role in successfully promoting social mobility and social cohesion, and engendering in young people the habit of service, is incredibly important.

Lord Collins of Highbury (Lab): The noble Lord knows full well how much I am committed to civic space and volunteering, particularly through the trade union movement, which I know he is quite keen to support as well. The scheme initiated by the noble Lord, Lord Cameron, resulted in positive engagement. We want to see how that can be extended and engaged to include all parts of society.

Baroness Bull (CB): My Lords, while all international volunteering opportunities are important for young people, there is a particular value to volunteering opportunities in Europe, not least because the lower cost of travel means they might be open to a more diverse range of young people. Civil society organisations in the UK and the EU are important in facilitating this kind of youth engagement, but the Minister will be aware that the youth centre is not currently represented in the domestic advisory group under the TCA. With the TCA review coming up soon, will the Government heed calls to include youth voices in the domestic advisory group so that future opportunities can be shaped by young people and fully represent their interests and concerns?

Lord Collins of Highbury (Lab): The noble Baroness makes a good point—that is something we should consider. It is not my responsibility but I will ensure that her views are conveyed, because there is an opportunity to include that when we consider the negotiations.

Baroness Armstrong of Hill Top (Lab): My Lords, I thank the Minister for his continuing engagement in the debate around what a future international volunteering programme for young people might look like. My experience with VSO over many years is that it has learnt that the most effective volunteering is when young people from here are partnered with young people in a developing country. That enables both to learn skills such as leadership, working together and understanding what is going on in a community and responding effectively. The AU recognised that when it signed a memorandum with VSO. The Government have a huge opportunity, and it is cheaper than the ICS. I can offer the Minister some suggestions. Will they make sure that they carry this on?

Lord Collins of Highbury (Lab): My noble friend is absolutely right. We need to understand how successful ACTIVE was in terms of volunteering. The VSO operated the Volunteering for Development programme and reached 5.4 million people across 19 countries in its first two years. My noble friend is right that our policy should be about volunteering across the globe, ensuring that young people are aware of how important volunteering can be in holding people like us to account.

Lord Storey (LD): If we want to create opportunities for young people to do volunteering work abroad, we need to create a culture of volunteering in this country

[Lord Storey]
so that it becomes the next step. As the noble Baroness, Lady Bull, rightly said, would it not be sensible to develop stronger links with the EU? The proposal that we would have an agreement with the EU on volunteering was scrapped by the previous Government and I do not see Labour making any moves in that direction. Why is that the case?

Lord Collins of Highbury (Lab): I do not understand why the noble Lord suggests we are not moving in any direction. We are supporting the principle of volunteering and working across the globe. Our relationships with Europe are not limited to the European Union. We have bilateral relationships and we have forthcoming agreements with France and Germany. These are not exclusive things—we want to work in collaboration with a wide range of countries. As I said, the ACTIVE programme reached 19 countries and 5.4 million people. Do not underestimate the impact of that. This Government are committed to that sort of programme.

Lord Kirkhope of Harrogate (Con): My Lords, we were involved with the youth hostelling movement, which is an important international way in which young people get together and understand each other; it is very good. To what extent are this Government committed to assisting not only the youth hostels of this country but the international arrangements for youth hostels?

Lord Collins of Highbury (Lab): I cannot be specific about that. I can assure the noble Lord that we are keen to encourage the widest possible range of volunteering and youth engagement. If he follows my Twitter—or X—feed, which I think he does, he will have seen that I congratulated the world Scout movement on its anniversary and activity, so we are not limited. We should be embracing the Youth Hostels Association and its important work and giving them as much encouragement as possible.

Lord Boateng (Lab): My Lords, would the Minister, who has been travelling extensively and to such good effect in recent months, like to recognise the role of the Duke of Edinburgh's Award, which has been promoting volunteering not just in this country but abroad, including in areas of conflict in Israel and Jordan, these many years? Would he like to commend its work and encourage missions overseas to support it in every way they can?

Lord Collins of Highbury (Lab): Just to reassure my noble friend, I will do that. In my first three months in post, I have visited seven African countries to ensure that we develop a very strong partnership that delivers on the sorts of things he highlighted. I certainly agree about the Duke of Edinburgh's Award. Sadly, I reached only the bronze level; I failed on my orienteering skills. I suspect I would be more successful now.

The Earl of Courtown (Con): I thank the Minister for expanding on his orienteering skills. In all seriousness, this is an important area of soft power that can be used. Has the Minister considered the positive diplomatic impact of a volunteering scheme? Does he have any ideas on how this scheme might support good will towards the United Kingdom and maintain our strong international standing overseas?

Lord Collins of Highbury (Lab): I thank the noble Earl for that question. The point I was trying to make to my noble friend Lord Boateng is that this is what our diplomatic engagement is about. I hesitate to use "soft power" because listening to other countries, developing a partnership model and understanding each other's priorities are the most important message we can give. Certainly, I encourage volunteering and civil society action wherever I go, because the most important ingredient of a healthy democracy is an active civil society.

Unaccompanied Migrant Children
Question

3.17 pm

Asked by ***Lord Touhig***

To ask His Majesty's Government how many unaccompanied migrant children are being accommodated in hotels.

The Minister of State, Home Office (Lord Hanson of Flint) (Lab): All seven of the Home Office-run hotels for unaccompanied asylum-seeking children are now closed. Six closed in November 2023 and the final one closed in January 2024. We are committed to working closely with local authorities across the United Kingdom. They have statutory duties towards these young people. The Home Office will continue to consider the welfare of unaccompanied children throughout our processes.

Lord Touhig (Lab): I tell my noble friend that that is the most welcome Answer I have received from a Minister at that Dispatch Box in the 14 years I have served in your Lordships' House. These places are closed—good—because 440 unaccompanied migrant children placed in these hotels went missing, and almost 100 have still not been found. A report from University College London and ECPAT UK suggests that it is likely that many have been kidnapped by criminal gangs. I have two questions for my noble friend. First, what is being done to find these missing children? Secondly, will His Majesty's Government consider holding an inquiry into the scandal? Frankly, putting unaccompanied children, some as young as 12, into hotels without proper care and supervision is an affront to their human rights and a stain on the good name of Britain.

Lord Hanson of Flint (Lab): I am grateful to my noble friend. I remind him that the hotels were closed because of legal challenges to force the previous Government to close them. There were 472 episodes of children going missing, from 464 young people in practice. My noble friend mentioned 100 children. I can report to the House that 90 individuals are still missing, of whom seven have a claimed age of under 18. Through the good efforts of the police and local

authorities, we have found 382 young people as of 26 September. The responsibility for finding those missing young people lies with police, and the Home Office will co-operate with them and local authorities accordingly. My noble friend mentioned an inquiry. I hear what he says, but the Home Office's key focus is on continuing to work with the police to support efforts to locate missing individuals.

Lord Laming (CB): My Lords, unaccompanied children still come to this country. Does the Minister accept that those children are particularly vulnerable to exploitation, abuse and serious neglect? That being so, can he assure the House that, whenever an unaccompanied child is discovered, they are immediately referred to the local authority for proper safeguarding and protection?

Lord Hanson of Flint (Lab): That is the intention of the Home Office. The noble Lord will know that this Government, in our current incarnation and in previous incarnations between 1997 and 2010, have been very strong on enforcement, securing action against people who commit modern slavery and supporting action to avoid exploitation, and we will continue to do that. The local authority has primary responsibility, and we have a duty to ensure that we reduce the number of unaccompanied children but support local authorities in safeguarding them properly.

Baroness Janke (LD): My Lords, in the light of 14 years of desperate cuts to local government, what will the Government do to support it in fulfilling its responsibilities to these children, many of whom have suffered trauma and terrible circumstances on their way here? There is a grave danger that the ones whom the Minister is talking about could become victims of modern slavery. What will the Government do to ensure that local government can fulfil its responsibilities to those vulnerable victims?

Lord Hanson of Flint (Lab): A partnership has been in operation to date with local authorities, particularly Kent County Council, to help quickly with placement and support for those young individuals. Obviously I have just heard my right honourable friend the Chancellor's Budget, and we have to reflect on that in relation to the local government settlement. However, I assure the noble Baroness that there is a commitment from this Government to ensure the protection of vulnerable children who come here unaccompanied.

Baroness Chakrabarti (Lab): I thank my noble friend the Minister for his positive and humane answers to the Question from my noble friend Lord Touhig. However, I want to press him on the supplementary. While the focus must be on recovering the missing children, it is still a scandal that so many went missing and that previous Ministers did so little to protect them and find them. A short and focused statutory inquiry would compel witnesses and perhaps focus minds.

Lord Hanson of Flint (Lab): Again, I hear what my noble friend says. I wish to find the 90 children who are still missing. I wish to ensure that we give support to local authorities and the police to do that, and it has to be the primary focus of the Home Office. I can reflect in due course on what both she and my noble friend Lord Touhig said, but ultimately our focus has to be to find those people who went missing because of the performance of the previous Government's management of this issue.

Baroness Brinton (LD): My Lords, the Minister referred to Kent County Council. Earlier this year, questions were asked in your Lordships' House about whether Kent was getting extra reimbursement for the phenomenal responsibility of being the first point of call for these children. Has that happened? It is wonderful that Kent is doing all that it can, but if it cannot do it without resources then children in Kent will also suffer in the longer term.

Lord Hanson of Flint (Lab): There was an enhanced incentivised funding programme in operation for Kent County Council, which gave support of £15,000 for transfers within two working days and £6,000 for transfers within five working days. Those schemes are coming to an end because the pressure is not there as it was, but that support was put in place to help Kent to deal with the initial challenges.

Lord Dubs (Lab): My Lords, what the Minister said about the hotels being cleared is of course good news. What is happening to any children who arrive at the moment? If they are not going to hotels, is he satisfied that local authorities have the resources and the foster families to look after them?

Lord Hanson of Flint (Lab): Currently, in the event of unaccompanied children arriving at a port of entry in the United Kingdom, the first port of call is to provide support via local authorities, which give proper safeguarding opportunities and responsibilities for those individual under-18s. Again, my objective overall and that of the Government in having the border control system is to ensure that we help to reduce the number of children coming here, exploited by gangmasters and by others, and that we deal with those who come here in a humane and effective way.

Lord Sharpe of Epsom (Con): My Lords, last week a teenager who arrived in the UK on a small boat in July was charged with the murder of a woman working at an asylum hotel. Rhiannon Skye Whyte, who was 27, died after she was stabbed in the neck with a screwdriver. I am sure all noble Lords will agree that this is appalling and send our sincere condolences to Rhiannon's friends and family. What steps is the Minister taking to ensure that all staff at asylum accommodation are kept safe?

Lord Hanson of Flint (Lab): I was aware of that incident last week. The noble Lord will know that I do not wish to comment on its details because it is sub judice. There will be a trial and an individual will face charges; I do not wish to prejudice any trial. In light of that incident, my right honourable friend the Home Secretary has made inquiries of the operator of the hotel in which it occurred and other hotels to ensure

[LORD HANSON OF FLINT]
that women, in particular, and lone workers have support and a review of their safety. The family of the individual who died as a result of that incident are being kept informed and have our great sympathy.

Lord Harris of Haringey (Lab): My Lords, in response to the question from the noble Baroness, Lady Brinton, my noble friend talked about the special arrangements put in place for Kent. Is it not almost inevitable that some local authorities will deal with more such cases of unaccompanied children than others? What are the arrangements going forward to ensure that they are adequately supported? Is the money to provide that support going into some rather amorphous pan-local-government pot? In that case, you cannot guarantee the distribution formula for it to reach the local authorities which have to deal with the highest number of children.

Lord Hanson of Flint (Lab): In addition to funding for children's social care that local authorities receive anyway through the local government finance settlement —and devolved governments; they are equally liable—the Home Office provides additional funding contributions to support local authorities to meet the cost incurred in looking after unaccompanied asylum-seeking children and, indeed, former unaccompanied asylum-seeking childcare leavers. That figure is determined at a rate of around £143 per night per child. We need to continue to support that to make sure that local authorities meet their safeguarding obligations.

Human Rights Violations: Consular Assistance
Question

3.27 pm

Asked by ***Lord Rooker***

To ask His Majesty's Government whether they have any plans to create a legal right for British nationals to access consular assistance in cases of human rights violations.

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office (Lord Collins of Highbury) (Lab): My Lords, our consular operation offers British nationals a 24/7, 365 days a year service. We welcome feedback to help improve our support to British nationals, including from those who use our services and other stakeholders. The Government are examining options on strengthening support for British nationals abroad, including a right to assistance in cases of human rights violations, as set out in our manifesto.

Lord Rooker (Lab): In the meantime, will the Government issue a warning to academics and curious tourists not to visit Egypt, the United Arab Emirates, Hong Kong and China as these are locking people up and denying them consular access. Is the Minister aware that Australia, the United States and Ireland—I repeat, Ireland—have secured the release of citizens from the Chinese Communist Party prisons by taking a tough line on trade? Yet our Foreign Secretary went off to China with no trade demands—and not even having met Jimmy Lai's legal team here in the UK—and came back empty-handed. Jimmy Lai, a British citizen, has been locked in solitary for four years and denied medical treatment. Why can the UK not take the same tough line as Ireland?

Lord Collins of Highbury (Lab): I thank my noble friend, but I think he knows very well just how seriously we take Jimmy Lai's imprisonment. He will recall my questions to the previous Government on this. He will recall my statements on this, where we have taken a very strong position. Let me reassure my noble friend: the idea that the Foreign Secretary goes to China and does not raise these issues is ridiculous. I assure him that the Foreign Secretary said in his response to the Oral Question on Monday that it was because he had been out of the country visiting a wide range of countries he had not at that stage been able to meet the family of Jimmy Lai. But Catherine West has and will continue to do so and the Foreign Secretary said he would do so. I reassure my noble friend that we take this very seriously and will raise it at all levels.

Lord Alton of Liverpool (CB): My Lords, in 2019, at the conclusion of the last fair and free elections in Hong Kong, at which I was one of the international monitoring team, the last person whom I met was Jimmy Lai. He is a friend, along with his family. Of the 1,800 pro-democracy prisoners in Hong Kong, he is probably the best known and a British citizen. He is 76 years of age and his health is declining; he has even been denied access to his pastor and the sacraments. His family believe that he will not see out another year if he is left in that prison. Can the noble Lord tell us when we last formally asked for consular access to Jimmy Lai in Hong Kong and why we have not called in the Chinese ambassador to ask that Jimmy Lai should be allowed to leave and return to the United Kingdom?

Lord Collins of Highbury (Lab): Again, let me reassure the noble Lord that we do take his imprisonment seriously. He knows very well that I raised these issues, together with him, when others did not. I assure him that the Foreign Secretary has raised the case. In fact, on 18 October, the Foreign Secretary raised it with Foreign Minister Wang Yi; and it was certainly raised under the previous Government on 5 December. We take this incredibly seriously. The problem remains with some issues of consular access because of dual nationals. The noble Lord knows that he and I have taken up other cases on that basis, but rest assured that we will continue to put much pressure on the Chinese Communist Party officials who are taking this action. We are extremely concerned about the continued imprisonment and I repeat that the Foreign Secretary will, as he assured the House of Commons on Monday, meet the family so that we can continue to give support at all levels.

Lord Scriven (LD): My Lords, the Minister will be aware of a case that I brought to his attention regarding a British citizen held in a jail in the Gulf states.

His basic human rights have been undermined and he is being held in conditions that fall far short of international standards. Considering that this type of case is not unique, when will the 2022 Labour conference promise of David Lammy to introduce a legal right to consular assistance be implemented, and will minimum standards be part of that Bill?

Lord Collins of Highbury (Lab): I hope I made it clear in my opening response that we are actively exploring with officials the implementation of our manifesto commitment. It is not just a statement from the Foreign Secretary but a manifesto commitment and we want to ensure that we get it right. We are having proper examination of this, both legally and diplomatically, so I hope that we will be able to make an announcement in due course. The problem with a lot of these individual cases—the noble Lord knows this as well—is that sometimes the efforts we put in cannot be as public as perhaps some people want. At the end of the day, as my noble friend raised in his original Question, we want to get these people out. We want to ensure that they are not detained arbitrarily and that proper due process is continued.

Baroness Butler-Sloss (CB): My Lords, I am the chairman of a forced marriage commission. The Minister may know that, particularly in Pakistan, the consular service in the past for victims of forced marriage has been absolutely brilliant. Are consular officials still being instructed to help victims of forced marriage?

Lord Collins of Highbury (Lab): I can reassure the noble and learned Baroness that, yes, that is the case. We are determined to continue to offer the best possible service to all our citizens who are affected by this. I have been involved in some individual cases myself, so she can rest assured about that.

Viscount Trenchard (Con): My Lords, for the Government to provide consular assistance to British nationals abroad, it is obviously essential that they know who they are. Some years ago, when I lived in Japan, British nationals were required to register their names and addresses with the embassy. I was surprised to hear that that has long since ceased to be the case. Does the Minister agree that it makes sense to reinstitute such a requirement?

Lord Collins of Highbury (Lab): I was just looking at the eligibility criteria and it is quite clear that we offer this service to British nationals overseas. They establish their rights through establishing evidence of their citizenship. I am not sure what further steps we might need to take. The important thing is that people who are resident abroad can rest assured that our consular services will be available to them.

Baroness Kennedy of The Shaws (Lab): My Lords, in 2019, the Media Freedom Coalition was created by the United Kingdom. It now involves 51 countries. It has a high-level legal panel, which I currently chair, following in the footsteps of the noble and learned Lord, Lord Neuberger. The coalition was very clear in its report on consular services that those services should be available to those who are at risk. That is particularly the case for journalists, who are often harassed. The murder of journalists has become a serious epidemic globally because of authoritarianism and wanting to get rid of critics, as has the murder of other human rights activists. Are we taking steps to provide visas for those at risk who need to get out? Sometimes they have family members who need to travel with them. How good are we at providing consular services.

Lord Collins of Highbury (Lab): I start by congratulating my noble friend on her appointment as chair of the high-level panel. As she knows, during the United Nations General Assembly, she and I were at the same event, hosted by Canada, on media freedom. That was a coalition between Canada and the UK, undertaken by the previous Government, and we are committed to continuing that work. Our manifesto commitment is quite clear in terms of establishing a right for human rights violations. One of the things we discussed at the Canada meeting was how media freedom was a particular human right. So I will take her points and hopefully we can meet to discuss this further, because there needs to be input into the discussions we are having at departmental level.

Social Media: Catfishing

Question

3.37 pm

Asked by ***Baroness Ritchie of Downpatrick***

To ask His Majesty's Government what steps they are taking to address 'catfishing' on social media platforms.

The Parliamentary Under-Secretary of State, Department for Business and Trade and Department for Science, Information and Technology (Baroness Jones of Whitchurch) (Lab): My Lords, the impact of catfishing can be devastating for victims, but the online world is not a lawless environment. Already, if you commit a crime online, you will face the consequences. Social media companies also have a clear responsibility to keep people safe on their platforms. The Online Safety Act will provide additional protections requiring platforms to take action to protect users from illegal content and activity that is harmful to children online.

Baroness Ritchie of Downpatrick (Lab): My Lords, I thank my noble friend for her Answer. Only last Friday in the High Court in Belfast, a man from Northern Ireland was sentenced for the manslaughter of a child from North America he had groomed and targeted. As a result of that, she took her own life. There were many other examples of his online bullying, amounting to over 3,000. Therefore, I would like some assurances from my noble friend. What steps are the Government taking to sanction social media platforms such as Meta, which fail properly to monitor contact and access to adult sites by children under 16, in the context of the Online Safety Act? Will any new legislation or statutory regulations be required to update the legislation in respect of last week's legal matter?

Baroness Jones of Whitchurch (Lab): My Lords, I express my deepest sympathy to the family of the victims of this appalling case. In addition to the existing criminal laws, social media companies already have a duty to keep people safe from these abhorrent crimes on their platforms. The Government obviously share the noble Baroness's commitment to keeping children safe. When the Online Safety Act is fully implemented, it will require user-to-user services to take steps to protect children from accessing that sort of harmful content. Ofcom will have robust enforcement powers to use against companies that fail to fulfil their duties, and responsibilities to introduce age-appropriate measures via the platforms. At the moment, our priority has to be to implement that Act so that those who use social media, particularly children, can feel safe. But, as I have said before at the Dispatch Box, we are keeping this under review in case any further legislation is required.

Baroness Foster of Aghadrumsee (Non-Afl): My Lords, I am sure the Minister is aware of the work of Jim Gamble, the founding CEO of CEOP. He has proposed an innovative five-point plan to deal with cases such as that mentioned by the noble Baroness, Lady Ritchie. Will the Minister consider meeting Mr Gamble to discuss his innovative five-point plan? Can she also tell the House about the investment made in classrooms to engender digital proficiency among our young people?

Baroness Jones of Whitchurch (Lab): I am of course happy to meet the gentleman the noble Baroness mentioned. We are open to all suggestions about how we can improve this legislation. None of this is 100% secure—we absolutely know that—and we know that, as technology is moving forward, we need to move forward too. It seems that the criminals are always one step ahead of us, so we need to catch up and make sure that we take all the appropriate action we can with the new technology that is being used. The noble Baroness also made an important point about education. Ofcom already has an important media literacy strategy that it is rolling out, and that includes education in schools and with young people. But we all have a responsibility—every parent has a responsibility to say to their child, "What you see on your social media platform may not be what you think you're seeing". We need to make sure that they are made aware of those dangers.

Baroness Brinton (LD): My Lords, Naomi Long, the Justice Minister in Northern Ireland, has said that Westminster's legislation on online crimes, including catfishing, is not strong enough, particularly on unverified social media accounts. Worse, 87% of those who report online crime to the police get an immediate response of "no further action". What will the Government do to ensure that police forces and the CPS have the right information to make sure that that appalling figure is reduced?

Baroness Jones of Whitchurch (Lab): We are working closely with the Home Office and the Ministry of Justice on the implementation of the existing legislation because, as I say, a number of pieces of legislation are already on the statute book. Some capture fraud offences —I note the Fraud Act—and others capture online frauds, including romance frauds on dating apps and so on, which, sadly, are all too widespread. Those actions are being taken. We are talking about this to the Home Office, which is also on a learning curve in relation to how it can tackle these issues more robustly. We are carrying on our dialogue with it.

Lord Vaux of Harrowden (CB): My Lords, the noble Baroness mentioned romance fraud and other frauds. Approximately 70% of fraud arises on social media platforms, particularly Meta, yet the reimbursement for fraud is all placed on the banks, and no liability applies to the social media platforms. What plans do the Government have to make social media platforms pay for their share of the frauds in order to incentivise them to do something to stop them?

Baroness Jones of Whitchurch (Lab): We are acutely aware of this issue. We know that there is a live ongoing argument about it and we are talking to our colleagues across government to find a way through, but we have not come to a settled view yet.

Viscount Camrose (Con): My Lords, catfishing is, of course, one of the misuses of technology in respect of which AI is rapidly enhancing both the attack and the defence. Does the Minister agree that the most effective, adaptive and future-proof defence against catfishing is actually personal awareness and resilience? If so, can the Minister provide a bit more of an update on the progress made in implementing this crucial media literacy strategy, which will be such an important part of defending us all against these attacks in future?

Baroness Jones of Whitchurch (Lab): Ofcom published its latest vision of the media literacy strategy just a couple of months ago, so its implementation is very much in its infancy. The Government very much support it and we will work with Ofcom very closely to roll it out. So Ofcom has a comprehensive media literacy strategy on these issues, but as we all know, schools have to play their part as well: it has to be part of the curriculum. We need to make sure that children are kept safe in that way.

The noble Viscount referred to AI. The rules we have—the Online Safety Act and so on—are tech-neutral in the sense that, even if an image is AI generated, it would still fall foul of that Act; it does not matter whether it is real or someone has created it. Also, action should be taken by the social media companies to take down those images.

Lord Stevenson of Balmacara (Lab): My Lords, as a survivor of the seven-year long period during which the Online Safety Act was developed, I have to confess that I do not think we ever came across the word "catfishing". In a quick moment, I looked it up on Google—and, of course, it has not even reached Google yet. It talks about those who wish to catch fish, rather than catfishing. I make a joke, but this is a serious issue and the Minister is trying to address it very fairly. The problem is that the technology is so efficient and

quick that the offences are moving ahead of our ability as legislators to make the necessary laws. The key element of the Online Safety Act is that that which is illegal offline is also illegal online. When will we see the necessary offence on the statute book?

Baroness Jones of Whitchurch (Lab): My noble friend is quite right about the expression "catfishing". I had to check the definition before I came here today, and for anyone who wants that clarification, it is when someone sets up a fake online identity and uses it to trick and control others. It covers a whole range of offences, including scamming people out of money, blackmailing them or trying to harm them in another way.

On my noble friend's general point, yes, we are of course looking at how we can match online safety with offline safety; that is part of ongoing work. But for the time being, as I have said several times from the Dispatch Box, rolling out the Online Safety Act is the crucial thing. We are within touching distance, and it will make a huge difference when it is fully implemented. That is our priority at this time.

Great British Energy Bill
First Reading

3.48 pm

The Bill was brought from the Commons, read a first time and ordered to be printed.

Contracts for Difference (Electricity Supplier Obligations) (Amendment) Regulations 2024

Carbon Dioxide Transport and Storage (Determination of Turnover for Penalties) Regulations 2024
Motions to Approve

3.49 pm

Moved by ***Lord Hunt of Kings Heath***

That the draft Regulations laid before the House on 30 July be approved.

Relevant document: 2nd Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 28 October.

Motions agreed.

Financial Services and Markets Act 2000 (Ombudsman Scheme) (Fees) Regulations 2024

Insurance and Reinsurance Undertakings (Prudential Requirements) (Amendment and Miscellaneous Provisions) Regulations 2024
Motions to Approve

3.49 pm

Moved by ***Baroness Blake of Leeds***

That the draft Regulations laid before the House on 20 May and 5 September be approved.

Relevant document: 2nd Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 28 October.

Motions agreed.

Communications Act 2003 (Disclosure of Information) Order 2024

Online Safety Act 2023 (Priority Offences) (Amendment) Regulations 2024
Motions to Approve

3.50 pm

Moved by ***Baroness Jones of Whitchurch***

That the draft Order and Regulations laid before the House on 9 and 12 September be approved.

Considered in Grand Committee on 28 October.

Motions agreed.

Property (Digital Assets etc) Bill [HL]
Motion to Refer to Second Reading Committee

3.50 pm

Moved by ***Lord Ponsonby of Shulbrede***

That the Bill be referred to a Second Reading Committee.

Motion agreed.

Arbitration Bill [HL]
Report

Northern Ireland legislative consent sought.

3.51 pm

Report received.

Ministerial Code: Policy Announcements
Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Tuesday 29 October.

"Mr Speaker, I reassure you that what you said yesterday, and indeed what you said a moment ago, has been heard not just by me but across government.

