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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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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.

House of Lords

Wednesday 13 July 2022

3 pm

Prayers—read by the Lord Bishop of Chichester.

Retirement of a Member: Lord Vinson

Announcement

3.07 pm

The Lord Speaker (Lord McFall of Alcluith): My Lords, I should like to notify the House of the retirement, with effect from today, of the noble Lord, Lord Vinson, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I thank the noble Lord for his much-valued service to the House.

Ukraine

Question

3.07 pm

Asked by ***Lord Campbell-Savours***

To ask Her Majesty's Government what discussions they are having with NATO member states on developments in the conflict in Ukraine.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, the United Kingdom continues to engage closely and regularly with our NATO allies as a key part of our response to Russia's invasion of Ukraine. The Prime Minister and Foreign Secretary represented the UK at the recent NATO summit in Madrid at which NATO stated its unequivocal support for Ukraine's sovereignty and territorial integrity. At the summit, the Prime Minister also encouraged fellow leaders to increase their economic, military and political support to Ukraine and announced a further £1 billion of UK military aid to Ukraine. We will continue to act alongside our NATO allies to counter Russian aggression.

Lord Campbell-Savours (Lab) [V]: We have on the one hand the brutal and unrelenting savagery of Putin's army and, on the other, the inflexible commitment of Ukraine to a conflict which is already seven years old, where the only war aim is the total withdrawal of Russian forces. On what basis can the European powers justify indefinite spending on a war which is causing global inflation, insecurity across Europe and poverty at home, and which now threatens a winter with many people dying of the cold? When will wisdom and the need to negotiate trump wishful thinking?

Lord Ahmad of Wimbledon (Con): My Lords, it is wisdom which ensures that we stand up united against anyone who aggresses in the way that Russia has. We are doing so with our European allies, the US and others. The noble Lord describes the conflict as one that is seven years old, but what is very true is that Crimea was annexed illegally; it is occupied illegally. We need to ensure that Russia stops this and the very issues the noble Lord alluded to, and it can do it now. Pull back and stop the war.

Lord Dobbs (Con): My Lords, does my noble friend accept that the coldest winter that Europe—and, indeed, the rest of the world—could possibly experience would be if Russa were to win this vicious war that it started? This war cannot succeed in the way that Russia wants if the rest of the world is to move forward.

Lord Ahmad of Wimbledon (Con): My Lords, I agree with my noble friend, which is why united we stand.

Baroness Smith of Newnham (LD): My Lords, on these Benches, unlike the noble Lord, Lord Campbell-Savours, we believe that Russia needs to be defeated. But, as we are moving towards the Summer Recess, can the Minister say what wider scenario planning NATO is doing, beyond what is happening in Ukraine? August is often a difficult month. What is the FCDO doing to ensure that a Minister will always be in place over the summer?

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Baroness's second point, there always is a Minister at the FCDO over the summer—as I was. Some of us cancelled our holidays to ensure that we were there. I assure the noble Baroness that, even when people take deserved holidays, there is always substantial experienced cover, as will be the case for this crisis and others. On the noble Baroness's first point, of course we are working and engaged with our G7 and NATO partners. Later this afternoon, I will leave for The Hague to look specifically at accountability for the crimes that are being committed daily in Ukraine.

Lord Carlile of Berriew (CB): My Lords, does the Minister agree that the Russians are committing unforgivable war crimes virtually every day? Does he agree that any form of appeasement with that kind of regime is wholly unacceptable?

Lord Ahmad of Wimbledon (Con): My Lords, I agree with the noble Lord. This is why we are working with our key partners, and with 42 other member states on issues at the ICJ. As I said, I am leaving for The Hague to meet the prosecutors from the ICC and Ukraine to see what further assistance and support we can provide to ensure that crimes are documented, that victims get the hope they need, that Ukraine gets the support it needs and that we can bring justice.

Lord Collins of Highbury (Lab): My Lords, the Minister knows the Official Opposition's position: we are at one with the Government on ensuring that Russia's aggression is defeated and that any future negotiations must be led by President Zelensky—there is no alternative to that. I will be a little political with the Minister: last week, the Chancellor of the Exchequer said that we were committed to 2.3% defence spending and that Ukraine was a major cause of this. We now

[Lord Collins of Highbury]
have a Chancellor saying that every department should cut 20%. I admire the Minister's longevity in post, and I do not want to harm it, but can he tell us where that 20% cut will be made in the MoD and the FCDO? This matters in the fight for Ukraine.

Lord Ahmad of Wimbledon (Con): My Lords, the noble Lord will not need to wait too long to see what happens with the leadership of the Conservative Party and our country. There are some very able candidates for Prime Minister and leader of the party. But, on the more substantial point, the Ministry of Defence and the FCDO are fully equipped, engaging diplomatically and militarily. As I said, we have made an additional commitment of £1 billion in support and defence of Ukraine.