The Government take their obligations to this House very seriously. Yesterday, the Chief Secretary to the Treasury made a Statement to the House on the fiscal rules, in which he made it clear that details will be announced to the House in the Chancellor's Budget Statement tomorrow, alongside an economic and fiscal forecast produced by the independent Office for Budget Responsibility. Treasury Ministers have also answered questions in the House this morning.

The Chancellor will come before the House tomorrow to set out in detail the Government's Budget to fix the foundations of our economy, and the House will then have a further four days of debate on the measures announced in that Budget. Throughout it all, Members of this House will see a Government who are committed to fixing the foundations to deliver the change our country so desperately needs. This Labour Government will invest in Britain's future so that we can rebuild the National Health Service and our country, while ensuring that working people do not face higher taxes in their payslips".

3.52 pm

Baroness Neville-Rolfe (Con): Does the Minister feel any shame that the Labour Party has constantly assured the country how devoted it is to propriety and the Ministerial Code, while the Speaker of the House of Commons has rightly criticised the Government for an unparalleled breach of that code? There was a major announcement overseas last week on the fiscal rules. As we have now seen, this formed a critical part of today's Budget, allowing a huge increase in spending. What a contrast with the Government's previous attitude. The Government could, and I believe should, have made a Statement to Parliament on Thursday on these changes. Will the Minister, in her position at the Cabinet Office, seek to persuade her colleagues that they should abide by conventions and the rules of the code? Will she apologise now for this unfortunate breach?

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Baroness Twycross) (Lab): My Lords, the Government take their obligations to Parliament extremely seriously. As the Minister for the Cabinet Office said in the other place yesterday, the Speaker's comments have been heard by Ministers across government, including in this House. As for Treasury Ministers making announcements in the other place, the Chief Secretary to the Treasury made an Oral Statement to Parliament on Monday about the fiscal rules and Treasury Ministers answered questions in the other place yesterday. Today, the Chancellor set out in Parliament the full details of the Budget, which will fix the foundations of our economy. Anyone who was watching the faces of the Opposition Front Bench will know that most of the measures were clearly a surprise. The leader of the Opposition seemed particularly glum as he looked at his phone for his revised lines.

Lord Wallace of Saltaire (LD): My Lords, does the Minister understand why we on these Benches feel that we keep hearing the pot calling the kettle black? I note that, in the Commons, the Conservative spokesperson complained that the Labour Party was behaving just as badly as the Conservatives had. Perhaps I should admit that, during the coalition Government, George Osborne, as Chancellor, was heard to complain that Nick Clegg's office briefed out all the juicy bits from the Budget before he had a chance to give his Budget speech—so everyone does it to a certain amount. Does the Minister accept that the idea that everything in the Budget should be unknown beforehand and sprung immediately on Parliament is perhaps not the best way to handle financial and spending planning in today's complicated environment, and that that is one of the things the new Government should be reconsidering, in consultation with the other parties?

Baroness Twycross (Lab): This party and the Government understand our obligations to Parliament and take them extremely seriously, but I note the noble Lord's points. As the Minister for the Cabinet Office said in the other place, we have heard what the Speaker said, and all Ministers are very clear about their responsibility to the other place and, on this Front Bench, to your Lordships' House.

Lord Young of Cookham (Con): My Lords, on Friday, we heard about the fiscal rules from the Chancellor. On Saturday, there was an announcement from the Secretary of State for Education of £1.4 billion for school building. On Monday, the pace accelerated and we heard about the bus fare cap and £240 million to get Britain working. On Tuesday, there was a briefing about the national living wage, and today, even before the Budget, there was an announcement of £3 billion extra for defence. Was this not authorised and centralised briefing from 10 Downing Street?

Baroness Twycross (Lab): My Lords, I repeat that we take our obligations to Parliament seriously. I do not think that most of what was in the Budget was pre-briefed. This Budget makes difficult choices on tax, spending and welfare, with the intention of restoring stability, fixing the foundations and investing in the future of Britain. Importantly, we are delivering on our manifesto, which will protect people's payslips as income tax, employee national insurance and VAT stay the same but businesses and the wealthiest are asked to pay their fair share. We make no apologies for the content of the Budget and I am very proud of the history of the Labour Party in rebuilding our country; we intend to rebuild it again.

Lord Butler of Brockwell (CB): My Lords, while the principle behind this Question is undoubtedly right, does the Minister agree that trying to prevent Governments in this day and age rolling the pitch before a major announcement is like King Canute asking the tide to turn? I endorse what the noble Lord, Lord Wallace, said; there is some merit, as recent experience has shown, in not surprising the markets with very sensitive announcements.

Baroness Twycross (Lab): I agree with the noble Lord on markets and I am sure that, in the other place, previous Chancellors from previous Governments might feel that they would have been better placed had this happened. We need to get the balance right. We are very clear that we have an obligation to Parliament. The point about the markets and having a bit of common sense has considerable merit.

Lord Macpherson of Earl's Court (CB): My Lords, back in March 2013, the Budget was comprehensively leaked and the then Chancellor, George Osborne, commissioned me to do a review into the pre-release

of Budget information. I published a report in July 2013 and recommended a ban on the pre-release of the core of the Budget. The Government accepted my recommendations. Do the current Government still stick to the policy agreed at that time?

Baroness Twycross (Lab): We do. To anybody who watched that Budget and who had not been involved in its development and thought that they knew every single detail that was announced in the Chancellor's speech, I would question whether they were watching the same speech as I was.

Lord Clarke of Nottingham (Con): My Lords, I will not repeat what I said yesterday, but I was outraged by the complete circus of trailing in advance and trying things out that has gone on for three months while this Budget was prepared. There were no surprises to anybody in today's Budget, and they got away with it as far as the markets were concerned—but I said I would not repeat that. I now do not understand what the policy is. The Minister sounds as though she still asserts that it is a serious matter to trail in advance the contents of the Budget before they have been announced to Parliament. She says it with a completely straight face. My learned noble friend Lord Macpherson, who was with me in the Treasury in the 1990s, when we did not have leaks of any kind—

Noble Lords: Oh!

Lord Clarke of Nottingham (Con): We did not—even the Cabinet did not know what was going to be in the Budget until the day before, because someone in the Cabinet would have leaked it.

Will the Minister not acknowledge that this Government are now approaching Budgets on the basis that things have to be tried out with the public and various Labour lobbies, and nastier things leaked in advance to lower their impact? It is all deliberate media management nowadays and the old obligations to Parliament are, in practice, being completely, deliberately and openly abandoned.

Baroness Twycross (Lab): I find the outrage from Opposition Members to be in the category of faux outrage. As I said earlier, the Speaker's comments were heard by Ministers across the Government, and Treasury Ministers have been hardly out of the other place this week, with Statements and Question Time. I cannot see how anybody could assert that all the decisions in the Budget—which makes difficult choices to fix the foundations of the economy and public services in this country—were trailed in advance.

Baroness Fox of Buckley (Non-Afl): My Lords, this is not about party politics or outrage; no one is playing politics here. This is about the rules and a set of conventions that are democratic in nature. It is not fair to dismiss concerns about manipulation. The noble Lord, Lord Clarke—and, goodness knows, he and I agree on nothing—raises perfectly valid arguments. Can the Minister listen seriously to the concerns? It is true that I did not know in advance everything that was going to be Budget—in some ways it was a lot worse for ordinary working people than I anticipated—but I did know far too much. The attempts at manipulation break the rules. If the public break the rules on anything, they get a lecture from this Government, so maybe the Government should listen in this instance.

Baroness Twycross (Lab): I do not recognise the scenario that the noble Baroness presents. As the Minister for the Cabinet Office said yesterday, we take this extremely seriously. We are going to shortly produce a new Ministerial Code and we will be increasing the transparency of a whole load of measures as a result. It is clear that we are not going to agree on this point across your Lordships' House. We have heard the Speaker's comments and they apply to Ministers in this House as well.

Sudan

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Tuesday 29 October.

"I am grateful to the right honourable Member for bringing this Urgent Question before the House and ensuring that we discuss the appalling situation that we currently see in Sudan. Since conflict erupted between the Sudanese Armed Forces and the Rapid Support Forces in April last year, Sudan has witnessed one of the world's most severe humanitarian crises. Humanitarian access continues to be deliberately blocked, and atrocities are being committed on a horrific scale.

The UK is at the forefront of responding to this crisis. Yesterday at the UN Security Council, the UK condemned the horrific escalation in violence in Al Jazirah state over recent days, with the Rapid Support Forces reportedly shooting indiscriminately at civilians and committing heinous acts of sexual violence. In September, as world leaders gathered for the UN General Assembly, the UK convened an event with partners to draw international attention to conflict-related sexual violence in Sudan. That followed my visit to South Sudan, where I spoke with some of those who have been impacted by this horrific violence. On 12 October, Her Royal Highness the Duchess of Edinburgh also visited the Chad-Sudan border to witness the impacts of the conflict in Sudan on women and girls and shine a light on the deteriorating situation.

On 9 October, as co-leader of the UN Human Rights Council's core group on Sudan, the UK led efforts to extend the mandate of the independent fact-finding mission on Sudan. That mission is vital for documenting human rights abuses. Most recently, on 18 October, the UK led a joint statement with 10 other donors condemning the obstruction of aid and calling on the warring parties to comply with obligations under international humanitarian law. I also want to underline that this year, the UK has provided £113.5 million in aid to support those who are fleeing violence in Sudan and those who have fled to neighbouring Chad, South Sudan and Libya".

4.03 pm

Lord Callanan (Con): My Lords, the ongoing conflict in Sudan represents the world's largest humanitarian hunger and displacement crisis. Since hostilities broke

[LORD CALLANAN]
out 18 months ago, tens of thousands of people have been killed, over 10 million people have been forced to flee and 13 million are now at risk of starvation this winter. This is a continuation of what began in Darfur 20 years ago with the Janjaweed militia—now known as the RSF—in a campaign targeting people based on their identity, amounting to crimes against humanity. In El Fasher, North Darfur, more than 1 million people face an immediate threat. I know this is a very difficult situation and I know the Minister is fully aware of it—we debated it extensively in this House—but please could he update the House on what further steps the Government can take to try and bring about some kind of reconciliation, and to deal with the ongoing humanitarian disaster that is taking place there?

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office (Lord Collins of Highbury) (Lab): I thank the noble Lord for his question; we obviously debated it last night in the general debate on the Horn of Africa, when I took the opportunity to go into some detail about our activities. In response, because we only have a short time for questions, on 21 October, the UN Secretary-General made recommendations about the protection of civilians, which we strongly support. He made reference to the commitments made in the Jeddah declaration to limit the conflict's impact on civilians. Yet, as the noble Lord said, we have seen the RSF campaign, ethnic groups' torture and rape, as well as bombardments by the Sudanese Armed Forces. We are ensuring that we continue to work with the United Nations. When we take the presidency next month, we will continue to focus on Sudan and ensure that we can build up towards that ceasefire. The most urgent thing is humanitarian access, which has of course also been inhibited by the warring parties.

Lord Purvis of Tweed (LD): My Lords, I agree with the Minister on that last remark. Will he agree with me that, given the scale of the humanitarian crises, not just within Sudan but within the Middle East and in Ukraine, this is the wrong time to cut official development assistance? Cutting it from 0.58% to 0.5%—a £2 billion cut from the outturn in 2023 to the 2024-25 levels announced in the Budget today—is the wrong thing to do at the wrong time. With regard specifically to the humanitarian crisis in Sudan, my party leader, Sir Ed Davey, asked the Prime Minister for the practical steps we will take as penholder and in the coming presidency of the Security Council, as the Minister said. Will the Government actively consider the wide calls for there to be an extension of the UK no-fly area across the whole of the country of Sudan, not just Darfur, for military aircraft and drones? Will they also work out what would be the active areas for safety and protection of civilians, especially those community areas that are providing health and education facilities?

Lord Collins of Highbury (Lab): I thank the noble Lord for the range of questions. There are very good reasons for the difficulties with the no-fly zone, in terms of security and escalation. However, I will give a strong commitment to raise the Secretary-General's commitment on the protection of civilians in November at the Security Council. We want to ensure that all his statements are actively implemented by all parties. I reassure the noble Lord that, in terms of our commitment to supporting the humanitarian situation, we are spending £113.5 million this financial year. This includes our bilateral ODA, which now stands at £97 million. We are not cutting aid. In fact, I suspect that in the forthcoming year, because of the terrible situation in Sudan, we will be increasing our support.

Baroness Blower (Lab): My Lords, could I press my noble friend a little more on the question of food insecurity? Given what we all know about the levels of people facing starvation, what steps are His Majesty's Government taking? Going forward, is there the possibility of protected zones to ensure that crops are actually sown and can be harvested, not laid waste by the warring factions?

Lord Collins of Highbury (Lab): We are taking a series of actions. Our first focus is to look strongly at humanitarian access and getting in support, in relation to the UN decisions. On 18 October, we led a joint statement with 10 other donors to condemn the obstruction. On broader support, we are providing nutrition, safe drinking water, medical care and shelter through both the WFP and UNICEF. But be under no illusions that the situation in Sudan is dire because of a civil war conducted by two generals. We need to ensure that we put immediate pressure on those two people to stop the war, so that we can get the sorts of actions in place that my noble friend referred to.

Lord Alton of Liverpool (CB): My Lords, earlier today, on behalf of the All-Party Group on Sudan, I chaired a meeting with the civil society actors in Sudan—the Taqaddum, which means "progress"—which is a starting place for civilian engagement. Its members have asked whether the Minister, who has responsibility for Africa, would be willing to meet them. They also asked whether we, as penholders at the Security Council, will take the opportunity to ask for the extension of the mandate of the International Criminal Court that currently covers Darfur to cover the whole of Sudan, so that those responsible for some of the horrors that the Minister has rightly described will one day be brought to justice.

Lord Collins of Highbury (Lab): I reassure the noble Lord of the importance of Taqaddum and the engagement with civil society in Sudan. I not only met His Excellency Mr Hamdok yesterday but saw him at the *FT* Africa conference today. I will continue to engage with Taqaddum. We have been a constant supporter of the group, as it is very important. When I met His Excellency, we stressed the importance of inclusive engagement, so that everyone in Sudan feels involved.

On the situation in Darfur and the UN resolution, as the noble Lord understands we tend not to move resolutions that we cannot garner support for. What I do not want to do is to move the clock back. By working with the Human Rights Council, we managed

to ensure that the fact-finding mission had its remit extended, and we increased the number of people supporting that Motion. We will take all diplomatic steps. I hope that when we take the presidency of the Security Council, which I will attend, we will ensure that the focus to which the noble Lord is drawing the House's attention will be included.

Baroness Helic (Con): My Lords, I fully agree with the noble Lords, Lord Purvis and Lord Alton. The independent commission reported yesterday with a devastating litany of human rights abuses, from indiscriminate bombardment to sexual violence and the starvation and displacement of civilians. I fully agree with the Minister that we do not want to start something that we cannot finish, but will he take another look at the recommendations that the arms embargo under the International Criminal Court's jurisdiction should go beyond Darfur and that there should be a no-fly zone? I know that this is difficult, but the situation in Sudan is absolutely desperate and we must do everything we can to try to lessen the suffering of those affected.

Lord Collins of Highbury (Lab): I completely understand and sympathise with the noble Baroness and her arguments, but, as she knows, we need to ensure that, whatever we do, we can win support for it and make it effective. In the meantime, we are not holding back; we are working with our allies to look at other opportunities, such as possible future sanctions. For every issue in the Secretary-General's statement on the protection of civilians, particularly women and girls, we will hold those people to account. I reassure the noble Baroness that we are definitely working on this, but I do not wish to mislead the House, because, at the end of the day, if you push a resolution and lose it, you could turn the clock back further. We do not want to be in a worse position. We are absolutely determined, because there are players and actors in the world who are currently taking advantage of extending this conflict rather than ending it.

Water (Special Measures) Bill [HL]

Committee (2nd Day)

Welsh legislative consent sought.

4.14 pm

Amendment 29

Moved by ***Lord Sikka***

29: After Clause 1, insert the following new Clause—

"Prohibition of possible conflicts of interest

(1) The Water Industry Act 1991 is amended as follows.

(2) After section 35D (inserted by section 1 of this Act), insert—

"35E Prohibition of possible conflicts of interest

(1) An employee, director or advisor of the Authority, or the Secretary of State, may not—

(a) take any employment, directorship, commercial opportunity, or other significant transactional relationship with any regulated water company, or connected party, or

(b) accept gifts of any amount,

that could produce the appearance of a conflict of interest.

(2) A connected party under subsection (1)(a) includes a shareholder, significant creditor, or other entity with a significant transactional relationship with a regulated water company.""

Member's explanatory statement

The amendment seeks to enhance independence of the regulator.

Lord Sikka (Lab): My Lords, I should like to introduce the amendments in this group. They all seek to create, strengthen or delete regulations. Amendment 56 tabled by the noble Baroness, Lady Bakewell of Hardington Mandeville, seeks review of the environmental permits. Amendment 78 tabled by the noble Baronesses, Lady Parminter, Lady Bakewell of Hardington Mandeville and Lady Jones of Moulsecoomb, and the noble Lord, Lord Randall of Uxbridge, seeks to impose duties on the regulator to provide clean water. Through Amendments 79 and 80, the noble Baroness, Lady Bakewell, of Hardington Mandeville, and the noble Earl, Lord Russell, seek to abolish the water authority and create a clean water authority. Through Amendment 81, the noble Earl seeks a regulatory review of the water industry. Through Amendments 84 and 85, the noble Baroness, Lady Jones of Moulsecoomb, seeks to remove the regulator's growth objectives and make environmental protection a statutory duty. I am sure that they will have plenty to add when they speak.

Meanwhile, I should like to speak to Amendment 29, which is about the prohibition of possible conflicts of interests. The key principle is that regulators must not only be independent of the regulated entities and personnel but be seen to be independent and free from any conflicts of interests. They must avoid cognitive capture. Individuals from regulatory bodies are in demand by the regulated entities because they can open doors and help to secure favours, and enable water companies to game the regulatory system.

No matter how vehemently such charges are denied, that is how it will always appear to the public at large, and public perceptions matter. Thanks to the wage freeze and the real wage cuts over the past 14 years, too many regulators are poorly paid. While in regulatory positions, they begin to look for greener pastures or are targeted by water companies for enrolment. In fact, every interaction they have with a water company is a potential job interview. There is always a temptation to go easy and be extra helpful to a potential employer, as that can help to land a much better-paid job. No one wants to sour that potential by being tough, awkward or robust with their potential employer. That applies to the regulators' employees too.

There is plenty of evidence about the merry-go-round between the core regulators and water companies. A report last year noted that at least 27 former Ofwat directors, managers and consultants working in the industry, which they helped to regulate, subsequently began to work for water companies, mostly in senior positions. Six water and sewerage companies in England have hired directors of corporate strategy or heads of regulation from Ofwat. They were the insiders. One celebrated name, Cathryn Ross, at one time interim joint chief executive of Thames Water, was a former head of Ofwat. Several former Ofwat senior people

[LORD SIKKA]

now work at Thames Water. In addition to Ross, there is Jonathan Read, who is a director of regulatory policy and investigations. There is also Giles Stevens, director of regulatory strategy and innovation. Another executive from a regulator was recruited by Thames Water as recently as March last year as a "regulatory engagement lead". At Severn Trent Water, there are at least nine employees who were previously at Ofwat. They include Shane Anderson, director of strategy and regulation, and Jonathan Ashley, head of economic regulation. Both previously worked as directors at the regulator that oversees water and sewerage firms in England and Wales.

I add for clarity that none of these people has broken any rules; I am not accusing them of doing so. It is simply that the rules are inadequate or, if they exist, incredibly poorly applied and permit this merry-go-round.

Amendment 29 requires that senior staff who work at the regulator cannot and must not have a potential conflict of interest by being lured into a job at a regulated company. It also requires that the Secretary of State must have no conflict of interests or appearance of a conflict: for example, by accepting gifts, free tickets for football matches, or even possibly tokens to buy new suits. None of that should be permitted. All regulators must be seen to be above any reproach, and there must be no question whatever about their integrity. An enforceable statutory framework is needed, and that is what this amendment seeks. We do not need voluntary codes, because they cannot be enforced by any court of law. We need legal backing. I beg to move.

Baroness Parminter (LD): My Lords, I rise to introduce Amendment 78 and to return to the issue we covered on the first day in Committee around the duty of the water regulator, Ofwat, and the fact that at the moment it does not have a core duty which comprises a public interest. I thank the noble Baroness, Lady Bakewell of Hardington Mandeville, who again is unwell and cannot be with us today, the noble Lord, Lord Randall, and the noble Baroness, Lady Jones of Moulsecoomb, for their support for this amendment.

It is quite clear that the public feel extremely strongly about how the regulator is ensuring, not ensuring or unable to ensure that companies perform their duties towards the public interest correctly. If we have any doubt of that, we saw the strength of feeling in the general election, we see it every day in the newspapers, and I am sure we will see it on the streets of London this Sunday with the March for Clean Water; I declare my interest as stated in the register.

However, if anyone were to sit down and read the Water Industry Act 1991, they would be amazed that there are no duties for Ofwat with regard to the public interest, to promote public health or to ensure the protection and conservation of our environment. They would see it as an absolutely astonishing omission. What they would see is a core duty to ensure the "long-term resilience" of water company services and sewerage systems. That is effectively a "keep the taps on" clause—which my local water company, Thames Water, seems to be unable to do on quite a regular basis, although that is beside the point. Then there is a whole swathe of legally binding economic duties which ensure that Ofwat absolutely focuses the water companies on making a profit. I am not against making a profit; of course they should make a profit. However, Amendment 78 says that we should look for a triple bottom line: for profitability, environmental returns and social outcomes.

As this returns to an issue that we looked at on Monday which is fairly similar to the amendment from the noble Baroness, Lady Willis, which talked about taking all reasonable steps to contribute to the environment and climate change targets, I made sure that I read the Minister's reply carefully in *Hansard* because I thought I might get the same sort of reply myself. She made three points. She says that the amendment is not necessary because it overlaps

"with existing government requirements, Ofwat's core duties and our ambitions for the future".—[*Official Report*, 28/10/24; col. 939.]

The Government do not have of themselves the mechanisms to deliver on all these targets; they rely on other bodies to work with them. Giving Ofwat this duty would enable it to support those government requirements and targets.

Secondly, on the point about Ofwat's core duties, I strongly but respectfully disagree with the Minister. There is no evidence in Ofwat's existing core duty of any public interest duty. Thirdly, the Minister talks about our ambitions for the future, by which I think that, rightly, she means the water industry commission. I shall quote again from her response on Monday. With regard to the independent water commission, she said the Government would put the environment

"at the heart of what we are doing".—[*Official Report*, 28/10/24; col. 939.]

Great, fantastic—but, as we discussed on Monday, once we get the commission done, we will have to wait for legislation and time is rolling on, while our environmental and climate targets are here and now. We cannot wait. We should be using this opportunity in the meantime to strengthen the duties for Ofwat to ensure that our water companies can support the Government in the very necessary task of protecting our environment and delivering clean water for the public.

Earl Russell (LD): My Lords, I declare my interests as set out in the register. I will speak to Amendments 56, 79, and 80, tabled by my noble friend Lady Bakewell, to which I have added my name, and to Amendment 81 in my name.

Amendment 56 would require the Environment Agency to review permits applying to water and sewerage companies every five years rather than "periodically", as regulations currently dictate. It brings in measures to ensure that a review of environmental permits happens on a regular basis rather than the ad hoc arrangements that are currently in force. Current Regulation 34 of the Environmental Permitting (England and Wales) Regulations 2016 requires the Environment Agency only to

"periodically review environmental permits",

including those attached to water and sewerage works. The reality is that many of these permits are unfit for the intended purposes and do not properly protect our

rivers, lakes and coastal waters from pollution incidents. It has been a long time since the system was fully reviewed in any meaningful way. The system is outdated, not really fit for purpose and clearly not working as it was intended. The Bill offers an opportunity and it would be wrong not to make use of it.

"Periodic review" could mean absolutely anything. It could mean that there are regular reviews in place, with systems for a review after serious pollution incidents up and working well. Equally, it could mean that water companies conduct reviews only once every 10 years, regardless of the number of incidents that happen over that time. The language we use in the Bill is of the utmost importance. We have an industry that is not abiding by the rules and a regulatory framework that is underresourced and low on morale and has not been able to prevent, contain or stop persistent breaches of environmental regulations. The public are fed up to the back teeth with illegal sewage overflows that no one seems to be taking seriously. They want action and they want it now.

While it can be argued that at least every five years is not often enough, it is a clearly defined requirement that can be monitored and enforced. We must also bear in mind that the Environment Agency is operating under such budgetary pressures that insistence on more frequent reviews would put it under a fair amount of strain. We need to be realistic about where we are and what we can enforce. This is put forward as a compromise that we feel best achieves those two aims. It is important that we set targets that are both achievable and operable. The amendment proposes that the Environment Agency should be placed under a duty to review permits applying to water companies every five years. Ideally, this should be done in advance of each periodic review, to reflect other legal obligations on sewage pollution and water quality and therefore drive investment.

Amendment 79 seeks to abolish the Water Services Regulation Authority. Amendment 80 establishes the "clean water authority" and provides it with duties concerning the water companies' governance and performance standards. It is well known that the Liberal Democrats do not believe that Ofwat in its current form, alongside an underfunded Environment Agency, can achieve the change necessary to prevent continued sewage overspills, provide a return to clean water running in our streams and rivers, and achieve the reversal of biodiversity decline currently found across our natural environment.

4.30 pm

The Government are in a race to achieve our 30 by 30 biodiversity targets. Regretfully, we see that the best option to move forward is to abolish Ofwat and replace it with a clean water authority. This new authority would have the necessary legal backing to achieve the outcome its name implies—ensuring that we have clean water. We must all work cross-party to ensure an urgent stop to the illegal sewage overflows and a return to a clean environment for our plants, animals, fish and reptiles.

Amendment 80 is clear in prescribing the duties that the clean water authority would undertake, from issuing guidance to conducting enforcement measures. It is not just sewage spills that have enraged the public; it is also the lack of clean, wholesome drinking water that often occurs. We see TV news coverage of bill payers queueing for bottled water as a result of interruptions to or pollution of their domestic supply. Unless the quality of both drinking water and bathing water improves, we could see more of our children and young people falling ill and having health problems as a result.

The measures contained in Amendment 80 are straightforward and easy to understand. There is no mystery surrounding what we are proposing. Given the past recent history of the water industry, we see this as the best way forward to ensure safe and effective water and sewage supplies. It is our party policy to do these things and it would be a missed opportunity not to try to amend the Bill to make that happen. We genuinely believe that these measures will provide the solutions we need, at pace and scale, without huge additional cost to the taxpayer.

I strongly suspect that these measures will not be supported by the Government—they have already taken another route. I have the utmost respect for the Minister and we genuinely welcome many of the measures in the Bill. We will work to support the Government wherever we can. Equally, we will push for improvements where we feel things should be improved. It is important that we work constructively together to bring about the required improvements to help resolve this issue.