Lord Stirrup (CB): My Lords, as this conflict in Ukraine is unlikely to be over quickly, what discussions are Her Majesty's Government and European colleagues having with the Government of Ukraine about a sustainable economic model for Ukraine, particularly in the agricultural sector and with regard to agricultural exports?

Lord Ahmad of Wimbledon (Con): My Lords, the noble and gallant Lord raises an extremely important point. We are working closely with Ukraine and are one of the leading donors. Our total commitment is £3.8 billion, including £1.3 billion in guarantees for EBRD and World Bank lending to Ukraine. This is coupled with £220 million of humanitarian support. The noble and gallant Lord is right to draw attention to the food crisis. From a global perspective, an estimated 300 million people will suffer because of the war in Ukraine by the end of this year. We are looking towards working with key allies, including Turkey, to seek alternative routes to shift that grain from Ukraine.

Lord West of Spithead (Lab): My Lords, it is a national disgrace that our Armed Forces are not actually ready today for peer-on-peer war. Our commitment to the new NATO strategic concept in Army terms is an armoured division. The Chief of the Defence Staff has said that we will have an armoured division ready for peer-on-peer warfare with the right stockpiles and weapons in the 2030s, 10 years away. Does the Minister not agree that that is too long a timescale and that, at the very least, we should spend money today on getting our defence firms to produce equipment and weapons on a 24/7 basis to restock our stockpiles and provide weapons to the Ukrainians?

Lord Ahmad of Wimbledon (Con): As I have said to the noble Lord on numerous occasions, I agree on the principle that we need to be ready to ensure that we meet the challenges that we face. That is why we have been able to stand ready to support Ukraine with the support that we have extended, as the noble Lord well knows. Of course, he has made a number of points on the importance of spending now and investing now to meet the challenges of the future, and I am sure that is something that my colleagues at the Ministry of Defence have taken into account.

Lord Mackenzie of Framwellgate (Non-Afl): My Lords, the unlawful and illegal invasion of Ukraine was carried out following an intention not to invade by such people as Lavrov and Putin, and it now continues with the world watching. It is good to see that allies are providing munitions, particularly precision long-distance artillery. Can the Minister—who I have to say is an excellent Minister—give the House an assurance that such critical support will continue until every Russian invader is removed from Ukraine?

Lord Ahmad of Wimbledon (Con): My Lords, first, I thank the noble Lord for his kind words. On the issue of Ukraine, the noble Lord, Lord Collins, summed it up very well. We stand united with Ukraine; it is right that Ukraine leads the efforts in terms of any discussions, including those on peace. We, as an ally, partner and constructive friend, stand strong in our support on humanitarian issues, on the economy and on the military. We stand with Ukraine in every sense. I wish to record the broad range of support across your Lordships' House —indeed, across both Houses—in support of this central and key objective.

Lord Alton of Liverpool (CB): My Lords, when later today the Minister has talks with Karim Khan, the Prosecutor of the International Criminal Court, will he talk to him about the use of starvation as a weapon of war, which is a war crime? Will he refer specifically to the burning of Ukrainian wheat fields over the past few days, as well as the blockading of the export of grain to countries in the third world, but specifically into famine-ridden countries that are already facing drought, locusts and the rest, in the Horn of Africa and east Africa?

Lord Ahmad of Wimbledon (Con): My Lords, I shall actually be seeing Karim Khan tomorrow, I think—by the time I get there it will be quite late. On the specific points, I have a bilateral whereby I shall be engaging with him on the very points that the noble Lord raises about the increasing level and spectrum of crimes that are taking place in Ukraine against the people of Ukraine, including conflict-related sexual violence. We will be documenting it—that is why the UK has led the way in ensuring that Ukraine's own prosecutor, who visited the UK, is equipped not just with money and the technical support she needs but with the expertise, including that of Sir Howard Morrison, that is helping her directly in ensuring that those crimes can be documented so that we see successful prosecutions.

Cost of Living: Low Income Families with Children

Question

3.19 pm

Asked by ***Baroness Lister of Burtersett***

To ask Her Majesty's Government what financial support they have provided specifically for low income families with children to help with the increased cost of living.

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office and Department for Work and Pensions (Baroness Stedman-Scott) (Con): My Lords, our £37 billion cost of living package is particularly focused on low-income households. Children living in families receiving qualifying means-tested benefits will receive the cost of living payment of £650 in two instalments. Households with a domestic electricity bill will receive the £400 energy bill rebate. We require at least a third of the current £421 million household support fund in England to be spent on supporting households with children. That fund will continue with a further £421 million from October, for which guidance will be announced in due course. The devolved Administrations have received separate funding through the Barnett consequentials.