Finally, Amendment 81 in my name asks that any future review into the water industry, such as the one the Minister committed to at Second Reading, must consider the abolition of Ofwat, the potential of public benefit companies, and the establishment of a new regulator called the clean water authority. My reason for bringing forward this amendment was that I was fairly certain that the previous two amendments were unlikely to be successful. My hope was that this amendment might offer a possible compromise on a way forward.

We welcome the review and we of course recognise that sewage discharges and water companies are only part of the pollution and environmental damage to our freshwater streams, rivers and lakes. Pollution from farming, surface water run-off and particulate matter from our highways are also key sources of water pollution. In short, a wider review is also needed to address these wider issues.

Yesterday the Minister told the House:

> "The commission will conduct a root-and-branch review of the water sector's regulatory system. It will cover the water industry in England and Wales and the strategic-planning framework under the water framework directive and river basin management plans to ensure that strategic water planning across sectors is effective at catchment, regional and national scales".—[*Official Report*, 29/10/24; col. 1036.]

The Minister also made a point of ruling out the privatisation of the water industry due to the cost. I support the Minister on this point and point out that our plan for public interest companies would not impose those costs on the Government or the taxpayer.

For the review to be independent, it is important that the Government do not set the parameters too tightly. Otherwise, the review will not be free to go where it needs to go and to explore the issues. In our view, that would restrict the information coming back to the Government, which they have to work on.

[EARL RUSSELL]

My amendment is intended to be a compromise. We are not saying that the review should do anything other than consider these as options. The review may well consider them as options and decide very early on that they are not helpful or a way forward for the water industry, but I ask the Minister not to rule them out by implication. My amendment is trying, gracefully, to be a compromise way forward. I ask the Minister and the Government to allow the parameters not to be so restrictive that other things, not just our amendment, are ruled out. I think it is best for the Government to have good, broad, free advice, which will help them make the correct strategic decisions.

Baroness Jones of Moulsecoomb (GP): My Lords, following the noble Earl, Lord Russell, is very useful because I agree very much with his last few statements. This is an incredibly helpful group. The Labour Government would be very well advised to take all these amendments. They are so helpful, reasonable and sensible and bring in issues that I think have been left out without any rational reason.

I deeply regret not having signed Amendment 29 in the name of the noble Lord, Lord Sikka. I agree with him completely. In fact, I support most of the amendments in this group. I signed Amendment 78 because who does not want regulators of a public service to work in the interests of the public? That is a very clear statement to make, I would have thought, and it is quite necessary, even though it seems so obvious.

Amendment 84 is in my name. I admit that when I tabled this amendment to remove the duty of economic growth from water companies and regulators, I had not really appreciated that if I looked at it from a completely different perspective, possibly from the perspective of the previous Government, it was a remarkable success story over 14 years because we had huge growth in sewage and pollution—well done, guys—and it had a multiplier impact on gross national product. It is so gross that other countries see it as indicative of the UK's approach to running privatised services—that is, not very good. When we have a river full of dead fish, the authorities buy more fish to replace them. That is economic growth—a huge success. When E. coli is found in our water systems, we get a double hit of economic growth. There is the extra spending by the NHS on treating all the cases of gastro-enteritis and all the extra money spent on plastic bottles of water handed out when consumers cannot drink from the tap. We even have the prospect of a rain-soaked country like ours spending millions on hiring supertankers to import drinking water from Norway. That is extra spending and extra growth. I can see that growth is a success factor in the previous Government's estimation. Of course, we also cannot forget the staggering growth in shareholder dividends and CEO salaries. When these private water companies take money out of the hands of bill payers and help the rich to buy new private jets, that also adds to GNP.

My problem is that this kind of GNP adds to most people's unhappiness. In fact, that is why the promotion of growth for growth's sake is complete nonsense. I do not understand why anyone would advocate that. The more that rivers are polluted, the unhappier the lives of everybody using that space, whether they are dog walkers, anglers, wild swimmers or nature lovers. The more money that shareholders and CEOs get, the less happy the bill payers are about 40% of their money being spent on debt repayments and dividends. Growth is not an indicator of happiness or of the economy being run for the benefit of many. It is a nonsense soundbite for the economically illiterate and needs to be deleted from this legislation.

On Amendment 85, if Ofwat had been given a duty to protect the environment when it was set up decades ago, we would not be in the mess that we are. There would have been a clear connection in Ofwat's role between signing off bill payers' money to fund environmental improvements and ensuring that those improvements actually happened. Ofwat needs two sets of books open on its desk all the time. The first would show the real state of the industry's finances, including the accounts of the big financial businesses that own the water companies, and the second would show whether those companies were environmentally solvent. By that, I mean whether they are capable of meeting the environmental standards on clean water and the obligations to maintain the health of the waterways.

Whether Ofwat is competent enough to carry out this new duty, or any other duties, is a completely separate debate. We have to remember that Ofwat was meant to be looking after the interests of bill payers but has completely failed to do so. It has allowed the water industry to become owned and controlled by a superstructure of financial institutions that use clever scams to fleece the bill payer in ways that Ofwat has appeared to be completely oblivious to.

We know that if this Government allow Ofwat to remain the main regulator of private water companies over the next few years, its role must include the environment. Fixing the regular discharges of sewage into our waterways, along with the polluting run-off from agriculture, is by far the biggest financial challenge the industry faces. If Ofwat does not understand that duty, the regulation will not match up to the challenge.

I am afraid the Government did not turn out very well on climate change and our ecological crisis in the Budget. They do not seem to understand how climate change comes down to the lowest level and affects every single individual, and I would be really happy to help explain that. It is time to put this particular duty on the environment into the legislation.

Lord Cromwell (CB): My Lords, a thread that runs through many of these amendments is the divergence between the environmental objectives and the clean water consumption objectives. A number of times, we on these Benches have raised the issue that there are two regulators with those responsibilities separated between them. That is something with which the Minister is going to have to grapple in her reply. I think it was the noble Baroness, Lady Parminter, who made the point that time is of the essence, and that waiting for the review may be too late. There is a choice to be made about giving Ofwat these objectives now or making a more fundamental structural change about who regulates the whole environmental question around water.

The noble Baroness, Lady Jones, may be pleased to note in the Budget the increase in tax on people flying on private jets, which she referred to. Apart from that, I agree that there was not much coverage of the environment.

This thread keeps coming up and it needs to be addressed. Is it going to go into the Bill now or will it become part of the review later?

Lord Remnant (Con): My Lords, I was not intending to speak to this group of amendments, but I have been so impressed, not for the first time, by the ability of the noble Baroness, Lady Parminter, to speak fluently without notes that I thought I would try to emulate her on this occasion.

I merely make an observation on Amendment 29 from the noble Lord, Lord Sikka, because it is very widely drawn. Clearly, there are no individuals working at any of the regulators who, at the same time, are taking employment from water companies. I assume the amendment is intended to address not that but people moving from the regulator into water companies thereafter. I am not sure whether that in itself produces an appearance of a conflict of interest but, if it does, we have to be careful about constraining people's ability to earn employment and move from one job to another. Indeed, it may stop experienced and competent people working for regulators in the first place, which is something for us to avoid if we can.

It also has much wider implications. The amendment would apply to this sector but there are lots of other regulated sectors, not least the financial services sector, where I believe this prohibition does not exist. Certainly, many people move from the PRA and the FCA into financial companies, banks, insurance companies and so on. We need to be careful when we consider the implications of this amendment.

4.45 pm

Lord Kerr of Kinlochard (CB): I agree that the amendment from the noble Lord, Lord Sikka, is very widely drawn. As I read it, it would ban the Secretary of State from taking advice from anyone who was a director or an employee of a water company, and that seems rather absurd.

Lord Roborough (Con): My Lords, I thank the noble Lord, Lord Sikka, for introducing this group on the duties and running of the water regulator. Before I address the amendments, I would like to ask my question from the repeat of an Oral Statement yesterday again; it was also echoed by the noble Earl, Lord Russell, and the noble Baroness, Lady Pinnock. Will the Minister make some commitments on the timing of the legislation that will follow the independent commission? As I mentioned, that timing will have a significant bearing on noble Lords' commitment to their amendments going into this Bill to address shortcomings of the industry that are blatant now.

The noble Baroness, Lady Pinnock, and I also referenced the commitment by the Secretary of State that this review will not make recommendations that affect the 2024 price review. That would seem to indicate that any new legislation could not come into effect until the end of this decade. Does the Minister agree?

I turn to Amendment 29 in the name of the noble Lord, Lord Sikka, on conflicts of interest. We on these Benches feel that propriety in the water sector is crucial and there should clearly be appropriate rules for all employees of Ofwat. That said, it is not clear to the Official Opposition that this should be placed on a statutory footing and I agree with my noble friend Lord Remnant that there are implications outside the water industry from this kind of move.

It is right that the Government should take steps to ensure that Ofwat is run in a manner that appropriately prioritises the consumer and environment, and the majority of amendments in this group address the failures of Ofwat and the need for improvements. Amendments 79 and 80 from the noble Baroness, Lady Bakewell of Hardington Mandeville, Amendment 81 from the noble Earl, Lord Russell, and Amendments 84 and 85 from the noble Baroness, Lady Jones, all address the fundamental need to reform the way we regulate our water sector.

The Government have not yet told us when they will bring forward whole sector reform. I am grateful that we have an opportunity to discuss reform of the regulator today, and it may not be an issue that disappears from the debate on this Bill until we have confidence that this further reform will be delivered in an acceptable timeframe. While it is worth noting that any transition period would most likely be disruptive, there are certainly important failures that must be addressed at Ofwat. Whether the Government choose to reform our existing regulator or, as has been suggested by a number of noble Lords, abolish and replace it with something better, it is clear that the British people deserve better.

I was going to raise further evidence of the failure of the regulators but the Committee may have heard enough on that. As far back as 2011, the Gray review into Ofwat found:

> "Many stakeholders told us that Ofwat was not sufficiently accountable either to Parliament or to stakeholders in general".

This situation has not changed. As I noted yesterday, it is welcome that the review will address accountability.

On the creation of public benefit companies, which has been hinted at by the Government and mentioned in the amendment from the noble Earl, Lord Russell, it is very much the view of the Official Opposition that the continuation of the role of private capital in the water sector is imperative. Recently, the Thames Tideway tunnel was completed, which modernised the Thames sewage system and has made it fit for the 21st century—a feat that would not have been possible without private investment. This project shows the value of innovation, which is considerably harder to prioritise under a nationalised or public benefit system. When there are market incentives, better financial decisions are made. As such, the existence of private stakeholders and investment allows for a more successful sector.

We recognise that, to prevent water companies from causing further damage to our rivers, lakes and beaches, the regulator must be reformed and we hope that the Minister will listen to the arguments from across the House today as the Government look to finalise their wider plans for whole sector reform.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Baroness Hayman of Ullock) (Lab): My Lords, I thank everyone who has taken part in today's first debate in Committee for their valuable contributions and for the amendments suggested regarding the duties and the running of the water regulators. The Government agree that strong and effective regulation is essential if we are to turn around the performance of the water industry. That is why the Bill contains the largest increase in enforcement powers for the water industry's regulators in a decade.

I start by addressing Amendment 81 in the name of the noble Earl, Lord Russell, and Amendments 79 and 80 in the name of the noble Baroness, Lady Bakewell of Hardington Mandeville, which speak to the duties of Ofwat. As I have previously noted, the Bill is intended to drive improvements in the performance and culture of the water industry by strengthening the powers of the regulators to hold companies accountable. However, this Bill will not and cannot fix all the water sector's problems.

There were a few particular issues. The noble Earl, Lord Russell, asked about drinking water. It is worth noting that Yale's Environmental Performance Index ranks the drinking water in England and Wales as the best in the world, alongside 10 other countries—we are all on the same level—so we should celebrate that fact about our water industry.

The independent commission that was launched last week, which we heard a lot about on Monday and will, I am sure, continue to hear a lot about, is intended to facilitate the further development of what we need to do to sort out the water industry. As I have mentioned previously, it will be chaired by Sir Jon Cunliffe, who as a former deputy governor of the Bank of England has decades of experience in regulation and finance. The terms of reference for the commission have been published, clarifying its scope and objectives. It will be broad-ranging and make recommendations in line with eight objectives, such as ensuring that

"the water industry has clear objectives for future outcomes and a long-term vision to support best value delivery of environmental, public health, customer and economic outcomes".

The commission will bring in expertise from a wide range of areas, including the environment, public health, investors, consumers, engineering and economics. I hope the Committee will be pleased that its scope explicitly covers the regulators' purpose, structure, powers and responsibilities. As the noble Earl, Lord Russell, said, it is really important that the review is able to consider a wide range of suggestions on the future of regulation, so it is right that the commission, rather than this Bill, is the vehicle for considering the water regulators' roles and responsibilities. We absolutely need to ensure that regulators are fit for purpose to clean up the mess we found ourselves in, with our water systems and lack of investment, if we are to end the appalling pollution that we have witnessed over recent years. I hope this reassures the Committee that, while the Government are not accepting these amendments, we are absolutely committed to strengthening the water industry's regulatory system through the review.

I move on to Amendment 56 in the name of the noble Baroness, Lady Bakewell of Hardington Mandeville, which relates to the review of environmental permits. The water industry regulators take a risk-based approach to managing permits. This is because there are over 21,000 of them. This risk-based approach ensures that regulator resource is managed effectively and allows regulators to focus their efforts on reviewing permits that pose the highest risk of environmental harm.

If we create a duty on regulators to review all water company permits every five years, it could have the adverse effect of preventing them reviewing the higher-risk permits in a timely manner. It would also create significant resource pressure and detract from work to provide wider oversight of water companies. That could result in the conditions of high-risk permits not being updated quickly when issues are identified, potentially increasing the risk of environmental harm. I hope that I have explained clearly why, although the amendment has good intentions, in practical or pragmatic use it would not be effective.

I turn to Amendment 78 in the name of the noble Baroness, Lady Parminter, and Amendment 85 in the name of the noble Baroness, Lady Jones of Moulsecoomb. These amendments both speak to the environmental duties of Ofwat and, as the noble Baroness, Lady Parminter, said, we discussed this a bit on Monday on the amendments of the noble Baroness, Lady Willis.

Ofwat has a range of primary duties. These include duties to protect the interests of consumers, to secure that companies properly carry out their functions, to ensure that companies are adequately financed, and to ensure that companies deliver their statutory obligations, including environmental obligations.

On Amendment 78, tabled by the noble Baroness, Lady Parminter, as part of its draft determinations, Ofwat proposed the largest environmental investment programmes in the sector's history and will hold companies to account against a wide range of environmental performance commitments. In all, the sector should invest £20 billion to reduce pollution, reduce harm from storm overflows, improve river water quality and increase biodiversity. This includes an expansion in nature-based solutions.

In addition, Ofwat is undertaking its most significant sector-wide enforcement action to date. It has issued draft penalties totalling £168 million and enforcement orders against three companies for failing to manage their wastewater treatment works and networks. I would also like to stress that the duties outlined in paragraph 21 relating to customers and the environment are set out in Sections 2 and 3 of the Water Industry Act 1991. We also know that there is still enforcement action going on for other wastewater companies.

I absolutely agree with the noble Baroness and others that we need to move rapidly on our environmental improvement targets. These are challenging targets, as the noble Baroness knows. Meeting environmental targets and turning around the issues we have with biodiversity in this country is not just about what is in the review or in this Bill; it is also about why we have not been delivering on these targets. This is why the Government have decided to do a rapid review of the environmental improvement performance requirements. It is one way we can start to work much more quickly on how we improve our environment. That is really important. If we constantly wait for the next piece of

legislation when we already have things in place, we are not doing justice to what we have already said we will do.

I am sure the noble Baroness, Lady Parminter, knows that I am really committed to improving the environment; it is very close to my heart. She made some very good points, and I suggest it might be useful for us to meet and discuss this between Committee and Report to see how we can bottom out improving our environment, not just through this Bill but in other ways.

We are clear that companies need to deliver on obligations to customers and the environment, but we also need to make sure that Ofwat is properly financed to do this. Again, this is where the review comes in; we need to make sure we can achieve what we want to achieve. There are existing duties which can deliver better, and we need to look at how we push this forward.

We have worked to secure agreements with companies to update their articles of association to ensure that customers and the environment are placed at the heart of business decisions. That is an important move forward.

Under Amendment 84, tabled by the noble Baroness, Lady Jones of Moulsecoomb, the EA and Ofwat would not be subject to the regulators code or the growth duty. The economy relies on a secure supply of water, and water is a key factor in ensuring sustainable growth in the UK. It is therefore important that Ofwat and the Environment Agency consider the implications of their actions on growth, and that they create a stable regulatory environment.

It is, however, also the responsibility of the regulators to appropriately balance their growth duty alongside all other duties. In line with this, the independent commission will consider both the roles and responsibilities of the water industry regulators and how to ensure that the water industry regulatory framework maintains resilient finances and contributes to economic growth. I am sure that the noble Baroness, Lady Jones, will understand that, now we have the commission and the review, we do not want to pre-empt the outcomes. We therefore cannot accept the amendment, but this is the kind of thing to feed into the review, so that we can look at how to take these concerns forward.

Amendment 29, in the name of my noble friend Lord Sikka, speaks to possible conflicts of interest. We believe it would be disproportionate to prevent all Defra and Ofwat employees from being able to accept employment in a water company. However, both Defra and Ofwat take the handling of actual or potential conflicts of interest very seriously, including when either staff or board members leave the organisation. Staff in both organisations are bound by the Civil Service business appointment rules, and any requirements with respect to future employment or business relationships are managed appropriately and proportionately in accordance with these rules.

5 pm

The Bill gives Ofwat the power to set rules to require directors and executives to meet standards of fitness and propriety, and to prevent them continuing to hold these positions where they fail to meet the required standards. I hope that the noble Lord is therefore reassured that the Government and regulators take potential conflicts of interest very seriously, and that he is able to withdraw his amendment.

The noble Lord, Lord Roborough, asked specifically about the timing and the PR24 price review. It is vital that water companies deliver the upgrades they have planned for PR24 from 1 April next year. These upgrades are essential to deliver outcomes for customers in the environment, and they include nine new reservoirs and up to 2,500 storm overflow upgrades. Neither the Water (Special Measures) Bill nor the commission will disrupt these planned upgrades. There is a measure in the Bill that will support the delivery of PR24, because the Bill will give regulators additional tools to hold water companies to account as they deliver the planned £88 billion of investment.

It is not true that we will wait until 2030 to implement the results of the independent commission—we intend to implement the recommendations as soon as possible. It is expected to report by the middle of next year. We expect that a number of these recommendations will not need primary legislation and can begin to be implemented soon after the report comes in. Some recommendations may require further primary legislation, which will then require passage through Parliament, so that will take a bit longer. I hope that helps to answer the noble Lord's question.

I once again thank noble Lords for their thoughtful suggestions. I very much appreciated the words of the noble Earl, Lord Russell, about the importance of working together constructively going forward. That is the spirit in which I would like to continue working on the Bill, and I very much appreciate the constructive debate so far in Committee.

Lord Sikka (Lab): My Lords, I thank the Minister for her reply and all noble Lords for their observations, comments and speeches. Amendment 29 does have implications for other sectors, because they all suffer from the same malaise—a merry-go-round of regulatory capture. The result is that regulation is not what it should be.

The Minister referred to the Civil Service code on appointments and the migration of workers to companies. That has clearly failed—otherwise, how else do you explain the Ofwat chief executive becoming the chief executive of Thames Water, given the financial mess and other problems Thames Water has? No matter how the Minister explains it, people will not accept that everything is above board with that kind of migration. However, I hear what noble Lords have said and, in light of that, I may well revise this amendment and return with it. Meanwhile, I beg leave to withdraw the amendment.

Amendment 29 withdrawn.

Clause 2: Pollution incident reduction plans

Amendment 30

Moved by ***Baroness Parminter (LD)***

30: Clause 2, page 4, line 30, after "Each" insert "water and"

Member's explanatory statement

This amendment ensures that both water-only providers and sewerage providers are required to prepare pollution incident reduction plans.

Baroness Parminter (LD): In moving Amendment 30 I will introduce it and seven other amendments in this group. I say immediately that a number of them are consequential, and I am very mindful of the time—so do not panic. They are all about pollution reduction.

Amendment 30, proposed by the noble Baroness, Lady Bakewell, is specifically around the issue of pollution incident reduction plans, which I think the whole Committee welcomes. She is seeking to highlight that, at the moment, it is only water and sewerage companies that they apply to; they do not apply to water-only companies. Yet five out of the 16 regional water companies are water-only companies, and they are in areas of high ecological importance, including some that have some of our most precious chalk streams—and we have had plenty of debates in this House explaining how they are of global significance.

I wanted to quote what Ofwat said this summer about water companies. It stated:

"We recognise that water only companies … can be responsible for serious pollution incidents and intend to hold them to account".

Making water-only companies subject to this provision, as well as water and sewerage companies, would allow it to do just that.

Amendment 32 is in my name and that of the noble Duke, the Duke of Wellington; I thank him for his support. Also in this group are Amendments 31, 39, 40 and 36. They all deal with the issue of the water companies having a duty to publish these pollution incident reduction plans but having no obligation to actually implement them. We are saying that they should have a duty to implement them.

I raised this issue at Second Reading. In response, the Minister said to me about pollution incident reduction plans:

"A specific duty to implement the plan would make enforcement more difficult, we believe, as it would cut across the wider legal requirements for pollution reduction".—[*Official Report*, 9/10/2024; col. 2072.]

I want to unpick that a bit, because I have a couple of issues with it.

First, the *Water Industry Strategic Environmental Requirements*, a document drawn up in 2022 by the Environment Agency and Natural England, sets out that pollution incident reduction plans can be a mechanism for water companies to discharge their pollution reduction obligations, and says that if they do that then they must be implemented. Secondly, it is fairly common practice in the corporate world that, if there is a duty to undertake an action plan or similar, it should be implemented. The most recent example I could find was in the financial sector, where last year a consumer duty was placed on financial companies, to be overseen by the Financial Conduct Authority, whereby they have to draw up specific action plans, and there is a duty in the law that these must be implemented. If it is in law elsewhere, why is it not appropriate here?

I tried to think whether there was any other reason why the Government might not want water companies to implement these plans. I thought they might be worried that the water companies would use them as a bargaining chip in the price reviews, or with local authorities when they sought permission for various planning applications: they could say, "You've got to give us this permission or allow us to spend this money—we've got a legal duty and you have to succumb". I have more faith in local authority members not to accept that position. Equally, as we have just discussed, given that Ofwat does not really have that many environmental duties, I think that it will keep clear of that as well. But even if it is still an overriding concern of the Government, it is not insurmountable. Between now and Report, I think we could come up with some wording that said that, subject to the necessary permissions, the water companies must implement these plans.

These plans are really important. If we do not put it in the Bill that the companies must implement them, it begs the question whether the Government really want them implemented. We know that pollution levels are stubbornly high, and we know that the water companies are not doing enough. Unless they have an explicit duty to follow through on them, we are missing something of a trick.

Finally, Amendment 34A, in the name of the noble Baroness, Lady Bakewell of Hardington Mandeville, picks up the important issue of pollution in national parks. I know that a number of local noble Lords, including the noble Earl, Lord Devon, and indeed the Minister herself, raised this at Second Reading. There are stubbornly high levels of pollution in our iconic national parks and the Broads. It is a travesty that not one of the rivers, lakes or streams in our national parks is in good ecological state—that is appalling. It was only earlier this month that we found out that United Utilities had discharged 140 million litres of sewage illegally into Lake Windermere. Frankly, it beggars belief.

This amendment very reasonably proposes that the companies must come up with plans to deal with these pollution incidents by 2030. I think that most members of the public would think that an entirely reasonable request. They have had just about enough of these companies constantly making our rivers, streams and lakes in national parks filthy and stinking while, in many cases, making themselves filthy and stinking rich. I beg to move.

The Duke of Wellington (CB): My Lords, I support some of the detail in Amendments 30, 31 and 32—I have added my name to Amendment 32. Amendment 30 makes a very good point and I would be surprised if the Minister was not prepared to devise her own amendment that would cover all these points. Obviously, water-only and sewerage undertakers should be included in the scope of this clause.

Amendments 31 and 32 are very similar. As the noble Baroness, Lady Parminter, has already said, it seems extraordinary that a water company could publish a pollution incident reduction plan without intending to implement it. It would then be just a nice idea but nothing more would happen. I would be very surprised if the Minister did not accept it; I cannot quite understand that there is a legal argument for not accepting it. My hope from this short debate is that the Minister will agree to look at these points carefully. I am sure that, with the benefit of parliamentary draftsmen who help on these matters, she could come up with an amendment of her own that would cover the points. Clearly, there

is support for what I would say are the rather obvious points made in these amendments, and I hope that the Minister will react accordingly.

Baroness Young of Old Scone (Lab): My Lords, I support Amendments 32, 39 and 40 in the names of the noble Baroness, Lady Parminter, and the noble Duke, the Duke of Wellington. The case has already been put very well that there is absolutely no point in having these plans drawn up and published if there is no requirement for the companies to implement them and no sanctions if they do not. This seems a bit of a no-brainer. I suggest to the Minister that, if there is some legal impediment to these plans being implemented, we should do away with the requirement to draw up and publish them. That would be the most honest thing to do, if there will be no requirement to implement and no sanctions if they do not; otherwise, they are just dangling in mid-air, of neither use nor ornament.

Lord Roborough (Con): My Lords, I thank the noble Baroness, Lady Parminter, for introducing this group of amendments and for the strong case that she and the noble Duke, the Duke of Wellington, have made regarding the importance of publishing and, crucially, implementing pollution incident reduction plans, or PIRPs. I wholeheartedly support Amendment 31; I would have published our own equivalent had the noble Baroness, Lady Bakewell, not been so swift with her pen. Without a requirement to implement, a pollution incident reduction plan would, frankly, be of little use.

Moving on to Amendment 34A, and declaring my interest as a landowner within Dartmoor National Park, while I approve of the sentiment behind the amendment, I would be reluctant to make our national parks a special case. We treasure our entire country. My preference would be for the water companies to focus on the worst pollution incident risks, which I imagine will be a consequence of their pollution incident reporting plans, particularly if compliance with those plans becomes strengthened through this group of amendments. We are committed to decreasing the impact of pollution incidents, and in government we committed to creating the water restoration fund, which would have seen the money collected from fines and penalties directly channelled into improving the water environment. We proposed a plan to improve water systems and, as such, we recognise the importance of creating and adhering to these PIRPs.

5.15 pm

Amendment 41 in my name seeks to introduce a requirement for water companies to report to Ofwat their performance compared with commitments made in their pollution incident reduction plans and to include in their annual report and accounts a summary of this performance report, alongside the corresponding statement from Ofwat, to improve their accountability to shareholders. These reports must then be published on the water company's website annually, with the relevant Ofwat statements, to ensure that the public are kept up to date and water companies are held to account. Requiring companies to publish their progress in their annual reports gives shareholders far more oversight of water companies' progress on pollution. We on these Benches want to see shareholders empowered to hold executives to account, and this amendment will help to deliver that.

Amendment 42 is similar and seeks to expand on the regularity with which the water companies must publish such reports on the implementation of their pollution incident reduction plans. This amendment specifically seeks to provide quarterly reports in which water companies must self-assess their progress towards their PIRPs and publish these reports, with approval from Ofwat. Through this measure, the public would be kept informed with more regular, reliable reports that allow them to see the steps water companies are taking. On the other side, it would also ensure that water companies act swiftly to implement actions within their pollution incident reduction plans, as they have to publish reports and be held to account more frequently.

The amendments in this group have all been created with a similar spirit, to ensure that water companies actively seek to implement the pollution incident reduction plans they publish and to allow for scrutiny to ensure that they are taking reasonable steps to implement any changes or improvements. I hope, therefore, that the Government will listen and take on board these suggestions, given that there seems to be cross-party consensus on further clarification surrounding the importance of implementing pollution incident reduction plans and ensuring that they cover all necessary topics.

We share the ambition of the noble Baroness, Lady Parminter, for water sector reform and we hope the Government will listen to the concerns of noble Lords across the Committee who are calling for more accountability on water companies' actions. The intention of the pollution incident reduction plans is laudable, but we do not believe that the Bill in its current form actually asks enough of the industry, beyond publishing the plan. We need accountability to the regulator and to the public on performance against that plan. I look forward to the Minister's comments on this group of amendments and I am most grateful for her helpful answer on the previous group.

Baroness Hayman of Ullock (Lab): My Lords, once again I thank noble Lords for their amendments and for taking part in this debate. I start by emphasising that we expect all water companies to reduce all pollution incidents, in line with their legal duties.

I turn first to Amendment 30, tabled by the noble Baroness, Lady Bakewell of Hardington Mandeville, which seeks to apply the duty to produce pollution incident reduction plans to water-only companies. Initially, it might be useful to explain why our focus has been on water and sewerage companies only. This is because most pollution incidents arise from sewage incidents, not water supply incidents. We were concerned that, by widening the scope, we could end up diluting the focus of the plans, so that actions were not tailored to the most serious pollution incidents. That is the thinking: the Government want to keep the focus of these plans on sewage incidents, which is why we are not accepting the amendment. Having said that, there have been some very interesting comments around this and I would be very interested to hear some wider thoughts on Amendment 30. Clearly, the noble Baroness is unwell at the moment and is not in her place, but I hope that

[BARONESS HAYMAN OF ULLOCK]

other noble Lords will go back to her and see whether she would be happy to meet to discuss this further: I think it is something we could pick up, following Committee.

I move now to Amendments 31 and 36, also tabled by the noble Baroness, Lady Bakewell of Hardington Mandeville, and Amendments 32, 39 and 40, tabled by the noble Baroness, Lady Parminter, which speak to the implementation of measures identified in pollution incident reduction plans. I thank the noble Baroness for her clear introduction and the noble Duke, the Duke of Wellington, and my noble friend Lady Young of Old Scone for their comments on this amendment.

Clearly, it is really important that we ensure water companies are taking decisive action to reduce pollution incidents. I want to highlight that the provision already requires water companies to report each year on progress made in implementing pollution incident reduction measures. This will create an unparalleled level of transparency that will further enable both regulators and the general public to hold water companies to account. Where pollution incident reduction plans do not meet the statutory criteria set out by legislation, the Environment Agency will be able to take enforcement action. This will include ensuring compliance with the duty for the plan to provide an assessment of progress in implementing the measures.

The noble Baroness, Lady Parminter, was trying to understand why this was not something that we accepted. I can reassure her that it has nothing to do with it being used as a bargaining chip—absolutely not. The big concern is that, if we introduce a duty to implement the measures in the pollution incident reduction plans, this could imply an unusual sub-delegation of powers to the water companies, whereby they would effectively be able to create enforceable duties on themselves. We are concerned that this would then have the perverse outcome of incentivising companies to produce less ambitious plans to mitigate the risk of enforcement action. That is one of the fundamental concerns in a nutshell, and it is why we are not going to accept these amendments. If the noble Baroness has any suggestions, I would be very happy to hear them.

I turn now to Amendment 34A, tabled by the noble Baroness, Lady Bakewell of Hardington Mandeville, which speaks to the important matter of waterways in national parks. The Government agree that national parks form a vital part of our environmental heritage. In line with this, the Government will seek to use the powers in the Levelling-Up and Regeneration Act 2023—I still have the scars on my back—to ensure that relevant authorities, including water companies, deliver better outcomes in protected landscapes. We are in the preliminary stages of developing those regulations, to ensure that authorities deliver the better outcomes that we need. The idea is that they will provide a more holistic approach, conserving and enhancing the purposes and special qualities of our protected landscapes.

We have also set an expectation that Ofwat should challenge water companies to prioritise improvements in national parks. We are expecting considerable investment over the next price review period, to improve water and sewerage assets discharging into national parks. This, of course, will include the iconic Lake Windermere, which we have heard much about. United Utilities was mentioned in relation to this. Noble Lords might be interested to know that I met with a representative of UU last week and discussed issues around the environment and improving nature—so there is work going on with the water companies behind the scenes in this specific area.

However, the Government consider it important that pollution incident reduction plans should identify actions to address pollution incidents right across England and Wales; the noble Lord, Lord Roborough, made exactly this point. A statutory hierarchy of priority areas risks deprioritising pollution incident reduction plans in other areas, so we have to be very careful that we do not do that, because that bathing waters, for example, in other areas could be impacted. For this reason, the Government will not be accepting this amendment, but clearly I want to stress we do take our protected landscapes very seriously.

I turn now to Amendment 35 tabled by the noble Baroness, Lady Bakewell of Hardington Mandeville. I fully recognise her desire to ensure that we see a reduction in the environmental risk posed by pollution incidents. This is why Clause 2 already requires water companies to address environmental risks in their pollution incident reduction plans. The clause requires water companies to set out the measures they will take to reduce the frequency and seriousness of pollution incidents.

Risk to the environment is already used, among other important factors, to determine the seriousness of a pollution incident in the Environment Agency's incident categorisation process. This is the framework that water companies are required to refer to when they develop their plans. Therefore, by requiring water companies to report on plans to reduce the seriousness of pollution incidents, we are already requiring them to report on and develop measures to reduce the risk to the environment. While we understand the noble Baroness's intention, the Government believe that because of the reasons I have just set out the amendment is not necessary.

Finally, I turn to Amendments 41 and 42 tabled by the noble Lord, Lord Roborough, which seek to impose requirements around reporting against pollution incident reduction plans. I reassure him that Clause 2 already requires water companies to publish an assessment of their progress in implementing previous plans. Requiring more frequent reporting would be unlikely to allow water companies sufficient time to implement the lessons learned from previous pollution incidents.

I also reiterate that we expect water companies to be fully accountable when developing their plans and implementing the proposals in them. If a plan does not adequately address the statutory provisions required by the Bill or by broader legal requirements, the Environment Agency will take appropriate enforcement action. The Government therefore do not propose to accept these amendments, but I thank the noble Lord for his suggestion.

I will clarify the strategic policy statement. The key point is that it is directed to Ofwat, not to the water companies. The Government's strategic priorities for Ofwat include the need for companies to prioritise actions to reduce pollution and considerably improve

their environmental performance. The SPS sets general strategic requirements for Ofwat and does not create specific measures, as we expect, under the pollution incident reduction plans.

I thank noble Lords for their input into this discussion and for their suggested amendments.

The Duke of Wellington (CB): As the noble Baroness sits down, I must say that I did not find her arguments for not accepting a duty to implement to be very convincing. I therefore wonder if she would at least be prepared to meet the noble Baroness, Lady Parminter, and me between now and Report to see if, between us, we can put together some amendment that might be acceptable to the Government.

Baroness Hayman of Ullock (Lab): I completely understand. This is not a straightforward area, and I would be absolutely delighted to meet the noble Lords to see if we can find a way forward.

Baroness Parminter (LD): I thank the Minister for her responses to the numerous amendments in this group on pollution incident reduction plans, which I think everyone in this Committee believes is one of the really valuable steps in the Bill. I will pass on her comments about a meeting to the noble Baroness, Lady Bakewell of Hardington Mandeville. Water-only companies are responsible for a number of pollution incidents, particularly around drinking water treatment, but I will leave that for that later discussion.

Like the noble Duke, the Duke of Wellington, I just did not find the Minister's comments very convincing, but it was not just that. I am not a lawyer, so I did not really understand what a sub-delegation of powers was; I am humble theologian, so I will have to go away and think about that and take some advice from people who know about it. However, the offer made to talk about this further is an important step forward. She will have noticed that everyone across the Committee believes that these are important steps we need to take to ensure that the ambitions that the Government rightly have in this regard are carried out as fully as they need to be.

In making that point, I particularly thank the noble Lord, Lord Roborough, for his comments. His phrase—that the Bill in this area does not ask enough of water companies to deliver on the ambition of pollution incident reduction plans—was absolutely spot on, so I thank him for that.

I hope that my noble friend Lady Bakewell of Hardington Mandeville will be reassured by the Minister's comments about the Government taking pollution seriously in national parks. I am sure that if she has any further matters to discuss with the Minister when she is well—next week, I hope—she will be in a position to come to the Minister's door, which we all know is an open door, and we thank her for that. I beg leave to withdraw the amendment.

Amendment 30 withdrawn.

Amendments 31 and 32 not moved.

Amendment 33 had been withdrawn from the Marshalled List.

5.30 pm

Amendment 34

Moved by ***Baroness McIntosh of Pickering***

34: Clause 2, page 5, line 12, after "incidents" insert "including natural flood prevention solutions"

Member's explanatory statement

This amendment, and another in the name of Baroness McIntosh of Pickering, would require consideration of opportunities to retain water through natural solutions to prevent sewage mixing in combined sewers with excess rainfall, causing pollution incidents.

Baroness McIntosh of Pickering (Con): My Lords, I am pleased to speak to the amendments in this group in my name: Amendments 34, 38, 53 and 93. I look forward to the discussion on Amendment 51 in the name of the noble Duke, the Duke of Wellington, and Amendments 54 and 88 in the name of my noble friend Lady Browning; I am delighted to have co-signed Amendment 88, but I look forward to hearing her own words.

Amendments 34 and 38 relate to the opportunity to

"require consideration of opportunities to retain water through natural solutions to prevent sewage mixing in combined sewers with excess rainfall, causing pollution incidents".

I am delighted to have been associated with such a project at the latter stages. I rather naughtily took full credit for the Slowing the Flow at Pickering scheme, although it was my then honourable friend John Greenway who did most of the work, but we were both involved in this successful project. It is important to notice, as I am sure the Minister will agree, that we need not overengineered projects but natural solutions to flood prevention and to prevent excess sewage going into waterways. They could be natural solutions such as soakaways, culverts or, in the case of Slowing the Flow at Pickering, creating dams, planting trees and, apparently, introducing beavers, with mixed success—and they must involve all partners.

In particular, I am keen to see partnership funding, not just from public partners, which were primarily those involved in Slowing the Flow at Pickering, but from private partners. In that regard, I pay tribute to the role that water companies play in preventing flooding upstream in a catchment area, and I applaud the work of companies such as Yorkshire Water and United Utilities, which have good track records in that regard.

My question to the Minister is: if she is not minded to approve these amendments, how do the Government expect to encourage the role of water companies, farmers and others to undertake such flood prevention measures? I urge her to consider that. In Amendment 38, I specifically refer to the preparation of a pollution incident reduction plan, noting that

"a sewerage undertaker must consult with farmers, local authorities and others to identify natural flood prevention solutions to prevent pollution incidents"

occurring. I did not speak to the previous group, but I felt sympathy with many of its amendments, particularly seeing the damage to lakes such as Lake Windermere. It is important to note that this is not always the fault of water companies.

Amendment 53 builds on the amendments to which I referred and requests a report on implementation. Assuming that we have implemented Schedule 3 to the

[Baroness McIntosh of Pickering]

Flood and Water Management Act 2010 as part of this Bill—I am ever optimistic—I request that we have a six-month review in which the Secretary of State or the Minister would

"lay before each House of Parliament a report on the effect of this Act on the implementation of Schedule 3 of"

the Act.

Before I turn to Amendment 93, I note that the Minister, in summing up on the first day in Committee, said her catchphrase. I will repeat it for good measure; noble Lords should be alarmed when we hear this phrase in future. She said that the department is considering with the Ministry of Housing, Communities and Local Government

"how best to implement their ambitions on sustainable drainage"—

here is the killer quote we must be mindful of—

"while also being mindful of the cumulative impact of the new regulatory burdens on the development sector".

She concludes:

"At this stage, I do not want to pre-empt the outcome of that process".—[*Official Report*, 28/10/24; col. 1009.]

I should be obliged if the Minister could give us a little more meat on cumulative impact. She will recall that, at Second Reading, I set out that this was a wonderful one-off opportunity in the Bill to plug the gap and fill the loophole—the gap in responsibilities between planners, investors and housebuilders—and to recognise the responsibility of others, such as highway authorities, which contribute to road surface water runoff entering the combined sewers and storm drains, without currently having any responsibility to prevent this form of pollution. That is very costly and we have already discussed on both days of debate on the Bill the damage that is caused. I repeat what I said on Monday: it is not within the responsibility of water companies where it is the fault of developers and highways authorities in this regard.

I turn to Amendment 93 in my name. Again, I am asking for a review of water reuse and existing regulations within 12 months of the day on which this Bill is passed, whereby the Secretary of State should publish a review of the existing regulations related to water wholesomeness and water companies' ability to encourage water reuse. A report on the findings must be laid before Parliament. The purpose of this amendment is to the effect that, currently, water wholesomeness excludes from the responsibility of water companies the encouragement of water efficiency measures such as the use of grey water, reuse of water from a shower and other such water efficiency measures, as they are not covered by the definition of "wholesome water". If that is the case, are the Minister and the department minded to review the definition of wholesome water. There are other amendments on clean water to which I think this also might apply. Currently, it seems bizarre that wholesome water would exclude such water efficiency measures.

The Government are aware that there are already a number of government regulations. This Government announced in September that they intended to roll out a mandatory water efficiency label in which appliances, including toilets, sinks and washing machines would be sold with information about their water usage to help customers reduce their use and save themselves money. That is very welcome. However, for such a system to be effective, surely labels must be tied to a mandatory minimum standard that could be reviewed and possibly tightened over time. If that is outwith the scope of this Bill, is this something to which the Government might return?

I understand that, under current building regulations, this matter could be revisited. Part G of the Building Regulations 2010 seeks to end the system whereby local authorities are given discretion between two water efficiency standards—the optional, albeit achievable, 110 litres per day mandate and the mandatory 125 litres per day standard. Would it not be better if Part G of those building regulations contained one standard only, possibly the lower standard of 110 litres per day, which, in the long term, could be reviewed and tightened, if that were the case? If such a labelling system were carried out and the Government were minded to do so, they could actually save £300 by introducing water efficiency into homes at the time of construction.

I hope that the Minister will look favourably on these amendments. Perhaps, if she does not like them, then, using the parliamentary draftsmen that she and her department have at her disposal, she could come up with a better alternative. But I hope she will find these amendments attractive. I beg to move.

The Duke of Wellington (CB): My Lords, Amendment 51 in my name has been put in this group even though it relates to a different clause. Clause 3 deals with emergency overflows and seeks to define an emergency overflow. It also includes within Clause 3 what is in effect a let-out for the water companies, in that, where an overflow occurs as a result of an electrical power failure, that is permitted. I must admit that I find that surprising. I am grateful to the Minister, who allowed me to come and discuss this point with her and her officials a few weeks ago. However, I cannot for the life of me understand how failure to have sufficient electrical power generation capacity in a sewerage works is sufficient reason to allow an overflow to occur.

I remember that, just before or during the passage of the Environment Act, there was a major overflow by Thames Water in London, and the reason given at the time was, "Oh, sorry, there's been a power failure". That really does not seem good enough. Nobody running a hospital would be able to plead lack of power as a reason to close down all operations under way in the hospital at that moment. It seems to me that a sewerage works is a place where there must be sufficient emergency power generation through generators in case of a power failure.

This is a simple amendment; I hope the Government will take it seriously. It simply would delete, in effect, in new Section 141G(2)(a),

"electrical power failure at sewage disposal works"

as a reason for permitting an emergency overflow. That is my argument and I hope the Minister will take it seriously.

Baroness Browning (Con): My Lords, I am very pleased for the first time to be able to contribute to Committee on the Bill. I will speak to the two amendments in my name in this group, Amendments 54 and 88. The Minister will already be aware of my enthusiasm

for the use of grey water and its importance in new-build domestic construction. I support my noble friend Lady Pickering in what she has just said on this group.

The Committee has already drawn attention to increasing problems of safe disposal of sewage from buildings and the challenge going forward to adequate supplies of domestic drinking water. The fact that the existing system cannot cope with either does not augur well for the Government's planned housebuilding target, which will include mandatory planning targets set out in the National Planning Policy Framework.

The Minister will know from Second Reading that I support her endeavours in the Bill, but the two amendments in this group tabled in my name seek to mitigate what could quickly become a standoff between the Department for Environment, Food and Rural Affairs and the Ministry for Housing, Communities and Local Government. I urge the Minister to take some action through these two amendments to prevent this, if nothing else.

I am very grateful for the assistance and legal advice given to me on these two amendments by the lawyers at WildFish, a charity involved in the protection of all wild fish in watercourses.

Some developers argue that, because of the legal obligations on sewerage undertakers to treat wastewater, the question of sewer and sewage treatment capacity is not a material consideration in planning. There is therefore a reluctance among planning authorities to impose conditions to protect the environment from sewage pollution, partly because of the case of Barratt Homes v Dŵr Cymru 2009, where the Supreme Court confirmed that Section 106 of the Water Industry Act 1991 provided a right for householders to connect to the sewer network and that only in narrow circumstances could the water company refuse such a connection.

5.45 pm

Section 106(4) allows for the sewerage undertaker to serve a counternotice on the developer or owner of land intended to drain to the public sewer to refuse the permit communication in narrow circumstances, including standard of the connecting drain and where it is prejudicial to the undertaker's sewerage system. However, it does not include capacity as a ground for refusal. The Court of Appeal commented—as summarised but not contradicted by the Supreme Court—that if the developer indicates that he intends to deal with the problem of sewage by connecting to a public sewer, the planning authority can make planning permission conditional upon the sewerage authority first taking any steps necessary to ensure that the public sewer will be able to cope with the increased load. This puts the onus on the local planning authority to treat the issue of capacity as a material consideration and to resolve it by way of conditions.

However, as the Minister may well be aware, it is rare for local planning authorities to deal with the issue of capacity by way of conditions or to always give capacity the attention it requires in the planning process. This is not surprising, given the level of technical understanding required of local planning authorities to deal with sewerage infrastructure issues. I urge the Minister to take further advice on this issue of capacity and the case law that has gone before it. I am not a lawyer; I am not even a humble theologian; I am a former teacher of cookery. However, I do think that the issue of capacity to deal with sewage, including treating it to render it harmless, is most importantly a material consideration. The position could be simplified by allowing the sewerage undertaker to refuse to connect where there is insufficient capacity.

Similarly, where new infrastructure is required to provide water supplies for domestic use, planning authorities do not always consider the availability of water resources to be a material consideration, despite the real strain increased abstraction may place on riverine ecology or water bodies protected for nature conservation purposes. Section 41 of the Water Industry Act requires the water undertaker to provide a water supply to new development, but not if it has insufficient resources available or if it is believed that the supply to the new development would lead to unacceptable damage to a protected site.

The department needs further to investigate the drafting of this Bill. To ignore capacity issues in both these areas is to permit an outcome which must be obvious to all. This new Bill seeks to tighten up regulation, and it could go part way towards the Minister's department resolving in advance a problem that is almost certain to emerge, given the Government's quite acceptable wish to increase housebuilding in this Parliament.

Baroness Young of Old Scone (Lab): My Lords, I support Amendment 53 in the name of the noble Baroness, Lady McIntosh of Pickering. It gives the Secretary of State six months to report on the implementation of Schedule 3 to the Flood and Water Management Act 2010, which covers sustainable drainage. The Act is what it says on the tin: enacted in 2010—but, if I understand it correctly, Schedule 3, which we slaved over in your Lordships' House, has never been formally commenced. There is no point in legislating if it is not brought into effect. What is the point of us being here if the legislation we meticulously pore over and pass is never implemented?

This is an important issue of sustainable drainage. The noble Baroness has already outlined how it impacts on housing development and other developments. It has a big impact on river and water body quality, so I look forward to hearing how the Government intend to deal with this issue.

Baroness Pinnock (LD): My Lords, the amendments from the noble Baronesses, Lady McIntosh of Pickering and Lady Browning, and the noble Duke, the Duke of Wellington, are, in their varied ways, interesting.

The amendment of the noble Baroness, Lady McIntosh, urges the Government to give greater consideration to encouraging water companies to use nature to slow down excessive water flows, particularly in rivers, because that would reduce the impact on combined sewers, which take both sewage and rainfall through the sewerage system. The noble Baroness gave the example of Pickering, which was discussed when I was on the board of Yorkshire Water some years ago. I was very pleased to hear that that approach has worked so well.

There is another interesting example, in Somerset. A group of environmentalists—not a water company—encouraged a river to return from a driven channel to

[BARONESS PINNOCK]
its natural meandering state. That has benefited nature in many ways, but it has also reduced the speed of the water flow, thereby bringing about the benefits the noble Baroness described. The Government could encourage such approaches—not much more is needed. The Pickering scheme was supported by the board of Yorkshire Water because it was a lot less expensive and had many environmental pluses, among which was the reduced carbon cost of not having to use huge amounts of concrete, adopting a nature-driven approach instead.

I hope the Minister will take on board what has been said. The water companies, with a bit of oomph behind them, could be encouraged to experiment and use these ways to reduce water flows and therefore flooding, to reduce excessive water in the system, and to reduce storm water overflow pollution incidents. This would have a huge benefit.

The next issue, which we discussed on Monday, is the failure to implement SUDS. That was supposed to happen this year and has not, but it ought to. On the plus side, although the Government have not implemented it, in my experience planning authorities are already insisting on new planning applications having a SUDS scheme, because of the capacity issues raised by the noble Baroness, Lady Browning. In any major housing development scheme, the sewerage undertaker is required to commentate on the scheme and may say, "Guess what? There's not enough capacity in the system". A SUDS scheme is then applied, which reduces the highways rainfall flow so that it goes not into the sewerage system but, via attenuation tanks, into a neighbouring water course.

In some ways these things are already happening, but I agree with the noble Baroness, Lady Browning, about the importance of considering the capacity of the sewerage system and water resource availability. We know that in some parts of the country, particularly the south-east, housing developments do not happen because there is insufficient water supply. I heard what the Minister said earlier—that in the price review to be signed off by the end of this year, sufficient capital was agreed for nine new reservoirs. That is important, but we also need to think about using water more efficiently, as was said earlier. The volume of water that each of us uses compared to even 10 years ago is quite concerning. We need to think carefully about water efficiency, so that we use what is a precious resource more carefully.

I urge the Government to think again about a national water grid. Water is connected across the country, but the water resources are owned by individual water companies. There is quite a lot of water in the north and not anywhere near enough in the south of the country. Water is currently pushed from one part of a company's resources to the neighbouring water company. For instance, Yorkshire Water regularly pushes water to whatever the neighbouring authority is in the Midlands. The Government should think about using the water in the north—I am sure that we who live in Yorkshire would be willing to sell it at a good price to those of you in the south who do not have enough.

On that basis, we support what has been proposed by the noble Baronesses, Lady McIntosh and Lady Browning, and we look forward to the Minister's response to those concerns.

Lord Roborough (Con): My Lords, I thank my noble friend Lady McIntosh of Pickering for moving her amendment. I am glad that she has tabled amendments that address some of the underlying causes of sewage spills, such as excess rainwater run-off overwhelming sewerage systems. My noble friend is right to look at the root of the problems faced by this industry in order to ensure that the legislation deals with underlying causes, rather than just surface-level symptoms.

6 pm

We are supportive of natural flood prevention solutions and several water companies are already leading the way in delivering investments in natural solutions to manage the pressure on our water system. I know my noble friend Lord Gascoigne is particularly interested in natural flood prevention solutions and has a particularly elegant and forceful amendment on this, which I have signed and we will discuss later in Committee. We agree with my noble friend Lady McIntosh of Pickering's Amendment 34, which would require sewage undertakers to take steps to prioritise natural flood prevention in their pollution incident reduction plans.

We all want to see better management of water, whether through direct investment in our sewerage infrastructure, improved treatment of wastewater or management of run-off before it reaches our sewerage system. The benefits of natural flood prevention solutions are not limited to water management. Changing the landscape of catchment areas to limit the risk of flooding can also be a fantastic way to create new habitat, or restore habitat, for species as we work towards our biodiversity goals. Working with nature to resolve the damage caused by sewage overflows is surely something noble Lords around the House can support.

Through my noble friend Lady McIntosh's Amendment 34, we can encourage water companies to address the underlying causes of pollution incidents rather than focusing only on the aftermath. I hope the Government will take this case on board and consider whether there is an opportunity here to ensure that our water companies are prioritising nature-based solutions to the challenges that we face in our water sector rather than waiting for the Government's promised wider Bill that will deliver additional reforms to our water sector.

We also support the spirit of Amendment 38, in the name of my noble friend Lady McIntosh. It would ensure that sewerage undertakers liaise with appropriate local stakeholders, such as farmers and local authorities, to identify natural flood prevention solutions. Local people, especially farmers, know their area better than any national authority ever could and should be trusted to advise water companies on natural measures that will work in harmony with the landscape to prevent flooding. At this point, I remind the House of my declaration of interests as a farmer and land manager.

Greater engagement between farmers and water companies would have the additional benefit of ensuring that conversations about river health and best practice are being had between those who rely on and live beside our rivers and the water companies that should be caring for our waterways. Perhaps this engagement will also allow for greater education on the impact of beavers, which remain widely distrusted by farmers

and land managers. Since my noble friend Lord Goldsmith is not in his place tonight, I thought someone should bring beavers up.

Without this amendment, sewerage undertakers may find themselves unduly focusing on the symptoms of pollution incidents rather than the root causes, which often involve excess rainwater mixing with sewage and overwhelming the sewerage systems. As we have discussed, we share my noble friend Lady McIntosh's concerns about flood prevention more broadly. I know the Minister has spoken of her experience of the damage that flooding can do to communities. We are in favour of this amendment, which would require the Secretary of State to provide Parliament with a report on the effect of this Act on the implementation of the Flood and Water Management Act 2010.

My noble friend Lady Browning's Amendments 54 and 88 make valuable points about the one-sided obligations that undertakers have regarding their lack of ability to control the input of sewage and the output of fresh water to new users. I believe these amendments have merit and, with regard to them, I again refer to my declaration of interests in respect of residential and commercial property developments.

We are grateful to all noble Lords who have spoken on this group and hope that the Minister will look closely at these amendments before Report. In particular, we feel that more can be done in the Bill on flood management and its impact on pollution in our rivers.

Baroness Hayman of Ullock (Lab): My Lords, I thank all those who have taken part for their interest in the important topic of sustainable water usage and sewerage infrastructure. I shall start by speaking to Amendments 34 and 38, proposed by the noble Baroness, Lady McIntosh of Pickering, and spoken to by other noble Lords. The noble Baroness, Lady Pinnock, gave some examples around this. The Government agree that nature-based solutions, including natural flood prevention solutions, are a useful tool for tackling the root causes of sewage pollution while delivering wide ecological benefits.

Noble Lords who took part in the progress of the levelling-up Act will remember that this was debated in Committee on that Bill and that I spoke against the proposals that preferred the cheapest option because we were concerned about the amount of concrete that this could lead to rather than the best solutions for the environment.

The Government's strategic policy statement includes Ofwat's proposal to allow more than £2 billion of investment in nature-based solutions at its draft determinations for price review 24. This includes £1.6 billion to reduce storm overflow spills through catchments and nature-based solutions, and further funding is proposed for nature-based solutions such as reedbeds and wetlands for nutrient removal. The Government have supported water companies trialling nature-based solutions for groundwater-induced storm overflows. This is, of course, subject to the final determinations to be made in December but, if approved, will allow for greater understanding around effectiveness and suitability and enable greater uptake at future price reviews.

Nature-based solutions may feature in pollution incident reduction plans, but we believe it would be inappropriate to mandate their inclusion because they may not necessarily be effective in every circumstance. These plans are intended to ensure that water companies implement mitigations to reduce pollution incidents. Each year, the single biggest source of pollution incidents is issues such as blockages or mechanical failures within the foul sewer water system. These issues are best addressed via monitoring and maintenance measures, such as the detection of bursts, checking pumps and relining sewers. This is important work that needs to take place alongside. It is for these reasons that the Government are not supporting these amendments. However, I reassure the noble Baroness and other noble Lords that the Government remain extremely supportive of using nature-based solutions to tackle the underlying causes of pollution incidents, and I look forward to discussing this topic with her further alongside colleagues from MHCLG in the coming weeks.

I turn to Amendment 51, tabled by the noble Duke, the Duke of Wellington, about the use of back-up generators at emergency overflows. The Government agree that measures should be put in place to reduce discharges from emergency overflows caused by electrical power failures. However, water companies are already required to implement measures to reduce the likelihood of a discharge occurring due to an electrical power failure through conditions in their environmental permits. In particular, water companies must demonstrate that they have back-up systems in place, such as generators or alternative power supplies, to secure the emergency overflow permit. Ultimately, emergency overflows may still be required to operate as a last resort to protect the sewerage infrastructure and prevent upstream properties flooding.

The near real-time reporting of information required by Clause 3 will enable increased transparency around the use of emergency overflows and will better enable resource to be quickly directed to investigate and address any cause of such a discharge. I thank the noble Duke for meeting me previously to discuss his concerns and his amendment. I am not sure that he will be reassured, but those are the reasons we do not believe an amendment in this space is necessary.

Amendment 53 from the noble Baroness, Lady McIntosh of Pickering, is on the important issue of SUDS, which we also discussed on Monday, and to which my noble friend Lady Young of Old Scone and the noble Baroness, Lady Pinnock, also spoke. As I have noted and discussed with the noble Baroness, this Government are strongly committed to requiring standardised sustainable drainage systems in new developments. We are actively considering whether improvements in the delivery of SUDS, which we all wish to see—14 years is far too long to wait for the implementation of legislation—may be better achieved through mechanisms other than Schedule 3 to the Flood and Water Management Act 2010.

I say to the noble Baroness that I have never had a catchphrase before. I was rather hoping for something a little more exciting—suggestions on a postcard. I am sorry to disappoint, but I am not going to use that catchphrase now. I look forward to meeting the noble Baroness alongside my colleagues in MHCLG. There are certain things that we need to discuss to see how we can move things on in this area.

[Baroness Hayman of Ullock]

On Amendment 54, I agree with the noble Baroness, Lady Browning, about the importance of having a drainage and sewerage system that can meet current and future demand. I always appreciate her enthusiasm on these matters.

As part of the Environment Act 2021, a duty has been created for water and sewerage companies in England to produce drainage and wastewater management plans. These plans set out how a company intends to improve their drainage and wastewater systems over the next 25 years, accounting for factors including a growing population and changing environmental circumstances. Taking a strategic approach to drainage and wastewater management will help to identify and mitigate issues related to insufficient network capacity.

The Environment Agency has a role as a statutory consultee for local planning authority decisions for certain types of developments that are made under Part III of the Town and Country Planning Act 1990 to help ensure that matters of wastewater and treatment, work capacity and water resource matters are considered as part of key planning decisions.

The Government appreciate the intent behind the amendment but have concerns about how it could operate in practice. That is because it could potentially give sewerage undertakers the right to refuse connections based on their own predictions of capacity without reference to agreed standards. Furthermore, legislation already permits undertakers to refuse connections where they would be prejudicial to their sewerage systems. Where disputes arise, the matter can and should be referred to the independent regulator, which in this case is Ofwat. However, I am happy to look more closely at capacity issues, as the noble Baroness suggests.

On Amendment 88, also from the noble Baroness, Lady Browning, the Government recognise the importance of ensuring the availability of sustainable water supplies to help meet our target of delivering 1 million new homes in this Parliament while protecting the environment. Under existing powers, water companies should ensure that they have sufficient water resources available to supply new homes, in line with the water resources planning guidance. In addition, Natural England and the Environment Agency are required to assess the impact of water company plans on protected sites.

Amendment 93, in the name of the noble Baroness, Lady McIntosh of Pickering, follows on from those amendments. I agree with the noble Baroness and understand the need for increased water efficiency and water reuse. Looking at all these amendments as a whole, I have to say it is completely bonkers that in this country we use drinking water to flush our toilets. That does not happen elsewhere. For that reason, we are already reviewing the relevant regulations. We intend to publish in the new year a consultation on how we could revise those regulations, with the aim of increasing water reuse.

The reuse of water through rainwater harvesting and grey water reuse may have important benefits for the environment because it is part of reducing our reliance on water abstraction. Water reuse systems have a wide range of benefits, such as reduced demand on water infrastructure, reduced carbon emissions and flood protection.

On the noble Baroness's particular question about the mandatory water efficiency labels that we are introducing, we are completely committed to that but we have not yet made a decision on the minimum standards.

I hope this reassures the noble Baroness that the proposed new clause will not be needed as we are already taking significant steps in this space. I once again thank noble Lords for their important contributions and suggested amendments around sustainable water usage and sewerage infrastructure.

Baroness McIntosh of Pickering (Con): My Lords, I am grateful to the Minister and others who have spoken in this debate. I am a little concerned, because I understood the Minister to say that they may seek to achieve sustainable drains through other means than Schedule 3.

Baroness Hayman of Ullock (Lab): To clarify, we are not suggesting that we do not do that, but we want to look at all the different options so that we can look at how we can practically move forward.

Baroness McIntosh of Pickering (Con): I just say that I am extremely disappointed. I know this is not necessarily within the gift of the Minister but, as we heard from the noble Baroness, Lady Pinnock, this was meant to be the year that we implemented Schedule 3, and there are only two months left. While I welcome the fact that we are going to meet before Report, I will look to bring something like that back.

I am grateful to my noble friend Lady Browning, who, in mentioning capacity, has underlined the need to end the automatic right to connect and to establish water companies as statutory consultees in all future planning applications. If there is no capacity, I do not see how we can expect water companies to make false connections that will lead to further sewage spills in future.

6.15 pm

The noble Duke, the Duke of Wellington, expressed concerns that I had raised in a meeting that I was fortunate to have with the Minister and her Bill team. In two groups' time, I will look again at the issue of whether we need a definition. It may be known to those steeped in the practice of consents and licences to water companies, but it would be really helpful to understand, perhaps in the Bill, the definition of emergency overflows.

I am grateful for the positive approach to lateral solutions. I mentioned beavers, which pose an enormous problem—not least in North Yorkshire, I understand. I back off from taking any responsibility for the beavers in North Yorkshire, but we cannot train them where to go. Anyone who wants to introduce a beaver must understand that the beavers will beaver away wherever they want to and, with the greatest will in the world, there is not a great deal we can do to guide them. I will leave that issue to my noble friends Lord Goldsmith and Lord Roborough.

This has been a helpful debate and I will return to some of the issues that we have had the opportunity to discuss this evening. For the moment, I beg leave to withdraw the amendment.

Amendment 34 withdrawn.

Amendments 34A to 36 not moved.

Amendment 37

Moved by ***Baroness Jones of Moulsecoomb***

37: Clause 2, page 5, line 29, at end insert—

"(7A) A sewerage undertaker must have regard to opportunities for nature-based solutions to be used to reduce pollution and to deliver other environmental benefits when preparing and publishing a pollution incident reduction plan."

Member's explanatory statement

This amendment would require consideration of opportunities to use nature-based solutions to address pollution within pollution incident reduction plans.

Baroness Jones of Moulsecoomb: My Lords, it is a pleasure to open the debate on this group of amendments, which are focused on nature-based solutions to reduce pollution.

We know that nature is incredible and complex. Every living organism is nigh impossible for humans to replicate, and when those organisms all come together in an ecosystem they are even more complex—the complexity increases by many more degrees of magnitude. Human industrial processes, by comparison, are very crude. Unlike nature's cycles and interactions, which have evolved over millennia, industrial processes are inefficient and almost always create some kind of waste product. So, while humans still struggle to comprehend the intricacy of those natural processes and cannot replicate them, it is much easier for us to mimic the natural world with nature-based solutions.

The fact is that it is better to protect what we have than to try to reproduce it. While I absolutely support rewilding and restoration projects, making sure that we do not do any more damage is of primary importance. Reed beds are a simple example: not only do they provide a wonderful home for wildlife—they are a priority habitat for nature conservation in the UK—but they are great at cleaning water, filtering out sediment, and buffering against pollutants from industry and agriculture. They also offer some protection from rising sea levels. Slimbridge Wetland Centre is a great demonstration site of that water treatment in action. It is a self-sufficient water treatment system that removes phosphates, nitrates and sediment, leaving just clean, fresh water for the nature reserve. It sounds like a dream.

I do not really need to rehearse all the arguments for nature-based solutions because, in the almost 11 years that I have been here, I heard Labour Peers calling on the then Government to put these solutions into action. Now the issues are the same but the Government are different, and so it is Conservative Peers who are lobbying on these issues and pointing out why it is so urgent for the Government to work with nature. I acknowledge that many Conservative Peers have said that in the past, but now their voices have the opportunity to be heard a little more loudly.

The Committee will probably support the whole concept of nature-based solutions. In that cross-party spirit, I hope the Minister will set out the Government's plan to put these nature-based solutions at the heart of the recovery plan for our toxic and polluted riverways.

Earl Russell (LD): My Lords, I will speak to Amendments 55 and 74. I have added my name to Amendment 55 in the name of my noble friend Lady Bakewell and I thank the noble Baroness, Lady Willis of Summertown, for also adding her name in support. This amendment would require water companies to adhere to and deliver stronger environmental objectives and duties within national parks and the Broads, so as to protect waterways across national parks from sewage. The amendment would give the Secretary of State regulation-making power to extend protections to specific bodies of water, such as Lake Windermere.

Our national parks are very special places with national emotional importance, but the sad reality is that the areas that are the most important have some of the weakest environmental protections and this needs to change. There were 377 sewage releases from storm overflows within the boundaries of national parks in England and Wales in 2022, totalling 176,000 hours, equivalent to more than 7,300 days. I am confident that the Minister, like me, will find this as unacceptable as I am sure do all noble Lords present. This amendment seeks to bring forward measures that will help to correct this and return the ecological status of our national parks to a level that we can again be proud of. As we heard in the previous debate, there is not even a single river within a national park that has good ecological health.

It is not just sewage which is causing the problem. The University of York found there was also widespread toxic chemical pollution within some national parks. In many ways this is much more worrying indeed. With huge influxes of seasonal visitors and often old and not-fit-for-purpose sewerage infrastructure, during the summer months especially the systems cannot cope and we have regular sewage spills. This infrastructure needs updating. I want to thank the Minister here. She said on the previous group that she had been meeting United Utilities and that is welcome.

In addition, it is ironic that we have far lower standards for the operation of sewage works in our national parks that we do in our urban equivalents. Proposed new Section 4A(1) in Amendment 55 gives details of how the relevant undertaker must secure high ecological status, enhance wildlife and natural beauty, and reduce total phosphorous discharges into freshwaters within areas of national parks by 2028. Subsection (2) indicates what will happen if this does not happen and calls for the relevant undertaker to be put in special administration and not be eligible for further licences if it fails to demonstrate an adequate process each year and meet the targets in subsection (1). Subsection (3) gives a time limit of one year for the Secretary of State to lay a report on the undertakers' implementation of the environmental duties in subsections (1) and (2) before Parliament. Subsection (7) of the proposed new section explains exactly what type of environment is covered by this section.

I will not repeat the remarks made about Amendment 34A in group two, but it is worth noting that Lake Windermere is a UNESCO world heritage site which has inspired Beatrix Potter, William Wordsworth and Arthur Ransom and that it contributes over £1 billion a year to the UK national economy. This site is particularly sensitive and I guess that everybody in this House

[EARL RUSSELL]
wants to see improvements made to it. I hope other noble Lords can support this amendment and the Minister can support it as well. It might be that the Minister has other ways of doing these things, possibly through statutory instruments, but I look forward to her response.

Finally in this group, Amendment 74 is in my name and I am very grateful to the noble Baroness, Lady Browning, for adding her name in support. This amendment aims to provide "high ecological status" to our chalk streams. To be clear, "high ecological status" is the closest wording the Table Office said was in scope for blue flag status. What I am trying to do is have a conversation with the Minister about putting forward blue flag status for our chalk streams. That is the point of the amendment.

As we have heard, England's chalk streams are of global significance and are a source of great national pride. They are unique waterways, found particularly in the south of England and Yorkshire. They have been referred to as the "rainforests of England" for their special qualities, the diversity and range of the habitats they provide and the iconic species, from invertebrates to kingfishers, that dwell within them. I confess that I spend quite a lot of my spare time mountain-biking and quite a lot of that is done on the South Downs, so places such as the River Meon are very special to me and I am sure other noble Lords have experiences with other chalk streams.

Research undertaken by my party found that, according to Environment Agency data, in 2022 chalk streams were subject to 14,000 hours of sewage discharges. This is devastating to these very valuable but fragile ecosystems. Wessex Water was guilty of 1,013 separate sewage discharges across the west of England. The worst chalk stream sewage discharge lasted for nearly 3,000 hours in the River Till, a tributary of the Hampshire Avon. Thames Water discharged sewage into the Misbourne in Buckinghamshire for 1,206 hours last year and Southern Water's 62 discharges into the River Meon last year lasted over 1,000 hours. The figures may have been even higher than that as a number of monitors are not working; I would argue that the true scale of the discharges into these rivers is not properly known, which is also a worry.

I am very grateful for the support for this amendment and I hope the Minister can lend some support to it from the Government. It might be that there is a possibility of further conversations or some kind of compromise around these issues. It might be that the Minister or the Government feel that blue flag status is not quite the appropriate means to help give further protection to these chalk streams. I am open to ideas. I am open to other ways that we could work collectively to try to increase protection for these very fragile systems.

Baroness Browning (Con): My Lords, I am delighted to have been able to add my name to this very important amendment. I live on the Dorset/Hampshire border and chalk streams are really important in my part of the world.

We have heard from the noble Earl, Lord Russell, of the importance of these chalk streams, which have been managed in England since Roman times. There is the real danger of contamination of the water course itself from sewage and agricultural run-off, but one of the key features of a healthy chalk stream is the water flow. Not all chalk streams are particularly deep but, so long as the water flows regularly, fish can spawn and the other flora and fauna which are so important to them can survive. Once the streams slow down, for whatever reason, particularly from excessive abstraction, that immediately has an impact on all the wildlife that we associate with chalk streams. So I am very pleased to add my name to this very important amendment.

Amendment 90 in this group, which is in my name, is on the general duty to deliver measures set out in water resources management plans. I was a bit concerned whether it is in the right group, but I guess that it is—it is associated. It is all very well to legislate but unless you can enforce legislation, it seems to us legislators all a bit pointless. As far as water resources management plans are concerned, this is about tightening up the regulations to make more sense of them.

6.30 pm

Section 37 of the Water Industry Act 1991 sets a duty on a water undertaker

"to develop and maintain an efficient and economical system of water supply within its area and to ensure that all such arrangements have been made".

It is enforceable under Section 18 and the planning of such systems is carried out by way of water resources management plans under that Act. Under Section 37A of the Water Industry Act, as amended by the Water Act 2014, there was an added duty for the water undertakers to "prepare, publish and maintain" a water resource management plan, defined by its subsection (2) as

"a plan for how the water undertaker will manage and develop water resources so as to be able, and continue to be able, to meet its obligations under this Part".

Subsection (3)(c) requires that the water company address

"the likely sequence and timing for implementing those measures",

referring to the measures the water company intends to take or continue to take to meet demand.

The water company is expected to revise the plans every five years and, before the end of that anniversary period, to review, report and revise the plan. I am not reading out all the section's parts because unless noble Lords have it in front of them, it does not mean very much, but I hope that the Committee gets the gist of what I am saying. However, there is no strict time limit for the measures detailed in the water resources management plans to be brought into operation.

This is where I ask: what point is there in legislating if key bits are missing, which means that something cannot be enforced? Nor is there any provision for reporting on progress. That means, for instance, that some measures to meet demand which have a long lead time, such as large reservoirs, water recycling or desalination processes, may not have reliable delivery dates. We all know how some of these big projects can be pushed into the long grass. They could be dragged out over many years from one water resources management plan to the next.

Amendment 90 seeks to tighten up the reporting, so there is no way in which these things can just pass by without anybody looking at them in any detail for years or any end date being assessed. How is it progressing,

and are any modifications that need to be made being reported? I hope the Minister will look at this as what I would call a tidying-up amendment to make what is on the statute book actually mean something.

Lord Gascoigne (Con): My Lords, I declare that I am a member of Peers for the Planet and have been a long-time supporter and member of the Conservative Environment Network. It is a great pleasure to speak on this set of amendments, led by the phenomenal noble Baroness, Lady Jones of Moulsecoomb, and to speak to Amendment 104, which is in my name as well as that of my noble friend Lord Roborough and the noble Baroness. I thank them both for their support, especially my noble friend on the Front Bench who has, both in government and opposition, been on the receiving end of my incessant and often incoherent rants about all things nature and the environment, as well as much else besides. I thank Wildlife and Countryside Link, the Rivers Trust, CEN and others who have provided helpful information for this debate.

The Committee will be pleased to know that I am not going to spend too long on why we are looking at the Bill. We all know that, collectively, the industry needs to improve and, truth be told, that it is not the water companies alone which are at fault here. We know the sad circumstances we are fighting to fix in wildlife, nature, biodiversity and water quality, because when a report this year from the Rivers Trust notes that not a single stretch of river in England is in good overall health, something has to change.

There are many great amendments in this group, all of which seek to ensure that water companies give more care to delivering a better environment in using their resources. My amendment builds on Amendment 37 in the name of the noble Baroness, Lady Jones—which, it goes without saying, I support—to focus on nature. If we look across the entirety of the Committee, many amendments seek to place greater emphasis on the importance of the environment. Some amendments ensure the inclusion of nature-based solutions when drawing up a pollution incident reduction plan; some address the industry, as well as regulators; some seek to ensure the delivery of existing pollution reduction plans. Amendment 104 seeks to build on them all by starting at the beginning: to deliver change by putting nature recovery front and centre, inserting nature at the outset and ensuring that licences cannot be granted or proceed unless companies look first at nature-based solutions targeted at reducing flood risk, improving water quality and benefiting nature restoration.

The second part of the amendment—if I may so, it chimes with what was so eloquently articulated by the noble Baroness, Lady Young of Old Scone, on Monday and today by the noble Baroness, Lady Parminter—looks to the regulators to ensure that they too give regard to nature-based solutions and do not penalise or discourage companies that seek to invest in them if they so wish and feel that is right for them. From a purely nature point of view, we cannot achieve our goals without private support and investment.

Turning to the rationale, some may say that this is all pie in the sky—we have heard similar voices in this House—that nice-to-have yet not essential schemes would cost the company itself, and that bills would have to go up just for some nice cuddly green notion. What evidence is there that it works and why do we care? We just want lower bills and clean water.

We have covered the importance of nature so much in this stage of the Bill. The noble Baroness, Lady Willis of Summertown, fired the starting gun in Committee with a superb rallying cry for her amendment on nature and biodiversity. I will not repeat what has been said by others far better qualified than me about why nature matters. I will focus more on why there are wider benefits to both the consumer and the company, beyond helping nature alone. As the noble Baroness, Lady Parminter, said at Second Reading, nature-based solutions do not just help with things such as overflows; there are wider benefits to society too.

Turning to the costs, a few years ago research from across the pond suggested that nature-based solutions could be up to 50% cheaper yet provide around 30% better value for money. While we still have a low uptake to prove that, there are some successes. I was reading the other day about a scheme a water company funded using wetlands to filter water in a natural way. They do not require as much infrastructure and energy but also reduce costs. As good as all that is, it is now a new habitat for native trees, plants and wildlife.

Another company, as noted at Second Reading by the noble Earl, Lord Devon, who is not in his place, does incredible work restoring peatlands, which help to filter and hold water, as well as planting trees and building ponds. Another uses wetlands for wastewater treatment and has shown that to cost 35% less than building a conventional treatment solution; its operational costs are 40% lower too.

In giving these examples—there are others—I am not saying that it is now all perfect. It clearly is not, but they show that some are trying and, crucially, some show that it works, but much more needs to be done. My amendment does not state that nature is the only solution. It insists that it should be considered and be part of the solution, working alongside modern infrastructure, not just to tackle water quality and purification but to help tackle floods and restore nature. We can get there; we just need to give it a kick start.

Before I conclude, I want to make one general point. It has been noted that the Bill is focused on punishments for bad behaviour and past digressions. I respect the revolutionary zeal of some in this House—I really do—and often have to pull myself back from the barricades whenever I think about this issue. As right as it is to punish when things go wrong, we must also bring about regime change from the outset by ensuring, first, that the water companies come up with plans to mitigate and to improve nature and the environment; and, secondly, that the regulators give them the ability to pursue those plans. Even today, the Chancellor talked of pollution in rivers in her Budget Statement. This amendment seeks to tackle that.

As we have said, this country's population is going only one way. We need to build more homes and put in the infrastructure, and to work with the industry and the private sector to make changes to ensure that the environment is improved. This amendment does not wreck the Bill; it works with the spirit of it. It is not about when something goes wrong but how to prevent it in the first place. With respect, we do not need to

[Lord Gascoigne]
wait for the commission to report, either. I know that the Minister cares deeply about nature and we are told that the Government do, too. They have the power, so let us make it happen. I hope that the Government will support this amendment.

Baroness Boycott (CB): I rise briefly to support the amendment in the name of the noble Lord, Lord Gascoigne, on the use of nature-based solutions. The noble Baroness, Lady Pinnock, mentioned a river in Somerset. I am quite connected with a group which is changing the path of the River Exe as it goes into Tiverton, where it floods every year. They became a group because of a scheme Defra ran about three years ago offering money. The point about these schemes is that they absolutely depend on communities; they have to start from the ground up. My friends have had to liaise with all the farmers in the valley and have finally got them all to agree to give one or two fields so that the river can meander—and there are plenty of beavers involved. The result will be to help the school their kids go to in Tiverton, which floods every year. They have spent a lot of their own money working out what it will actually do. It will reduce the flooding in Tiverton by around 50% to 60%. At the same time, the farmers will get money from biodiversity net gain, and it will help them fill in the forms.

My plea to the Government is: wherever the money comes from—from Defra or the water companies—make sure there are channels for it to get back to the communities that make these schemes happen. They cannot just be legislated for; they have to happen from a group of people who really care.

Lord Cromwell (CB): I also support Amendment 37, which is, like its proposer, both modest and proportionate. It is obvious that this needs to be taken into account by the Minister. It is about nature-based solutions. If we are declaring our interests, I should say that as a schoolboy I used to work at Slimbridge, I am a farmer at home, I have had a lifelong involvement with environment schemes, and a previous Minister even referred to me rather flatteringly as an environmental warrior.

I will just sound two notes of caution. When we had a committee looking into nature-based solutions, it was very hard to get an idea of the size of the prize. They have a place in the system, as the noble Lord, Lord Gascoigne, has made very clear. However, for a large pollution or sewage outflow from a city, it is hard to envisage nature-based solutions having sufficient impact.

The other note of caution I urge is that, having tried to get a river catchment project together in the past, I learned one thing: how many of the riparian owners up that river had feuds with one another and absolutely refused to co-operate. That was capped off by the Natural England adviser telling me it was all far too complicated and asking if I was sure I wanted to do it.

There is plenty of work to do here, but I support this amendment. It is essential. It is a modest amendment that simply says that nature-based solutions should be considered, and that is completely correct.

Lord Roborough (Con): My Lords, I thank the noble Baroness, Lady Jones of Moulsecoomb, for moving her amendment. I am pleased she has tabled this amendment, which rightly seeks to include a greater focus on nature-based solutions within this industry. She and I share the objective of restoring nature—unusually, perhaps she thinks for a Conservative Member of this House—and biodiversity. Having seen that she also supports my noble friend Lord Gascoigne's amendment, I hope we can share some of the means of achieving that objective.

I first remind the Committee of my interests set out in the register as a farmer and land manager, as well as an investor in various natural capital businesses and developer of carbon-enabled forestry and restoring peatlands. I should have also declared in the previous group that I share my lands with a beaver.

I agree with the principle of Amendment 37. However, I fear that, in its current form, it is too loose an obligation that is being created, and it would be too easy for water companies to pay lip service to.

Amendment 55 in the name of the noble Baroness, Lady Bakewell of Hardington Mandeville, and Amendment 74 in the name of the noble Earl, Lord Russell, both seek to put water companies under additional obligations towards national parks and chalk streams. I do not believe that it benefits this Bill or industry to prioritise these more glamorous and beautiful natural environments over less high-profile environments that may be in much worse condition. Of course pollution incidents in Lake Windermere or the River Misbourne are heartbreaking, but are they worse than what is routinely happening elsewhere in this country's lakes, rivers and beaches?

I also believe that special administration as a punishment for non-compliance in national parks is a very extreme measure and may have more to do with the Liberal Democrat position of wanting all companies under government control rather than being a fair penalty.

6.45 pm

I turn to Amendment 104 in the name of my noble friend Lord Gascoigne, which I have also signed. He addressed it with passion, and I obviously support it. Water companies have a unique opportunity to be involved in nature and biodiversity recovery thanks to their reliance on their catchments for the provision of the water they need and their detailed knowledge of those catchments as a result. However, at present the regulators do not allow the industry to invest in nature-based solutions for long-term objectives as freely as other solutions to their problems. I would be most grateful if the Minister could explain exactly what the water companies are able to do within their regulated returns calculations on nature-based solutions.

The aim of proposed new subsection (1) in this amendment is to require water companies to investigate nature-based solutions alongside more traditional solutions to reduce flood risk and improve water quality, where it also benefits nature restoration in their catchments. Proposed new subsection (2) in the amendment then requires the authority to treat this investment the same as any other investment in the regulated asset base. The intention of the amendment is that this frees the

water companies to invest in their catchments where it makes financial sense. We have only to look at South West Water, my own water supplier, and the investment it has made in 10,000 acres of peatland restoration on Dartmoor and 300,000 trees planted. The knowledge, access to the assets and willingness are there, but not the financial flexibility.

In answer to the comments from the noble Baronesses, Lady Boycott, I think water companies are better placed than Defra to make these schemes happen. As financial organisations, they can come in and negotiate between parties, bring people together and provide the leadership for these schemes. The Defra schemes often require a local leadership platform and, when people have inevitably fallen out with half of their neighbours, it is very hard to get agreements.

The returns for the water companies are immeasurable improvements in flood management, better resilience to droughts and cleaner water. However, there are also benefits in creating woodland and peatland carbon offsets, which are registered under the woodland carbon code and the peatland carbon code—two of the highest quality standards for carbon offsets in the world. I mention also biodiversity net gain units and, in future, other forms of defined natural capital units that have value and provide clear demonstration of the work undertaken.

The water companies are in a privileged position to undertake meaningful nature restoration. Their actions would be completely consistent with bringing private finance into that shared objective. This need not have an impact on consumer bills. It will simply be a choice of how better to invest their capital budgets to bring us cleaner water and better control of sewage and pollution incidents. This measure would also alleviate budget pressures on Defra by replacing government funding with private investment.

Amendment 90 in the name of my noble friend Lady Browning would appear to be entirely consistent with my noble friend Lord Gascoigne's amendment and would enable better reporting of water companies' operations in their catchment areas.

I hope we might receive an encouraging response from the Minister, who earlier reaffirmed her commitment to nature restoration. We believe that there is a strong feeling about this amendment, and I welcome discussions with other noble Lords on how it could be improved.

Baroness Hayman of Ullock (Lab): My Lords, I thank noble Lords for their amendments and for a very interesting discussion. Clearly, it is very passionately felt as well. I thank the noble Baroness, Lady Jones, for introducing her Amendment 37. I would also like to discuss Amendment 104 tabled by the noble Lord Gascoigne, because they are both about nature-based solutions.

As I mentioned on the previous group, the Government agree that nature-based solutions are an important tool for tackling the root causes of sewage pollution and addressing flood risk, while delivering wide ecological benefits. In line with this, I am pleased that Ofwat has proposed an allowance of over £2 billion for investments in nature-based solutions in PR24. I was pleased that the amendment from the noble Lord, Lord Gascoigne, refers to catchments, because catchment and nature-based solutions are part of that £2 billion investment, and £1.6 billion is looking to reduce storm overflow spills through those solutions.

Ofwat has made it clear in its guidance for PR24 that it expects water companies to adopt more nature-based solutions. The noble Baroness, Lady Jones, mentioned reed beds, and it is important to say that the further funding includes money for reed beds and wetlands for nutrient removal. The Government are also supporting water companies with trialling different nature-based solutions. As I mentioned, this is obviously subject to the final determinations in December, but we hope to move forward in these areas.

At the same time, we need to recognise that nature-based solutions may not always be the most appropriate or effective means of improving water quality or flood risk. We need to ensure that water companies and Ofwat have sufficient flexibility to develop the right solution to deliver the best outcomes for customers and the environment. In a similar vein, although nature-based solutions may feature in pollution incident reduction plans, it is important to recognise that these may not be the most effective or available response to pollution incidents in every circumstance.

Having said that, we will not support the amendments, but I reassure the noble Baroness and the noble Lord that we take this seriously. I am happy to have further discussions on this particular amendment, if that is helpful.

I turn to Amendment 55, tabled by the noble Baroness, Lady Bakewell of Hardington-Mandeville. It is important to draw our attention to the impact of sewage pollution in our national parks. The Government agree that our national parks—Lake Windermere in the Lake District and the Broads have had particular attention regarding this matter—are a vital part of our environmental heritage, and everyone agrees that they must be protected better. For this reason, the Government will seek to use the powers in the Levelling-up and Regeneration Act to ensure that relevant authorities, including water companies, deliver better outcomes in protected landscapes.

I reassure noble Lords that existing plans are in place to protect high-priority sites from sewage pollution, including the *Storm Overflows Discharge Reduction Plan*. As part of that reduction plan, we expect water companies to tackle overflows discharging to high-priority sites by 2035. These sites include designated bathing waters, SSSIs, special areas of conservation and chalk streams. However, completely eradicating sewage discharges is not possible without a costly redesign of the whole sewerage system.

Similar issues may arise in relation to the proposed requirement for all water bodies in national parks to achieve "high" ecological status. Under the Water Environment (Water Framework Directive) (England and Wales) Regulations, most surface water bodies have an objective to reach "good" ecological status, except where it is technically infeasible or disproportionately costly. I stress that "good" ecological status is a very high standard to achieve, and represents a thriving aquatic environment with only minor disturbance from natural conditions. In this way, it supports a diverse group of aquatic invertebrates, fish, mammals and birds.

[BARONESS HAYMAN OF ULLOCK]

"High" ecological status equates to water almost entirely undisturbed from its natural conditions, with almost no impact from human activity. Requiring this very high status would have wide-ranging impacts on any future planning developments and human interaction with national parks—that would include farming and fishing. The requirement would place achieving this demanding objective on only water companies, regardless of the pressures and sectors that are actually impacting on water bodies within the protected landscapes. It would also not allow for the consideration of costs, which would ultimately be borne by water bill payers, and any technical feasibility around this.

It is clearly important to reduce phosphorus levels—I have seen the damage that phosphorus can cause in the lakes near where I live. A reduction of phosphorus levels by 90% by 2028 goes significantly beyond the Environment Act target to reduce phosphorus loading by 80% by 2038—that is assuming that the baseline is at 2020 levels. This would require an extremely expensive and immediate increase to the number of phosphorus improvement schemes planned in the price review of 2024. We are concerned that that is a big jump, with a big extra investment that would immediately be passed on to bill payers. We do not want to risk the delivery of any wider environmental improvements through the price review of 2024.

Amendment 74 was tabled by the noble Earl, Lord Russell. I confirm that the Government are absolutely committed to the protection and restoration of our cherished chalk streams. We recognise that these unique water bodies are not just vital ecosystems but a symbol of our national heritage: we in this country have by far the majority of chalk streams. This requirement would have significant implications for existing legal frameworks' operational delivery, and would not necessarily result in environmental improvement for chalk streams. As discussed in relation to Amendment 55, requiring "high" ecological status would have the wide-ranging impacts that I mentioned.

The levelling-up Act brought in some protections for chalk streams. The independent water commission on the water sector regulatory system, already announced by the Secretary of State, is the appropriate vehicle for considering broader reforms, including to the current water system and overarching targets for the water sector. In the previous group we talked about better use of water and grey water. If we move forward with that through our review, that will reduce abstraction, which will help to support chalk streams better.

I hope the noble Earl therefore understands why the Government will not accept his amendment. However, he requested a meeting to discuss Blue Flag status as a possible way forward, and I am more than happy to offer him one.

Amendment 90 was tabled by the noble Baroness, Lady Browning. I am grateful to her for this amendment. We are clear that water companies must improve on their delivery of water resources management plans. The independent commission will help to transform how our water system works and will inform further legislation. It would be more appropriate at the moment to consider how we make improvements to the water resources management planning process as part of the independent commission. I note that there are already requirements for the review process in Section 37A of the Water Industry Act 1991. Water companies must also report to the Secretary of State on their reviews annually. Defra works closely with the EA and Ofwat to review water companies' delivery of their plans, and the EA recently published a summary of assessments of water company delivery and the actions that they must take to deliver their plans.

We are concerned that, in practice, a duty on water companies to deliver all measures simply would not work. Many measures, such as new reservoirs, need further permissions, for example, before they can proceed, and a water company cannot guarantee that it will get those permissions. That is why we will not support that particular amendment. I thank noble Lords again for this interesting and helpful debate.

Baroness Jones of Moulsecoomb (GP): I thank the Minister for her reply. I do not think anyone in the Committee doubts her sincerity or her concern for nature—that is a given. I am afraid it is the Government I do not trust. I did not trust the last Government and I do not trust this one either—it must be something in my nature.

I supported two other amendments: Amendment 74 in the names of the noble Earl, Lord Russell, and the noble Baroness, Lady Browning, and Amendment 104 in the names of the noble Lords, Lord Gascoigne and Lord Roborough. Chalk streams, for example, are incredibly important; they are so rare. We have the most in the world and we trash them. The amendment of the noble Lord, Lord Gascoigne, goes much further than my modest amendment. The noble Lord, Lord Cromwell, has never called anything I have ever done modest, so I look forward to his signing this same amendment on Report to show that he is sincere.

The noble Baroness, Lady Boycott, talked about local engagement. Just this week, I hosted a group of 30 or 40 people from the Bengali community who are working on recovering mangrove forests in Sundarbans. They do it because they care about the local; they are losing culture, opportunities and so on. I really see that local activity is incredibly important, but the Government have to make that easy. This is the thing about the nature recovery schemes. They are obviously not the only way; they can be extremely effective, and sometimes quite cheap as well. It definitely engages the local community. I was up at Lake Windermere recently, and the local support there for cleaning up the lake was quite astonishingly broad.

7 pm

I thank all noble Lords and noble Baronesses who spoke in this debate, and I beg leave to withdraw my very modest amendment.

Amendment 37 withdrawn.

Amendments 38 to 42 not moved.

Clause 2 agreed.

Clause 3: Emergency overflows

Amendment 43

Moved by ***Earl Russell***

43: Clause 3, page 6, line 16, at end insert—

"(ba) the volume and concentration of the discharge;"

Member's explanatory statement

This amendment would require water companies to publish the volume and concentration of discharge from an emergency overflow.

Earl Russell (LD): My Lords, this group of amendments is about rules and requirements for monitoring and the publication of data. I apologise that this is a big group, as well as being the last group that we have to debate before our dinner hour; there are 15 separate amendments here.

Data, what we know, how we know it, how we use that information and how it is shared are all of crucial importance in monitoring what water companies are doing and also for protecting our environment. Knowledge is power, and I am reminded of the words of Ronald Reagan: "Trust, but verify".

Amendment 43 in my name would quite simply require water companies to publish the volume and concentration of discharges from their emergency outflows. One area of the Government's Bill that I personally particularly welcome is the plans to improve the real-time monitoring and sharing of data on emergency sewage overflows, introduced as new Section 141F. These measures are very much welcomed on these Benches. Can I clarify with the Minister that it is the Government's intention to apply the monitoring regime as set out in the Bill to 100% of the outflows?

My amendment here is not a criticism of what is in place; instead, it is an attempt to see if there is scope to build on and slightly improve it, if possible, and explore with the Minister what some of the practical obstacles might be in place, if there are any at all. The measures set out in the Bill do not require transparency in terms of volume and type of discharge. I am fully aware, having done some work in other areas of monitoring and verification, that what I am asking for may well have far-reaching and possibly expensive implications. I am aware that this may involve different types of sensors being used and different information being captured, stored, and interpreted before going on to be shared. I would be interested to hear the Government's position on these proposals, and what challenges such changes might present for them. Moving to a more robust and complete monitoring set of data is an essential journey that the Government need to take over time.

Amendment 47 in my name would require water companies to publish data on one website to increase transparency and ease of access for the public. This amend seeks to do what it says on the tin. It is relatively straightforward, so I will not speak to it for too long, but it is a quick and affordable improvement, which I hope will win government support. It is designed to strengthen and better enable the intentions of the Government to improve monitoring and the public's access to the monitoring data. This is important not just to hold water companies to account and protect our environment but to help protect public health as best that we can. Where there are sewage spills, for whatever reason, it is very important that we all work to ensure the quick and smooth access to this information so that the public are aware of potential health risks and can take appropriate measures.

With many multiple water companies and water and sewage companies, and with all their websites having multiple pages and different tabs and set-ups, it would be easy for this information to all be published in full compliance with the Bill yet still leave it virtually impossible for the public to find it quickly and easily. That would defeat the spirit of the legislation, as I interpret it. My hope is that this amendment would have small associated costs but would bring strong associated benefits in transparency and accountability for what is actually happening but also as a means of deterrence. Water companies, I am sure, will think twice about their investment plans and clean-up operations when things go wrong, if they are aware that the public can monitor them easily in real time. It may be that this information is best hosted on either Defra's or the Environment Agency's website, and the wording of my amendment does not intend to rule that out as a possibility. I look forward to the response of the Minister to this practical suggestion.

Finally in this group, I come to Amendment 94 in my name. This amendment would require the Secretary of State to take steps to facilitate citizen science with regard to monitoring water companies. It is fair to say that none of us might be sitting or standing here debating the measures in this Bill were it not for the tireless work of concerned citizens and their passionate dedication and care for their local environment. In recent years, we have seen enforcement budgets for the Environment Agency cut almost in half, combined with a light-touch regulation regime, which has allowed water companies to self-monitor, as well as many no-flow incidents and other pressures. Much of the information, knowledge and drive to prevent sewage discharges and much of the information about what is happening out there in the real world has come as a direct result of citizen science and citizens who care about their local environment. It is really important that we as Lords pay tribute to their work as a thank you to them, because the rise of this issue up the national debate and the national consciousness is partly a direct result of the work that they have taken up. That is work where they have taken on roles that really should have been filled by the Government and regulatory agencies. For whatever reason, they did not have the capacity to do that. They are too many of these organisations to mention them all, but I acknowledge the Rivers Trust and its Big River Watch, which has worked for many years to build up a detailed knowledge of local environments, as well as the work of Thames21. I hope that other noble Lords will join me in offering them thanks.

With only 14% of our rivers in good ecological health and with budget pressures, improving citizen science is a win-win for everybody. It acts as another means of assessing the information that Ministers get from their regulators; it acts as a check on that and acts as a deterrent on what water companies are doing. They do not have as much of a relationship

[EARL RUSSELL]
with the citizens doing this as they might do with the regulators, so it is a little bit left field in their context; they do not know what is being monitored where and when. It is an important deterrent and a check on the system—a check that it is working as intended. I encourage the Government to make better use of that resource and provide encouragement, support and training. It is also important that, by doing that, the Government help to make sure that the information being provided through these means is more reliable and using agreed baselines and methods, which in itself provides another important sense of information in all these debates.

There are lots of other really good amendments in this group, too many for me to go through them, but I beg to move.

Lord Cromwell (CB): My Lords, I will speak to three practical amendments in my name in this group: Amendments 44, 46 and 49. They are modest and proportionate—perhaps that is my catchphrase. I support and echo almost everything, I think, that the noble Earl, Lord Russell, said a few moments ago, especially about citizen science.

Public accountability and transparency need data that is both sufficient and timely. As currently drafted, I do not think that this Bill does that sufficiently. My Amendments 44 and 46 together would solve this. Amendment 44 provides for relevant information to be made publicly available and Amendment 46 recognises that this is not something that can always be provided immediately—I am trying to anticipate the Minister's reply here. Amendment 46 would allow the water companies to indicate when the information would be available, rather than requiring them to produce it immediately. By including these questions in the Bill while allowing a reasonable approach to how soon it can be provided, the amendments would fill the information and accountability gap that is in the Bill currently.

To turn to Amendment 49, experience shows that allowing companies—we had this exact issue during the passage of the Modern Slavery Bill, by the way—to report things exclusively on their own websites results in difficulties such as differences in the information that is included, where it is shown, how easily it can be found and how fully it is reported. That makes it unnecessarily difficult for those seeking to monitor performance on a comparative or aggregated basis. As represented in my amendment, putting this into one place where it is accessible to everybody is not a large amount of work. It is simply a matter of the water company putting it on its own website and firing off a link to the authority, which can put it on its website. That is how it should be, and it would enable comparative measures of performance, which will be lacking if water companies bury this on their own websites and report it in different ways.

Baroness Young of Old Scone (Lab): My Lords, this is a large group of amendments and I am going to go on a bit; I apologise for that. I will speak first of all to my Amendment 45, which is a probing amendment. I should say, for the avoidance of doubt, that I declare no beavers. The Bill requires sewerage undertakers to publish a range of information when there is a discharge from an emergency overflow. My Amendment 45 would add a requirement that such monitoring and reporting should include whether what are known as "emerging contaminants" are present, including but not limited to per-fluoroalkyl and poly-fluoroalkyl substances—PFAS—and microplastics.

Let me explain why this is important. The noble Earl, Lord Russell, expressed worries about these sorts of chemicals in discharges in national parks, but it not just national parks; these discharges are happening everywhere. PFAS are serious pollutants and occur in entirely innocent-looking products and processes. They accumulate in our rivers and seas, they are persistent and cannot be extracted, and they harm both human and animal health. These PFAS are used in over 200 applications, and I felt pretty guilty when I was briefed on these applications by the Marine Stewardship Council, as I—and probably other noble Lords—use these harmful applications, day in, day out. PFAS are used in anything with Teflon, for example, including non-stick pots, in waterproof clothing, in stain-resisting products, in cosmetics, in firefighting foams, and even in Apple watchstraps. My daily slow-release pills that keep me alive in the face of ulcerative colitis send PFAS into the water environment straight from my gut. So I and all noble Lords are responsible for all of this.

PFAS are tricky to manage: they reach the water environment as particulates through storm or emergency overflows from sewage treatment works, but also from sewage sludge spread on the land or from being sprayed directly into the environment, as with firefighting foams. Once in our waters, they cause damage to wildlife and human health. Although some PFAS can be removed at sewage treatment works, the only secure way to deal with them is to ban those PFAS for which there is a viable alternative—there are a number of viable alternatives for many PFAS—and then seek to develop alternatives for those for which there are not yet alternatives.

7.15 pm

Several European countries are routinely monitoring their PFAS and, after having discovered exactly what is happening in water bodies, have submitted a dossier proposing a ban where viable alternatives exist. Monitoring programmes are also taking place in several United States states. We in the UK do not systematically monitor for PFAS. This amendment would begin—very inadequately—to routinely monitor PFAS as a precursor to action. I therefore encourage the Minister to mug up on PFAS and look at how they can be prevented from entering the water environment through sewage admissions before accumulations in watercourses and the sea become critical. According to Defra's own assessment, no English rivers, estuaries or coastal waters meet the criteria for good chemical status under the water framework legislation.

This amendment is not a very elegant one, but it was a useful way of simply raising this issue. It covers only emergency overflows, but it serves the purpose of raising the overall profile of what is an emerging problem. There needs to be a much more structured and risk-led assessment of what is monitored, where, for what purpose and how frequently. The Environment

Agency's monitoring programme has been reduced to the point where the state of the water environment is not known in sufficient detail to inform improvements needed to meet the water framework directive and other obligations. It also needs to recognise that many contaminants of concern—not least microplastics—are contained in road run-off and few of the thousands of highways outfalls are monitored or even have rudimentary treatment.

In theory, the EA's permitting regime could specify what water companies and others should monitor at each authorised discharge point, regardless of whether it is a continuous or intermittent discharge. The need for this point-source monitoring should be informed by better overall environmental monitoring of watercourses, which would show where the problems potentially lie. I therefore press the Minister to consider this whole problem in a much more strategic way than this Bill allows and to come back to the House with proposals for systematic monitoring and subsequent action on these damaging emergent chemicals.

Having gone on about that, I turn briefly to Amendment 50 in my name, which would remove the ability of Ministers to make exceptions to the duty to report emergency outflows. I simply ask the Minister: why should there be any exceptions?

Amendment 58 in my name would amend Section 82 of the Environment Act 2021 to require the Environment Agency, not the water companies, to monitor in-river impact and to require publication of the data generated. It is now pretty well acknowledged that there were considerable problems caused by the introduction 15 years ago of operator self-monitoring into water company activities. At that point, it applied only to the monitoring of discharge from sewerage infrastructure. The truth is that the water companies have exploited operator self-monitoring and have brought it into disrepute. There is now no public trust in operator self-monitoring and there is a real issue of public confidence in the whole system. We made it worse in the Environment Act 2021, where the principle of operator self-monitoring was unwisely extended by the previous Government to include monitoring the quality of the water potentially affected by discharges: not only the discharge-point monitoring but the monitoring of rivers, streams and water bodies upstream and downstream of discharges.

So, Section 82 of the Environment Act 2021 extended operator self-monitoring to the very rivers themselves, giving water companies the responsibility for monitoring their own impact beyond the sewage treatment works. In my book, this is like putting Herod in charge of childcare. The water companies have shown that they cannot be trusted accurately to reflect the impact of their own activities, far less monitoring in-river water quality. I believe that the Environment Agency should now be given the resources and tasked with monitoring river quality, as was previously the case. This amendment would rectify the position created by Section 82 of the 2021 Act and ensure that the Environment Agency, the body charged with monitoring in-river quality upstream and downstream of sewerage infrastructure, does that job, and would also ensure that the data produced by such monitoring is published. This cannot be done without adequate resourcing of the Environment Agency to do the monitoring in an effective and trustworthy way, but it is essential if we are ever going to restore public trust in knowing the real state of our rivers, water bodies and beaches.

Baroness McIntosh of Pickering (Con): My Lords, I have two amendments in this group. The first opposes Clause 3 standing part of the Bill, and the second is Amendment 75. I am grateful to the Minister and the Bill team for the meeting we had. The earlier amendment in the name of the noble Duke, the Duke of Wellington, and those in my name and others, possibly reflected the fact that the meaning of "emergency overflow" in Clause 3 is not quite as clear as it should be. This is simply an attempt to ask the Minister and, through her, the department, whether they are entirely convinced that the Bill is as clear as it might be in this regard.

I shall focus my remarks on Amendment 75. I am grateful that it has been included in this group, where it is most relevant. Doing so saves a separate debate on it at a later stage, where I felt it did not fit in. Subsection (2)(d), under the heading "meaning of 'emergency overflow'", concerns

"blockage of a sewer downstream of sewerage disposal works."

That brought to mind the typical problem we encounter: fatbergs associated with restaurants and intense food production, which is very regrettable indeed. Are the Minister and the department minded to foresee an exemption from the provision for an emergency overflow and the conditions flowing therefrom? For example, such an issue is not within the power and authority of a sewerage undertaker or water company, which cannot be held responsible for fatbergs from cooking fat, wet wipes, et cetera. I welcome the fact that we have now banned wet wipes. That is a great development, but I do not know what the solution is to fatbergs entering downstream, causing these blockages and potentially leading to an emergency overflow. Does the Minister agree that it is very difficult to link that to the responsibility of a sewerage undertaker or water company, given that it really is not within their power to prevent it?

Lord Cameron of Dillington (CB): My Lords, my Amendment 59 follows on very neatly from those put forward by the noble Baroness, Lady Young. It too is very much a probing amendment and is largely designed to expose an issue or problem, and to alert the proposed industry review to possible solutions. It arises from a worry that I have had for many years: that we do not really know what is going on in our rivers. A decade or so ago, I remember hearing about a farmer who reportedly said that the chance of his small river being inspected by the Environment Agency was roughly one in 200 years, and thus he was not worried about what he or others might be doing to that river. This may have been an exaggeration, but the point he was making has a ring of truth to it even now, some 10 years later.

Then, the problem was that the Environment Agency had been starved of funds and, in many respects, chained to its desk. The number of staff deployed on the actual rivers had dropped away to the point of insignificance. However, the agency has always monitored our rivers, and certainly does nowadays. Specifically, it monitors downstream of major sewage works and CSOs, but it does so on a random basis. I should say at this point that it is a very skilled job taking a water

[LORD CAMERON OF DILLINGTON]
sample and ensuring that it is a true sample and not contaminated either by the sampler—disturbing the river bed, for instance—or by some very localised issue in or near that point of the river.

Let us say that, in your sampling programme, you aim to take a sample once a month where it matters. That does not sound very much, but if noble Lords think about the hundreds of rivers in England and the literally thousands of sewage works and other licensed discharge points, even that would be a mammoth task for a whole regiment of inspectors. As a result, there is probably only a one in 100 chance of any sample being taken in any river which would coincide with the sort of event we need to know about.

The science of river quality shows—I am sure we all know this—that rivers are constantly changing. We all know the Chinese proverb: you can step into the same river only once. When we get a wet weather downpour, not only do we get overflows from sewers and CSOs, which can be very damaging to the aquatic environment; we also get discharges from urban run-off, often containing severe chemical pollution, including the possibility of persistent chemicals, mentioned by the noble Baroness, Lady Young, in her amendment. Of course, during this same wet weather incident we also get agricultural run-off and pollution, which I know, as a farmer, is as damaging as anything else to our biodiversity, particularly when it involves excess phosphate or silage effluent.

On the subject of biodiversity, I should say at this point that the UK Centre for Ecology and Hydrology—I declare an interest, as I am about to retire as its chair—reckons that since 1970 there has been an 83% decline in our freshwater populations, which is a pretty devastating figure.

As I say, the chances are in excess of one in 100 of any random river sample being taken immediately after one of these wet weather incidents, especially when it happens to be a night-time storm or incident, so we never really know the true condition of any of our rivers; nor can we calculate the short-term or long-term ecological consequences of all those wet weather discharges—except that there has been an 83% decline in our freshwater populations. But there is a solution: continuous monitoring using telemetry. Install a monitor in a river and it can record the state of that river every hour, or even every half hour. Before noble Lords think that hundreds of monitors reporting every half hour would provide an excessive amount of information that would overwhelm the watchers, I should say that these machines can be preset to produce an alarm only when a particular parameter is broken. In other words, you are woken up in the middle of the night only when, for example, there is a shortage of oxygen in the river or an excess of E. coli.

The real point is that we can find out more about the long-term state of our rivers from continuous monitoring in, say, two weeks than we would probably find out in many years of random sampling. But—and this is a big "but", which is why this is very much a probing amendment—although this technology is developing fast, I am afraid it is still very expensive. The price goes up according to the number of pollutants being monitored. Each pollutant needs a different way of measuring, and each sensor, for each pollutant, can cost an average of about £10,000. If you want a machine that monitors and reports on just five key pollutants, it would currently cost about £50,000, while a machine that monitors almost everything would cost around £100,000.

That is an awful lot of money, especially if you think about our desperate need for hundreds of these machines. There is no doubt that, if we were to develop and order hundreds of them, the price would fall dramatically. I put the amendment out there largely for the new independent water review commission to consider. Bearing in mind

"The water sector needs a complete reset",—[*Official Report*, Commons, 23/10/24; col. 279.]

it has to ask itself what price we put on the cleanliness of our rivers and our ability to truly monitor them.

7.30 pm

Lord Deben (Con): My Lords, I declare an interest as a riparian owner and as the chairman of a company which helps businesses, including water businesses, to improve their environment and their safety. Normally I am very questioning of additional requirements for information from companies, because it can be very expensive and divert people's attention. But in this case I support the general run of these amendments, which ask for the public to know what is happening.

First, a series of them ask the water companies to tell the public only what they have to know, because, if they do not know it, they cannot do what they have by law to do. Secondly, the noble Lord, Lord Cromwell, is right that the information has to be presented in a way that is easy to find. The comparison with the Modern Slavery Act—again, we debated modern slavery, so I know how it works—is that it is so easy to find it difficult to discover the facts. The whole idea of the Modern Slavery Act was that the public and the campaigners would be able to see how people were behaving, and check against it. This is an extremely important thing.

I also want to refer to a comment by the noble Baroness who spoke on the subject of fat. I do not know whether the Minister has had the pleasure of going down a sewer, but it is one of the most important acts of any Minister. I did it when I was, in some part, doing what she is doing, and you learn a great deal.

My worry about the Bill is that, if we are not careful, we will take away from some of the things that ought to happen—not in this Bill about water companies—to make the way in which we deal with sewage much more sensible. You can go down a sewer and tell exactly where the fast-food restaurants are, and you can tell which are the good ones and which are the bad ones. I would recommend to the Minister that she looks at what happens in Canada, where they insist that you measure the oil that comes in and then show how much oil has been taken away by an approved waste collector. We have to look at a number of things of that sort if we are going to make this legislation work. Do not expect the Minister to add to this legislation, but I think she will find that, unless we do some of these things, we are not going to deliver what is needed.

My last point is about telemetry. One of the things I think government is very poor at—and that is all Governments—is recognising how much they can change costs by insisting on necessary machinery. If this

Government said, "We are going to monitor every river and we want the telemetry to do it", the price would fall very considerably, as the noble Lord rightly said. Unless we do something like that, this Bill is frankly time-limited, because it will not deliver what we need, which is a constant measurement of our rivers and for that information to be provided, where we have suggested, to the public. If we do those things, we can both recover support for what is happening and do what my noble friends have put forward, which is to make it possible for water companies to say honestly that things that have happened were nothing to do with them. That is also important because, otherwise, we are laying a burden on them which, even with their current reputation, is an unfair one, and I would much prefer to be tough but fair.

Baroness Boycott (CB): I rise to speak to Amendment 87 in this group, and I am very grateful to the noble Baronesses, Lady Parminter and Lady Browning, and the noble Lord, Lord Whitty, for their support. I agree with all that has been said, in particular what the noble Lords, Lord Cameron and Lord Deben, said. We do need a step change here, rather than just trying to fix the system—although I do want to talk about fixing the system.

The water companies are completely uninterested in transparency. It echoes so much of what we talked about: who is winning in this game, nature or money? Rather too often, the money seems to win out. According to the *Observer* at the weekend, they have been passing pollution tests that were not even carried out. The system is so clearly not working that it seems an obvious one for the Government to reset.

Amendment 87 would require the proactive publication of both regulatory and what the water companies call "non-regulatory" or "operational" data about their sewage works and their associated discharges of sewage effluent. Specifically, it defines water companies as "public authorities" for the purposes of the Environmental Information Regulations, amends the regulations to make clear that public authorities must make the information they hold on effluent or wastewater monitoring data completely public to anybody. It amends the appeal and enforcement provisions in the 2004 regulations to allow members of the public to complain to the Information Commissioner where such info is not proactively published.

This will cut through all the delaying tactics and refusals by water companies, by ensuring that data is proactively published, so that the public and campaigners will not have to keep asking for information and be endlessly given the runaround. Water companies will be required by law to publish it up front, without anyone having to ask. I support my noble friend's amendment that this must all be in one place and easy to find. I feel that this is complementary to Clause 3 of the Bill, which requires discharges from emergency overflows to be published accessibly and immediately, so that action can be taken.

It is important to outline a little history of the context. Despite the success of the leading Fish Legal case, which went to the European Court of Justice a few years ago, in securing a decision that water companies are "public authorities" for the purposes of the Environmental Information Regulations, over the last few years the water companies have tried many different tactics, under the Environmental Information Regulations, to try to avoid disclosing data to those requesting access that shows how poorly performing their sewage works or CSOs have been. They have been extremely successful. The ICO has, in the past, supported various water companies in their refusal to provide data to a range of campaigners, due to the long-running investigations into them by the regulators themselves. The ICO's mind seemed to change on this after the CEO of Ofwat announced that they did not consider the investigation by Ofwat and the Environment Agency as a reason to not publish. So now we are in a weird situation where the water companies, specifically United Utilities, are currently appealing against an ICO decision that went the other way, in which the ICO decided that information, specifically about how poorly a sewage works in Cumbria was operating, should be disclosed to the public. This case is ongoing, but we have an opportunity to send a parliamentary reminder that we are in no doubt that this information should be made publicly accessible.

This has highlighted to me not only the clear lack of transparency but the real lack of willingness. Despite several years of this very public scandal, companies continue to obstruct. This is what the Bill is really about: forcing them to change where they will not. We are well past simply asking them to do this.

Baroness Browning (Con): My Lords, I am very pleased to have added my name to the amendment that the noble Baroness, Lady Boycott, has just spoken to, and the amendment in this group tabled by the noble Baroness, Lady McIntosh of Pickering, both of whom have outlined very clearly their concerns.

Amendment 89, in my name, is really about abstraction. I mentioned the over-abstraction in chalk streams, which is genuinely a real problem. It is claimed that the Environment Agency rarely inspects water company abstraction monitoring records.

There is also no requirement for continuous volumetric monitoring and publication of real-time or up-to-date data. It is not surprising, therefore, that there has been no effective enforcement where there have been breaches of abstraction licences. Spot-check results indicate neither the duration of the breach nor the seriousness of such breaches, either as against the licence condition or for the rivers or groundwaters from which the abstraction has occurred unlawfully.

Therefore, this amendment proposes that the Water Resources Act 1991 be amended so that all licences for abstraction held by water undertakers should include a condition that real-time abstraction volumetric data is recorded and made publicly available in as close to real time as is practicable. This is very straightforward. The Minister must have a view as to whether she thinks the Environment Agency carries out rigorous checks, and if it does not, I believe my amendment is the answer to it.

Lord Blencathra (Con): My Lords, I first declare my interest as on the register. Since it seems to be de rigueur in the Committee tonight, I declare my wholehearted support for the controlled reintroduction of beavers into appropriate locations.

[LORD BLENCATHRA]

I thank the noble Earl, Lord Russell, for leading this group of amendments on improved monitoring and publication of data and I rise to speak to Amendment 48 in my name. First, I was rather impressed by the points on telemetry made by the noble Lord, Lord Cameron of Dillington. We find in Natural England that the use of modern technology can replace hundreds of people on the ground trying to carry out inspections, and this sort of technology has to be the way to proceed.

It is important that the nature of emergency discharges is collected by water companies and is made available to the public and Parliament in an easily accessible format and location, as has been said by every noble Lord tonight. The damage of pollution caused by emergency overflows has become an issue of increasing concern to the public in recent years, and they deserve more information on how water companies are performing. It is sensible to require water companies to publish the extent of emergency discharges, as this data is indicative of the strain on our water sector and will provide valuable information as to what kind of infrastructure development is necessary to prevent overflows in the future.

We support the Government's intention in this part of the Bill, but we feel the Government can go slightly further to ensure that the monitoring data is available to the public on the water company's website. My Amendment 48 is a modest little amendment that would deliver that change. We on these Benches feel that this relatively small amendment would do a great deal of good in ensuring that consumers can access this information easily on the website of their own provider.

A number of noble Lords have moved amendments on monitoring and reporting. We are broadly satisfied with the Government's measures to improve monitoring and reporting in the Bill, but we are also keen to see some movement from the Government in the direction of making this information more readily accessible to the public and have taken on board many of the points raised by other noble Lords tonight.

Baroness Hayman of Ullock (Lab): My Lords, I thank all noble Lords for the interest they have taken in this debate. I turn first to Amendment 43, tabled by the noble Earl, Lord Russell, Amendments 44 and 46, tabled by the noble Lord, Lord Cromwell, and Amendment 59, tabled by the noble Lord, Lord Cameron of Dillington. The Government agree that it is vital to understand the causes and impact of sewage discharges, and agree with the noble Lord, Lord Cromwell, that this needs to be timely and accessible.

Clause 3 requires water companies to provide information on the frequency and duration of discharges from emergency overflows. This information will enable regulators and the public to see, in near real time, when a discharge from an emergency overflow has occurred, and how long it lasted for. This will enable resource to be directed to investigate the cause as well as the impact of a discharge, with a view to resolving any issues.

While the Government agree with the intention behind the amendments seeking to require companies to specify the volume of discharges in their publications, we do not see the value in doing so, as this would not provide the meaningful insights that we need about the actual impact a discharge has had. Monitors required to measure volume as well as concentration are also very costly to install and could delay the rollout of other monitors.

The volume from sewage discharges is measured through flow monitoring, and the installation of flow monitors would likely require construction projects to install them at the majority of emergency overflows, hence the large cost. This is because the pipework in emergency overflows would require modification for flow monitors to be able to record accurate measures of volume. Therefore, the Government do not believe the expected high costs are proportionate to the information we would get. With respect to the cause of discharges, it is not possible for companies to provide this information in near real time. This is because an investigation and site visit are often required to validate the cause.

7.45 pm

Clause 3 is just one measure that the Government require to better understand the impact of sewage entering our waterways and ultimately on water quality. In the price review 24, continuous water quality monitors will be installed at 25% of storm overflow and treated sewage discharge sites. These will monitor information to assess water quality, including levels of dissolved oxygen, temperature and pH values, turbidity, and levels of ammonia. These monitors provide the information we are all looking for. I hope noble Lords feel reassured on these points.

I turn next to Amendment 45, tabled by my noble friend Lady Young of Old Scone. I start by saying that she has raised a really important point about PFAS chemicals. I am extremely aware of the shocking pollutants we have, mainly because the Rivers Trust did a report on this, launched here in your Lordships' House earlier this year. I went along to that launch. I also declare an interest here: my husband is a trustee of the West Cumbria Rivers Trust, so I am very aware of a lot of the work that it is doing in this area. I completely understand my noble friend's concerns.

The Government agree that monitoring emerging contaminants is vital to better understand how they get into the environment and risks they then pose. While we agree that monitoring emerging contaminants is important, it takes much longer than an hour to generate validated results and publish their presence in sewage discharges. Therefore, requiring this type of monitoring for all discharges from emergency overflows would significantly add to the costs and complexity of this programme.

However, I assure my noble friend that the Environment Agency is currently working closely with regulators and the water industry on a series of chemical investigation programmes to better understand how pharmaceutical companies affect our water environment. The Environment Agency has developed an early warning system to identify contaminants of emerging concern, including human and animal medicines and PFAS, to ensure any potential risks are considered to surface waters, groundwater and, importantly, soils. The Environment Agency is also collaborating with the pharmaceutical and veterinary medicines industry via

a UK cross-government platform for discussing and exchanging knowledge on pharmaceuticals in the environment, because we need to better understand how to tackle such pollutants.

I now turn to Amendment 47, tabled by the noble Earl, Lord Russell, Amendment 48, tabled by the noble Lord, Lord Roborough, and Amendment 49, tabled by the noble Lord, Lord Cromwell. We do not think it is necessary to require that information on discharges from emergency overflows be published on water company websites, or on a single website. Clause 3 already expressly requires water companies to publish information about discharges from emergency overflows within an hour of them occurring, in a way that is readily accessible and understandable to the public. This requirement will be enforceable by Ofwat.

We do not support an amendment to specify the platform that companies must publish information on, as that does not allow for flexibility if there are more accessible formats to communicate the data in future. We could end up with an outdated methodology of publication, and so we do not want to pin it down.

On a single centralised website, the water industry is already planning to publish a standardised national map of all storm overflows on one website, which regulators will have access to. This is being done ahead of existing legislative requirements that will come into force for the publication of storm overflow discharges from January 2025. We envisage that a similar approach will be taken for emergency overflows. I hope that noble Lords feel that this addresses their concerns and that we are looking to come out with the same end result that they are aiming for.

Lord Cromwell (CB): I would like clarification on a point. The Minister mentioned that there will be a map of overflows across the country. How near to real time will it be? She said that it will be accessible to the regulator. Will it be accessible to the public?

Baroness Hayman of Ullock (Lab): I do not have that detailed information. I will write to the noble Lord and place a copy of the letter in the Library so it is available to everybody ahead of Report.

Amendment 50 was tabled by my noble friend Lady Young of Old Scone. The Government fully agree that emergency overflows should be monitored. However, we do not support the removal of the delegated power for Ministers to make exceptions to the Clause 3 duty. We believe that this power is necessary to allow for scenarios where it is not feasible to monitor emergency overflows, such as where an overflow is due to be decommissioned. Removing this power may inadvertently lead to delays in commencing this duty, if issues arose that we could not resolve without this power. Any exception to the monitoring duty would need to be agreed by Parliament using the affirmative statutory instrument procedure.

On Amendment 58, tabled by my noble friend Lady Young of Old Scone, water companies should bear the cost of understanding the impact of their discharges on water quality. Installing and maintaining continuous water quality monitors requires regular access to water company sites. Water companies can do this much more easily than can the Environment Agency. Defra has issued guidance on the expected standards of these monitors, and in future all monitors will be expected to become independently certified under the Environment Agency's certification scheme. Water quality data that will be made available will then be scrutinised by the independent regulator. Regulators will continue to work with water companies to ensure that the data is of high quality. I hope that this reassures my noble friend and that she feels able not to press her amendments.

Amendment 75 was tabled by the noble Baroness, Lady McIntosh of Pickering, and I thank her for raising this issue. Misusing sewers to dispose of materials such as wet wipes and cooking oils contributes to major issues, such as blockages in the sewerage system. The noble Lord, Lord Deben, asked whether I have gone down a sewer. I have, and it is just disgusting; it is quite extraordinary what can happen there. Sewer blockages cost the water industry £200 million a year to fix and are responsible for 40% of pollution incidents.

Many people are not aware that the actions they take in their own homes can have such damaging impacts. Small but significant steps, such as not pouring fats and oils down the plug hole, can prevent blockages. The Government work to encourage all householders and businesses to play their part, and fully support water industry campaigns to address this issue, including Water UK's "Bin the Wipe" campaign. I completely understand where the noble Baroness, Lady McIntosh of Pickering, is coming from. I will take this away and look at whether there is any more we can do to draw attention to this fact.

Having said that, we do not believe that water companies should be exempt from sanctions when using emergency overflows following blockages caused by sewer misuse. Water companies should take every reasonable measure to prevent the use of emergency overflows, including measures to prevent blockages. Some blockages caused by sewer misuse can often be mitigated by good maintenance; for example, by detecting blockages before they become significant issues and with preventive cleaning. The intent of this Bill is to strengthen water companies' accountability for pollution incidents and not to diminish it. That is why Clause 2 will require water companies to publish the pollution incident reduction plans that we debated earlier.

I was interested in the suggestion from the noble Lord, Lord Deben, to look at how Canda deals with this issue. My brother-in-law lives in Canada, so my family and I go there. It is a really interesting suggestion.

I turn to Amendment 87, tabled by the noble Baroness, Lady Boycott. Proactive data publication is vital for transparency and to enable the public to scrutinise water companies. While we support the principle of transparency and are taking action to increase transparency through Clauses 2 and 3, we are concerned that the noble Baroness's specific proposals duplicate pre-existing provisions and would create practical difficulties. Case law and the Information Commissioner's Office have been clear: water companies are public bodies for the purpose of the Environmental Information Regulations, and water companies already provide information under these regulations.

[BARONESS HAYMAN OF ULLOCK]

The Information Commissioner's Office is clear that water companies must be transparent, and it is taking several actions to enforce that. In May of this year, the ICO released decision notices for six water companies, instructing them to disclose the start and stop times of sewage discharges. In July, it wrote to water companies to encourage them to proactively publish information on sewage monthly. In October, it published a practice recommendation to United Utilities to address the specific issues that it had identified.

I turn to Amendment 89, tabled by the noble Baroness, Lady Browning. The Government acknowledge that it is important that there is more transparency about the abstraction of water by water companies. However, any new requirements must be both practical and proportionate. Clause 7 already provides the necessary flexibility for the Secretary of State and Welsh Ministers to impose conditions or general rules for abstraction licences. We believe that secondary legislation is the more appropriate vehicle to address these technical matters effectively. However, having listened to the noble Baroness carefully, we will consult on the use of Clause 7 powers to ensure that the conditions introduced are appropriate and achievable.

Finally—I am sure we all want our dinner—I turn to Amendment 94, tabled by the noble Earl, Lord Russell. I am supportive of greater involvement of the public in this sector. He made the very important point that bringing in the public is vital, including through citizen science. However, this amendment is not needed, as we believe that the provisions in the Bill will already increase transparency and the provision of data in this sector, which are critical to informing and engaging the public going forward.

I hope that I have set out sufficient detail on Clause 3 to reassure all noble Lords of its intended purpose and effect. I sent out a fact sheet on the definition of emergency overflows and storm overflows to try to make sure that everybody is clear on the difference, but I am sure that we will come back to these issues in future. I hope that noble Lords will not press their amendments and enjoy their dinner break.

Earl Russell (LD): My Lords, I thank the Minister for her detailed response; that was a lot of amendments to respond to in one go.

I take the point about volumetric flow monitoring. I will go away and think about that but I am aware that there might have been costs associated with it. It is welcome that that has been confirmed.

I take the point also about a number of amendments on the website, access to data and one data point. I hear what the Government say—that one does not want to pin that down, limit it and find that what is written in the Bill is yesterday's technology, or that there are other, better ways of making sure that it is accessible. I welcome the response there as well.

I also welcome the response of the Minister about the plans of the Government to publish live maps in one place. That seems sensible.

In relation to my amendment on citizen science, I welcome what the Minister said. Let us go away, think about it and explore it. I am pleased that the Government acknowledge the importance of that matter, the work that has been done and the work going forward.

This has been an interesting group of amendments. I thank the noble Baroness, Lady Young of Old Scone, for what she said, and the Minister's response on the emerging threats was important. I am particularly concerned about microplastics because we do not know what those are doing. They are in our brains and various parts of our body where they should not be. I encourage the Government, outside the Bill, to do more research and work on that.

I thank also the noble Lord, Lord Cromwell, for his interesting comments on telemetry monitoring, and the noble Lord, Lord Deben, for his contribution.

This was an interesting debate. I am getting in the way of everyone's dinner, so I thank noble Lords. I beg leave to withdraw my amendment.

Amendment 43 withdrawn.

Amendments 44 to 51 not moved.

House resumed.

8.01 pm

Sitting suspended. Committee to begin again not before 8.45 pm.

Water (Special Measures) Bill [HL]

Committee (2nd Day) (Continued)

8.45 pm

Amendment 52

Moved by ***Lord Blencathra***

52: Clause 3, page 8, line 6, at end insert—

"*141H Monitoring of river health after emergency overflows*

(1) Where there is a discharge from an emergency overflow of a sewerage undertaker into inland waters, the undertaker must regularly assess the environmental health of that inland water within 500 metres downstream of the overflow.

(2) The methods used to make assessments under subsection (1) must include the use of fish counters or other methods of accurately monitoring the fish population.

(3) The undertaker must prepare a report on the results of these assessments on a quarterly basis and submit this report to the Authority.

(4) The undertaker must publish this report within 30 days after it has submitted it to the Authority.

(5) The information must—

(a) be in a form which allows the public to readily understand it,

(b) be published in a way which makes it readily accessible to the public, and

(c) be published on the undertaker's website."

Lord Blencathra (Con): My Lords, on behalf of my noble friend Lord Bethell, I am pleased to move Amendment 52 in his place. This amendment seeks to increase and improve the monitoring undertaken by water companies after an emergency overflow.

The amendment is quite straightforward. It makes the case that, where there is a discharge from an emergency overflow, the undertaker must regularly assess the environmental health of that inland water within 500 metres downstream of the overflow. My noble friend then suggests that the methods used to make assessments under that subsection must include the use of fish counters or other methods of accurately monitoring the fish population. I accept that there may be a weakness here because, unless one knows what the fish count was before the overflow happened, it may be difficult to come to a conclusion as to the number of fish which should be in the river after the overflow has taken place. The undertaker must also prepare a report on the results of these assessments on a quarterly basis and submit it to the authority, and, after having done so, the undertaker must publish the report within 30 days. In addition, in accordance with everything else which has been said in debates tonight, the information must be in a form which helps the public to readily understand it, be published in a way which makes it readily accessible to the public, and be published in the undertaker's name.

For those reasons, we on these Benches want to protect our rivers and restore the health of those rivers that have been seriously affected by pollution. Thanks to our efforts in government to drive up monitoring, 100% of emergency overflows are now monitored, and as such, we are able to access information about all emergency overflows that occur. This was a seriously transformative step forward compared with the situation we inherited in 2010 but we accept the need to go further, and we support better monitoring of both overflows and of the overall health of rivers themselves.

With the level of monitoring achieved under the Conservatives, it is now possible to learn far more about these incidents and therefore to take action to prevent them happening again. However, this does not mean that water companies are now taking enough responsibility to publish the results of this monitoring and to report their findings so that they can be held to account.

This amendment focuses on an area that the Bill does not address and ensures that the health of our rivers, not just the extent of pollution incidents, is a central component of the Bill. The inclusion of monitoring 500 metres down the river will give a real insight into the impact that an overflow is having on the overall health of a river over time. This monitoring will ensure that water companies cannot downplay the damage and leave the natural area to be ruined; instead, they will have to take a responsibility for a wider area that these emergency overflows can impact.

We on these Benches support this amendment in its intention to ensure that regular reporting is done so that the public are able to access up-to-date information on the overall health of our rivers beyond the immediate aftermath of any emergency overflow.

I know that many amendments in the previous group were related to monitoring of emergency overflows, and, although this amendment specifically relates to river health, I am sure there will be cross-party support for much of the previous group and for this amendment to ensure that water companies can be held publicly accountable for their action after emergency overflows.

I hope the Minister will take the concerns of my noble friend Lord Bethell as expressed in this amendment seriously and will consider it. Once again, we feel this is a timely opportunity to deliver a positive reform in the Bill today rather than waiting for the wider reform which the Government have proposed. I beg to move.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Baroness Hayman of Ullock) (Lab): My Lords, I thank the noble Lord, Lord Bethell, for raising this important issue and tabling Amendment 52, and the noble Lord, Lord Blencathra, for moving it in his absence. I start by reassuring him that I always take the concerns expressed in this House very seriously. I think that we agree that understanding the impact of sewage discharges on the environmental health of rivers is vital.

Clause 3 requires water companies to provide information on the frequency and duration of discharges from emergency overflows. These measurements will enable regulators and the public to see, in near real time, when a discharge from an emergency overflow has occurred, and how long it lasted for. This will, in turn, enable resource to be directed to investigate the cause as well as the impact of a discharge, and will enable the regulators to take enforcement action if it is required.

However, this is just one measure that the Government will use to better understand the impact of sewage entering our waterways. New continuous water quality monitors will be installed at storm overflows from 2025 to continuously measure the impact of sewage discharges on the receiving watercourse. The information gathered from these monitors will be key in supporting fish populations. Requiring the installation of additional fish counters downstream of emergency overflows may require additional structures in the watercourse and may impose additional costs on water companies and their customers.

This does not appear to be proportionate, given that emergency overflows should be used on only very limited occasions. The Government will therefore not accept this amendment. However, I hope that I have been able to reassure the noble Lord that the Government are using this Bill to enable quicker action to be taken to investigate discharges from emergency overflows.

Lord Blencathra (Con): I thank the Minister for that response. I regret that she is not accepting the amendment but, if we accept her assurances that the monitoring of overflows will be thorough, that may negate the need for further monitoring downstream. I like to think that we will check the water further downstream than just within a short distance of the storm overflows, because what happens downstream is terribly important. I recall when the creamery at Appleby burst and flooded the River Eden. The damage was considerable for a couple of miles downstream. Checking what happens right beside the factory or the storm overflow is one thing, but it is important that we check downstream when the money allows. I beg leave to withdraw the amendment.

Amendment 52 withdrawn.

Clause 3 agreed.

Amendments 53 to 56 not moved.

Amendment 57

Moved by ***Lord Roborough***

57: After Clause 3, insert the following new Clause—

"Reporting of impact on pollution

(1) The Secretary of State must publish an assessment of the expected impact of the Act on the overall level of pollution caused by the activities of sewerage undertakers within 3 months of the Act coming into force.

(2) The Secretary of State must publish an assessment of the actual impact of the Act on the overall level of pollution caused by the activities of sewerage undertakers within 3 years of the Act coming into force."

Member's explanatory statement

This amendment requires the Government to publish their expectations of the impact of the Act on pollution and the actual impact of the Act 3 years after it comes into force.

Lord Roborough (Con): My Lords, I rise to move Amendment 57 and speak to Amendments 105 and 106 in the name of my noble friend Lord Sandhurst.

I thank His Majesty's Government for publishing the impact assessment for this Bill. This is certainly helpful in giving the Committee a clear view of what the Government expect to achieve with these measures, but there is still no provision in the Bill for an assessment of the actual impact of the Act. Our proposal is that in three years' time the Government should produce a report on the effects of the Bill, so that Parliament can reassess the effectiveness of these measures. Can the Minister give an assurance today that the Government are willing to undertake such an assessment, to give Parliament the opportunity to discuss the impact of this Bill once its measures have been in place long enough for their effects to be measured?

The impact assessment released highlights the need to continue with these amendments. On overall impact, it reveals that there will likely be a negative monetised impact on businesses, including the cost of regulator enforcement recovery, improved monitoring and adjusted penalty systems. These impacts may be acceptable if they drive up water company performance and result in reduced pollution, but Parliament should be given the opportunity to debate this.

I will speak briefly to Amendments 105 and 106. We welcome the assessment of the impact of the justice measures that has been published in the Government's impact assessment but share my noble friend Lord Sandhurst's concerns about these measures, given the pressure that our prison system is currently under.

We have seen that the Bill could impose a custodial sentence on water company executives. Given the overcrowding of prisons and the recent release of thousands of violent offenders, it seems to us that the Government have got their priorities wrong. Surely the Government should seek to ensure that violent offenders, including domestic abusers, are serving their full custodial sentences before Ministers consider imprisoning water company executives. Polluting a river is of course a serious offence, but we must ensure that our prisons, which are already under strain, are not further challenged by the introduction of new custodial sentences for water company executives. I beg to move.

Lord Sandhurst (Con): My Lords, my Amendments 105 and 106 were commencement blocks when laid that sought to ensure that the Government published an assessment of the justice impact of the Bill before it could come into effect. I thank the Government for publishing their impact assessment, which makes it clear that there will be a small additional burden on our already strained prison estate as a result of the custodial sentences included in the Bill. I am satisfied that the Government's impact assessment covers the justice impacts of the Bill, so I will not press my amendments.

That said, this is a good opportunity to raise the question of the Government's priorities. We know the burden on our prisons will be small but is it not the wrong priority to sentence water executives to up to two years' imprisonment at a time when the Government are releasing violent criminals early? Equally, there is the question of necessity. The Government's own impact assessment states:

> "Defra assumes there could be one case every two years with the maximum sentence of a two-year imprisonment based on the fact there has been four historic cases".

So is this provision truly necessary? I hope that the Minister will be able to respond to these concerns in her reply.

Baroness Hayman of Ullock (Lab): My Lords, I thank the noble Lord, Lord Roborough, for introducing this small group of amendments, and the noble Lord, Lord Sandhurst, for his amendments on the issue of justice. I thank both noble Lords for their interest in ensuring that the Government are fully considering all the impacts of the Bill, on both the environment and the justice system.

Amendment 57, tabled by the noble Lord, Lord Roborough, relates to the reporting of impacts on environmental pollution. This Government share the noble Lord's concerns that the number of water company pollution incidents has not reduced in the last few years. It remains unacceptably high. That is why the Bill seeks to increase accountability for water companies and their executives where they pollute the environment.

The Bill will enable automatic and severe fines for certain pollution offences, making it possible for the regulators to take swift action where it is clear that an offence has been committed. The Bill will increase transparency around pollution incidents by enabling the public and regulators to see where and how often emergency overflows are discharging and, as discussed in previous groups, by requiring water companies to publish pollution incident reduction plans on an annual basis. As I set out on our first day in Committee, the Bill provides Ofwat with legal powers to ban bonuses where companies fail to meet standards on environmental performance, financial resilience, customer outcomes or criminal liability. Collectively, these measures will strengthen enforcement and disincentivise pollution incidents.

9 pm

A more detailed assessment of the expected impact of these measures and wider measures in the Bill is set out in the impact assessment that was recently published, to which the noble Lord referred. Defra is committed to post-legislative scrutiny of this primary legislation. As is standard practice for all new legislation, we will work with the EFRA Committee to assess its impacts three to five years after Royal Assent.

Although we agree on the importance of understanding the impact of the Bill on environmental pollution, we believe that further reporting requirements would be duplicative. The Government will therefore not accept the amendment.

I turn to Amendments 105 and 106, tabled by the noble Lord, Lord Sandhurst, and thank him for raising the important subject of justice impact tests. The Government agree that, for all new legislation, it is essential to conduct a full and proper assessment of the potential impact on the justice system. In line with this, the Government have completed a justice impact test for the Water (Special Measures) Bill, and this has been shared with the Ministry of Justice as an internal and interdepartmental form.

It is not normal government practice to share a justice impact test publicly. However, I reassure the noble Lord that the impact of the Bill, and of Clause 4 specifically, on the justice system is expected to be minimal. The extension of the sentencing powers of the courts to include imprisonment for obstruction offences in the water industry is primarily designed to act as a deterrent. It is designed to disincentivise pollution incidents. We do not expect a significant number of people to be sentenced to imprisonment for these offences. The measures in the Bill that are designed to improve performance and culture within the water industry are expected to reduce the likelihood of offences being committed in the first place.

I hope the noble Lord is reassured that the Government have fully assessed the potential impacts of the Bill on the justice system and understands why the Government will not be able to accept this amendment.

Lord Roborough (Con): My Lords, I am grateful to the Minister for her constructive response to this debate, and I am most encouraged by her commitment to future assessment of the impact of the Bill. I beg leave to withdraw the amendment.

Amendment 57 withdrawn.

Amendments 58 and 59 not moved.

Clause 4: Impeding investigations: sentencing and liability

Amendment 60

Moved by ***Lord Sandhurst***

60: Clause 4, page 8, line 29, leave out “2 years” and insert “12 months”

Member’s explanatory statement

This amendment will prevent those convicted of an offence under this section from being sentenced to a custodial sentence of more than 12 months.

Lord Sandhurst (Con): My Lords, this is a group of five amendments. Amendment 60 would reduce the maximum custodial sentence to 12 months. Amendment 61 would remove the word “connivance” in respect of a possible offence. Amendment 62 would prevent liability for those purporting to be officers of water companies. Amendment 65 would prevent individuals who impede investigations receiving custodial sentences, and Amendment 66 would reduce the maximum custodial sentence to 12 months.

We on these Benches have been clear that we support tougher measures in order to hold water companies to account. However, to put water executives in prison during a time that the Government have admitted is a time of crisis for prisons because of overcrowding is to us the wrong priority. I am concerned, as I am sure so many are across the Committee, that dangerous individuals are being released from prison having served less than half their sentence. I draw attention to the fact that this Government appear more focused on putting water executives in prison than on keeping violent offenders in, and that seems to be a wrong priority.

In the latest release, 1,100 prisoners were released, and although the scheme claims that none of those offenders are guilty of serious violence, sex crimes or terrorism, this is true only of their primary conviction. An additional 1,800 were released earlier in September. Some mistakes were made, as offenders were released who were not supposed to be. That is the context.

Amendments 60 and 66 in my name seek to reduce the maximum custodial sentence that a water executive can receive from two years down to 12 months. As it stands, prison resources are seriously overstretched, and it seems to be the case that the Government in this Bill are wrongly prioritising those resources. While I do not think that custodial sentences are the right way forward, if the Government insist upon them then can they at least reduce the maximum custodial sentence to 12 months to prevent further overstretching? That would have the added advantage of ensuring that these cases would not need to be heard in the Crown Court under the new provisions, which would prevent further strain on our court backlogs.

The Government’s own impact assessment admits that this measure will put a further burden on our prison services. While it is certainly necessary to hold water executives to account, I believe my other amendments address more appropriate penalties. There is no doubt that the pollution of our rivers is a serious issue. Measures to ensure that those who break the rules are dealt with, and that those who work for water companies do so properly, are necessary. However, these measures appear to be too severe at a time when prisons cannot handle further pressure. Can the Minister set out the Government’s position on releasing domestic abusers, only to put individuals who work on the boards of water companies into the same cells?

In the same vein, Amendment 65 seeks to prevent a custodial sentence from being placed on an individual who has impeded an investigation. While that is indeed a serious issue, our prisons cannot handle further pressure.

Amendment 61 in my name seeks to remove “connivance” as an offence in the Bill. We have tabled the amendment to probe the use of the word “connivance” in this Bill specifically. We understand the use of that word, which exists in other legislation, such as the Theft Act 1968 and, more recently, the Bribery Act 2010. However, we pose the question to the Government as to why they have used it in this scenario. Under what circumstances do they envisage using it? Can they provide the Committee with real-world examples of situations where it will be used?

[Lord Sandhurst]

Amendment 62 seeks to remove the offence in respect of individuals who purport to be executives. This simple amendment would ensure that only those who were actually acting in executive roles could be held responsible for the mistakes of the water company.

Baroness Hayman of Ullock (Lab): I thank the noble Lord, Lord Sandhurst, for his interest in sentencing powers for obstruction investigations and for all the suggested amendments covered in this group.

Amendments 60 and 66, tabled by the noble Lord, both look to reduce the maximum custodial sentence available for those convicted. The obstruction of investigations by the regulators is already an offence, but that has not stopped companies from blocking the regulators' investigations. For example, in 2019 the Environment Agency prosecuted a number of individuals at Southern Water for removing evidence from the possession of officers. I am sure the noble Lord will agree that such behaviour is unacceptable.

The aim of the two-year maximum custodial sentence is to deter future obstruction. That should support more effective investigations, which should ultimately enable stronger enforcement action against both companies and individuals. I am pleased to confirm for the noble Lord that this sentence is consistent with other provisions in the Environment Act 1995 and the Environmental Permitting (England and Wales) Regulations 2016.

I highlight to the noble Lord that the two-year sentence is the maximum limit. Sentencing will ultimately be decided by the courts, factoring in the specifics of each case and the relevant sentencing guidelines. While I cannot comment on Home Office procedure on prisoner release, I would be interested if the noble Lord could provide some information as to why our prisons became so overcrowded in the first place.

Amendments 61 and 62, also in the name of the noble Lord, Lord Sandhurst, speak to senior leader liability. I hope the noble Lord will agree it is unacceptable under current law that, if water company senior leaders encourage or allow obstruction of Environment Agency or Natural Resources Wales investigations, they cannot be held liable for this wrongdoing. In contrast, senior leaders can be held liable for other environmental offences, as well as obstruction offences in other sectors: for example, the Building Safety Act 2022.

This clause will remedy this gap by bringing the offence of obstructing the Environment Agency and Natural Resources Wales in line with other environmental offences, as well as offences in other sectors. I hope the noble Lord will agree that, in doing so, it should mirror the conventions and language of existing "consent, connivance and neglect" clauses. These make connivance by senior leaders a potential ground for liability and ensure that, where a person "purports to be" a relevant officer, they should also be held liable for wrongdoing. I hope the noble Lord is therefore content that these amendments are unnecessary.

Finally, I turn to Amendment 65, also in the name of the noble Lord, Lord Sandhurst, which proposes to remove increasing the sentence for offences of impeding Drinking Water Inspectorate investigations from the scope of the Bill. As I mentioned earlier, the Yale Environmental Performance Index ranks the drinking water in England and Wales as the best in the world, alongside just 10 other countries. This is in part thanks to the effectiveness of the Drinking Water Inspectorate. To accept this amendment would be to imply that the regulations enforced by the Drinking Water Inspectorate are not as serious as those enforced by the Environment Agency and Natural Resources Wales.

This cannot be right. There are grave public health risks if the DWI does not have the power or the authority to ensure that water supplies in England and Wales are safe and of the right quality. While I accept that this may not be the intention behind the noble Lord's amendment, it would certainly be its effect. The quality of our drinking water is one of the enduring strengths of the current model and one that the Government want to protect. I once again thank the noble Lord for his contributions and hope my response has reassured him.

Lord Sandhurst (Con): I thank the Minister for her response and for the care with which she delivered it. My amendments were there to ensure that the already overburdened prison sector is not put under further pressure. I hope the Government will bear them in mind and take them on board before Report. We will seek to work with the Government to ensure that the Bill ensures appropriate punishment for water executives. I beg leave to withdraw the amendment.

Amendment 60 withdrawn.

Amendments 61 and 62 not moved.

Amendment 63

Moved by ***Lord Roborough***

63: Clause 4, page 9, line 6, at end insert—

"(5K) The water undertaker or sewerage undertaker must provide relevant officers under subsection (5J) with mandatory training on subsection (3E) and how it relates to their powers and duties described in subsection (3D)."

Member's explanatory statement

This amendment seeks to ensure that relevant officers receive training from the undertaker on the penalties for offences related to impeding investigation by environmental regulators, as well as how these offences relate to their powers and duties as undertakers.

Lord Roborough (Con): My Lords, in moving Amendment 63 in the name of my noble friend Lord Bethell I will speak also to Amendment 64. As we have discussed in the previous group, many within the water industry will now be captured by statutory responsibilities and be subject to custodial sentences if they make wrong decisions. This is a considerable liability and the goal of this Bill must be in part that no one goes to jail or is fined because no criminal or civil act has been performed.

There are similar responsibilities on all investment professionals within the financial services industry and for that reason annual training on anti-money laundering law and market manipulation and insider trading law is compulsory. Having left the industry over two and a half years ago, I am still completely aware of that law and my responsibilities under it. The

main reason for this is to prevent a breach of the law, but subsidiary reasons are to rule out that non-compliance with this law is due to ignorance and is either negligence or criminality. That helps to protect both individuals and firms.

The amendments in the name of my noble friend Lord Bethell are intended to ensure that this annual training must take place to avoid or minimise any impedance of investigations by the regulators. It should also make clear the powers that the regulators and authority have to those employees to avoid any doubt. If we are to ensure that this remains an industry that the 100,000 employed within it want to build their careers and advance in, it is unhelpful if those towards the top of the organisation are locked up while claiming they had no knowledge of the law.

The Minister may offer that, rather than putting this into legislation, it can be dealt with by rules from the authority or the regulator. As we have discussed in earlier groups, confidence in those bodies is not as high as desired. I believe it is critically important that we also offer what protection we can to employees within this legislation. I beg to move.

9.15 pm

Baroness Hayman of Ullock (Lab): My Lords, I thank the noble Lord, Lord Roborough, for speaking to the amendments proposed by the noble Lord, Lord Bethell, in his absence. Amendments 63 and 64 relate to guidance and mandatory training for water company employees on obstruction offences.

One thing that it is important to emphasise on this matter is that Clause 4 amends only existing offences. It does not create any new obligations on companies, so employees should already have some understanding of that in the first place. To be clear, the existing offences are obstruction of investigations of the Environment Agency, Natural Resources Wales and the Drinking Water Inspectorate. Prosecutions have already been brought against companies and individuals under Section 110 of the Environment Act 1995. On that basis, we believe that companies should already be very well aware of their obligations under that section of the 1995 Act, and of the obligations to their staff to ensure that they are properly trained to engage in this area.

I reassure the noble Lord that the obligations of companies are set out as well in the Environment Agency's enforcement and sanctions policy, so it should be very clear. I hope he understands why we do not think it proportionate to put this into legislation.

Lord Roborough (Con): My Lords, I am most grateful for the reply from the Minister. I am not sure that I am necessarily entirely satisfied with it, but—as I have not yet had a chance to say it today—I am most grateful to the Minister for the constructive engagement that she has had with us, as well as all parties in this House. That will continue and perhaps we can discuss it then. I beg leave to withdraw the amendment.

Amendment 63 withdrawn.

Amendments 64 to 66 not moved.

Clause 4 agreed.

Clause 5: Civil penalties: modification of standard of proof

Amendment 67

Moved by ***Lord Sandhurst***

67: Clause 5, page 9, line 43, at end insert—

"(4A) Where the relevant offence is—

(a) triable summarily (whether or not it is also triable on indictment), and

(b) punishable on summary conviction by a fine (whether or not it is also punishable by a term of imprisonment),

the amount of the variable monetary penalty may not exceed the maximum amount of that fine."

Member's explanatory statement

This amendment would limit the level of any fine under this section to the levels set out in the 2008 Act.

Lord Sandhurst (Con): My Lords, in moving Amendment 67 I will speak against the question that Clause 5 stand part of the Bill. I will also speak to Amendment 72.

My Amendment 67 would limit the maximum fine under the Bill to the level set out in the Regulatory Enforcement and Sanctions Act 2008. This Bill seeks to amend the 2008 Act to impose fines that will be set by regulations. The Government are asking Parliament to grant them these powers without clarity or definition on the level at which the fines will be set. All we know is that the Government's impact assessment states that this penalty cap will be consulted on during the Bill's passage, before it is set out in secondary legislation. I am pleased that the Government have committed to consultation but, regardless of any consultation, under the Bill as drafted the Government may vary the cap by statutory instrument. I respect and trust the Minister, who has acted in good faith throughout the passage of the Bill, but what is to stop a future Government misusing this power?

I propose to set the maximum cap at the level established in the Regulatory Enforcement and Sanctions Act 2008, which was passed under the previous Labour Government. When what became the 2008 Act was being debated, the Minister who took it through the other place was the now Chancellor of the Duchy of Lancaster, the right honourable Pat McFadden MP. He wisely argued then that the 2008 Bill would

"guarantee more consistent regulatory treatment of businesses".—[*Official Report*, Commons, 21/5/08; col. 329]

Indeed, the 2008 Act built on the Hampton report, which recommended

"a comprehensive review of regulators' penalty regimes, with the aim of making them more consistent"—

and I stress the word "consistent".

Does the Minister agree with her colleague that we need more consistent regulatory treatment of business? If she does not, can she explain why the Government are seeking in this Bill to depart from the Labour Party's previous reforms by giving the Executive the power to set variable monetary penalties by statutory instrument in this case? Is this the first of many reversals of Labour's previous policy? Can I mark this down as yet another entry on my list of Labour U-turns?

[Lord Sandhurst]

I will now speak against Clause 5 standing part of the Bill. My concern is that the modification of the standard of proof in this case is dangerous and unjust. Water companies, no matter how poorly they may perform, deserve to be treated equally under the law with other regulated companies. When preparing for this debate, I once again found myself reading the Chancellor of the Duchy of Lancaster's words from May 2008, when the 2008 Act was going through the other place. On the issue of the criminal burden of proof, Mr McFadden said:

"The Bill contains a number of essential safeguards. It makes it clear that a Minister can confer powers on regulators only if the Minister is satisfied that they are capable of exercising those powers in compliance with better regulation principles. Before regulators can impose monetary penalties or discretionary requirements, they must be satisfied beyond reasonable doubt that an offence has been committed. Businesses can make representations and objections before sanctions can be imposed, and, most importantly, there is a right of appeal to an independent and expert tribunal."—[*Official Report*, Commons, 21/5/08; col. 332.]

This was an essential safeguard in 2008. I ask the Minister: have our standards of justice changed since then?

Amendment 72 speaks to the need for wider reform within the water industry. While His Majesty's Government may not see fit to introduce a water restoration fund in this Bill, on these Benches we would welcome the Government taking the opportunity to implement wider reforms sooner rather than later. Can the Minister explain why the Government are resisting opportunities to deliver further positive reforms to the water sector in this Bill while we still have the chance?

The previous Conservative Government implemented the water restoration fund. That means that all environmental fines and penalties imposed since April 2022 have been ring-fenced to directly improve the water environment. Does the Minister agree that a water restoration fund for spending on freshwater recovery would improve the quality of water in the United Kingdom, and therefore would she welcome the introduction of one?

Earl Russell (LD): My Lords, I will speak to Amendment 72 in the name of my noble friend Lady Bakewell and signed by myself. I am grateful for the support of the noble Baroness, Lady Jones, although I note that she is not in her place.

This amendment would require all funds from the fining of water companies for environmental offences to be ring-fenced for the water restoration fund and spent on freshwater recovery. We on these Benches have tabled Amendment 72 because it is unclear that fines imposed on water companies for breaches of their licences will bring any improvement to the water industry itself.

At Second Reading, a number of noble Lords suggested that the Bill could be used to bolster the water restitution fund—the pot set up by the previous Administration to channel environmental fines and penalties into projects that improve the water environment. The idea of this amendment is to achieve just that.

The Government have indicated that the Environment Agency will act as an enforcer to ensure that water companies adhere to the terms of their licences, monitor sewage overflows effectively, take steps to prevent this from happening in the future and make sewage reduction plans work. As has been raised many times during debates on the environment and water quality, the Environment Agency is chronically underfunded. Indeed, it has lost almost half of its funding in recent years. This lack of investment in the Environment Agency has led to what was once an effective organisation that could be relied on becoming weakened and less able to fulfil its statutory obligations effectively.

The case for this regulation is strong, as the water restoration fund is without legal foundation. The fund is not receiving all the fines. This is a direct consequence of the fund's non-statutory character. In the continual absence of a legal imperative, revenue from fines can continue ending up in alternate destinations. The Government's answer to make the regulator effective is for it to have the power to levy fines on operators that breach their licence conditions and break the law in other ways. These fines will then go back to the Environment Agency to recompense it for its work. As this is retrospective, it begs a question about what section of its current work programme the Environment Agency will have to put to one side while it is dealing with bringing the water industry into line.

There is also an issue around transparency. Customers know their bills will be going up—Ofwat agreed this in the latest review. They also know that the water companies have received fines in the past, but customers are unclear about what happens to those fines. Is it to be assumed that they have just gone towards the funding of Ofwat? In future, if the Bill is enacted, a lot more fines will be imposed. Bill-paying customers and the public in general expect to be able to trace what has happened to those fines.

Amendment 72 introduces new clauses to establish a water restoration fund. This fund will receive and hold all the fines and monetary penalties that are imposed on water companies for illegal activities and breaches of their licence conditions. The fund will then use the money recovered to invest in schemes to promote fresh-water recovery. It is only by improving the quality of fresh-water resources that we can begin to see an increase in the biodiversity of species that rely on the water they live in and around being fresh, unpolluted and free of sewage. As sewage discharges reduce, the quality of our fresh water will increase, and customers' bills will need to be increased to deal with the chronic underfunding of the past. We will ideally reach a stage where the polluter does indeed pay for the damage they have done, as set out in the Environment Act.

We realise that this amendment leaves the Government with a conundrum as to how to fund the Environment Agency to carry out its work as a regulator, imposing fines and penalties on retrograde water companies. Our solution, of course, is to implement Amendment 80 and set up the clean water authority—but I do not want to rerun arguments that we have already heard. By accepting this amendment, the Government can future-proof the water restoration fund and ensure that one of the legacies of the Bill is a legally secure guarantee that sanctions for water pollution will always be used to help repair the damage caused and begin to restore the natural environment. I look forward to the Minister's response.

Baroness Hayman of Ullock (Lab): I thank noble Lords for their contributions on this aspect of the Bill on fines and penalties. Amendment 67 was tabled by the noble Lord, Lord Sandhurst, whom I thank for his points on variable monetary penalties. Currently, there is no limit on the maximum variable penalty for water industry offences, whether the case is tried summarily in the magistrates' courts or in the Crown Court. This amendment would not provide additional protection or assurance. However, we recognise that there are concerns about ensuring that there are robust protections for civil sanctions. So the Government will consult on the offences for which the civil standard of proof may be used and on the cap for new civil standard variable monetary penalties. This cap will not be limited to offences triable only in a particular court—we believe this is a proportionate safeguard. The House will also have the opportunity to debate and vote on secondary legislation containing the cap before any changes are finally made.

I reiterate that unlimited penalties issued to the criminal standard will still be available to the Environment Agency, along with all its other existing enforcement tools. Existing legal protections, including the right to appeal, will also be maintained. There are proportionate safeguards and legal protections for the use of those penalties, which will strengthen the enforcement of minor to moderate offences. Therefore, we do not believe this amendment to be necessary, and I hope that the noble Lord agrees.

9.30 pm

Clause 5 allows Ministers, when making secondary legislation, to interpret existing powers to impose monetary penalties so the civil standard of proof can be used. Regulators can currently impose civil penalties when they are satisfied "beyond reasonable doubt" that an offence has been committed. These civil penalties are imposed by the regulators, rather than through the courts. The criminal standard of proof is appropriate for severe offences—for example, when there is a major impact on human health, quality of life or the environment. The high investigatory burden is not proportionate for minor to moderate offences, which have a far lower impact. Clause 5 will allow these offences to be enforced more quickly, cost-effectively and proportionately by enabling penalties to be imposed using the civil standard of proof. This is in line with penalties available to other sectors that apply the civil standard of proof. The Environment Agency already has civil standard penalty powers for other enforcement regimes such as climate change.

These penalties will be in addition to existing enforcement options that can only be imposed using the criminal standard of proof, including prosecution and, I stress, unlimited, uncapped variable monetary penalties, which will remain unchanged. The Government will consult on the offences for which the civil standard of proof may be used, and on the cap for the additional new lower standard of proof variable monetary penalties. There are no plans to remove unlimited penalties for severe offences. Parliament will then debate and vote on the secondary legislation before we make any changes. Clause 5 will strengthen the powers of water industry regulators and help to drive improved performance in the sector.

I turn to Amendment 72, tabled by the noble Baroness, Lady Bakewell of Hardington Mandeville, and introduced by the noble Earl, Lord Russell. In his introduction to this amendment, the noble Earl made some really important points about fresh water and maintaining quality and improvements through the Bill. On his questions about the water restoration fund, it was launched in April 2024 to use money from water company fines and penalties for environmental improvements. Applications for funding are being reviewed. Clearly, we have been waiting for the spending review before moving forward with this, but we now have the headline figures agreed, which means we can now work through the exact details. We will be able to provide more information once that work has been finalised, but at least now we can start to move forward.

Lord Sandhurst (Con): I thank the Minister for her reply. I am grateful to the Government for the consideration they have given to these amendments. I shall continue to make the case for changes to the Bill along the lines I proposed. It is important to note that the Bill as drafted may result in companies being treated unfairly, and that it is a departure from the Labour Party's previously stated policy. I am grateful that there will be consultation on offences and penalties and that we are apparently to have the opportunity to debate and vote on the regulations, but we would like to see all that in the Bill. However, I beg leave to withdraw the amendment.

Amendment 67 withdrawn.

Amendment 68

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

68: Clause 5, page 10, line 4, at end insert—

"(6) But an offence is to be regarded for the purposes of this section as committed by a water supply licensee or sewerage licensee only if it is committed by such a licensee in the course of the activities to which its licence relates."

Member's explanatory statement

This amendment provides that Clause 5 applies to water supply and sewerage licensees only in relation to their licensed activities.

Baroness Hayman of Ullock (Lab): My Lords, I turn now to the amendments that we are making to Clauses 5 to 8. Government Amendments 68, 71, 76, 77 and 83 are minor and technical amendments to clarify who is within scope of the measures in Clauses 5 to 8. The inclusion of water and sewerage undertakers remains unchanged by these amendments.

Ofwat issues water supply and sewerage licences, which give the holder rights to provide water or sewerage retail services—for example, billing—or certain services using the public water and wastewater networks. In this remit, businesses are operating as water companies. The amendments make it clear that the measures relating to penalties and the recovery of enforcement costs apply to licensees only in relation to their water supply and sewerage licensed activities. This clarification means that companies can be subject to these measures where this is relevant to their licensed activity.

[BARONESS HAYMAN OF ULLOCK]

As businesses with these licences often operate in other sectors alongside the water industry, wider business activities unrelated to the licensing regime should not be brought within scope of Clauses 5 to 8. These amendments ensure that this is the case. For example, a food manufacturer may hold a water supply licence that is issued by Ofwat and permits them to provide billing and metering water services only. Unrelated permitted or licensed activity, regulated by the Environment Agency and undertaken by this business, such as abstraction of water for food manufacturing, would not be in scope of the Bill measures. This is because these activities, which are already regulated and enforced, are not relevant to the company's operations as a water company.

These amendments minimise impacts on wider businesses and their regulation and ensure that enforcement regimes are consistent within sectors, while still ensuring that water companies are better held to account where they have failed to deliver for the environment. I commend these amendments to the House.

Lord Roborough (Con): My Lords, I thank the Minister for introducing this group. It is essential that the way that this Bill applies to the activities of licensees is clearly laid out, and we are satisfied that the amendments brought by the Minister are necessary to achieve this.

Baroness Hayman of Ullock (Lab): I thank the noble Lord for his support.

Amendment 68 agreed.

Clause 5, as amended, agreed.

House resumed.

House adjourned at 9.38 pm.