Baroness Lister of Burtersett (Lab): My Lords, children, especially those in larger or lone-parent families, are at disproportionate risk of poverty. This has been made worse by a decade of social security cuts. Children in poverty are among those hardest hit by the cost of living crisis. Ministers stress that the latest help with the crisis targets those who most need it, yet, as the Children's Commissioner lamented last week, children were overlooked—and not for the first time. What will the Government now do to ensure there is specific support —not discretionary support through local authorities but specific, as of right, national support for children—as the cost of living crisis worsens this autumn?

Baroness Stedman-Scott (Con): The Government's position is that we have made money available throughout the cost of living crisis. We are doing extra things for children, such as free school meals and all the other holiday support payments. As it stands at the moment, I am not able to say if we will be doing anything further. As we have always promised, we keep everything under review and respond where we can.

Baroness Eaton (Con): Does my noble friend agree that the cost of living measures are more beneficial than uprating benefits?

Baroness Stedman-Scott (Con): We are spending over £5 billion for qualifying means-tested benefits, which is around £2 billion more than the additional cost had the qualifying benefits been increased in July 2022 to 9% higher than the previous year. By delivering flat-rate payments at pace we can make transfers to over 8 million people, and 6 million disabled people. The IFS has said that government support means that, on average, the poorest households will be approximately compensated for the rising cost of living this year. The Resolution Foundation said that the May 2022 packages were highly progressive. There is support for what the Government are doing.

Baroness Hollins (CB): My Lords, does the Minister agree that one of the most effective ways that financial support could be provided to larger families would be to scrap the two-child limit on universal credit payments?

Baroness Stedman-Scott (Con): The two-child limit on universal credit is the subject of much debate, and much angst for many people. The right reverend Prelate the Bishop of Durham has a Private Member's Bill going through Parliament, and no doubt that will be discussed in full. As I have said before, the Government keep everything under review.

Baroness Hussein-Ece (LD): Is the Minister aware that children in lone-parent families are almost twice as likely to be in poverty than children in two-parent families? The evidence is overwhelming, as recorded in a report by the Institute for Fiscal Studies. Does she believe that all children deserve a decent start in life and, if so, what measures will the Government be taking to ensure that these children do not suffer a double disadvantage?

Baroness Stedman-Scott (Con): Of course we agree. All young children should have a good start in life, even if their circumstances vary. I pick up on the point about lone-parent families that the noble Baroness raises. I have received a number of documents from Gingerbread, which is a real advocate for this and does a terrific job. One of the ways in which we can help is to make sure that people who should pay child maintenance actually pay it. I know there is a lot of criticism of the Child Maintenance Service, and I for one would not stand here and say it is perfect. But let me tell the noble Baroness that we are using enforcement powers, because that is one way we can get money to children who really need it.

Lord Woodley (Lab): My Lords, Loughborough University research shows that the temporary £20 uplift to universal credit helped reduce the number of children in poverty from 3.8 million to 3.6 million. That is a sizeable amount, without a shadow of a doubt. The report warns that the decision to end the uplift threatens to reverse this positive trend, and that in-work poverty has now become a major issue for many families. Does the Minister agree that the Government should be taking every possible step to reduce the scandal of child poverty, starting with restoring the uplift and raising social security by at least the rate of inflation, so that no child has to stare poverty in the face?

Baroness Stedman-Scott (Con): I think it was said by our previous Chancellor and many others that the Government cannot solve every problem. That does not mean that we reduce our efforts to do so. The £20 uplift was, at the risk of boring everybody, a temporary measure and has been stopped, but we will have the annual uprating of benefits and the Secretary of State will look at it in September this year.

Baroness Redfern (Con): My Lords, with the increased cost of living hitting many families who are continually trying to balance their finances day by day, just how did the Government arrive at these amounts for cost of living payments? Does my noble friend think they are enough?

Baroness Stedman-Scott (Con): I have listened to the questions today and there is a real swell of opinion that the payments are not enough—I doubt that we could ever do enough. The package of measures we

[Baroness Stedman-Scott]
have provided is designed to target support to those most in need. It will make a real difference and, I am sure, help people through these very difficult times.

Baroness Sherlock (Lab): My Lords, I fully accept that the Government cannot solve every problem, but one of the problems is that they cut billions off the value of benefits and tax credits, which meant that we went into the pandemic and then the cost of living crisis with families unable to manage. The Government's response, which is welcome, is to give exactly the same amount of money to a single person living on their own as to a couple with three children, even though their costs of energy, clothes, shoes and everything else are way higher. Does the Minister not accept that families out there are seriously desperate and need more help?

Baroness Stedman-Scott (Con): I accept that families are struggling and that some are desperate. We have tried to make the process of giving the money we are giving as simple and unbureaucratic as possible. That is why we are making the payments as we are, starting this week, I think. We hope to have them all done by the end of July.

Baroness Watkins of Tavistock (CB): My Lords, can the Minister be precise about what families will get during the coming summer holidays, given that free school meals cease for most children next Friday?

Baroness Stedman-Scott (Con): On free school meals, children will get what we have already announced. We are not proposing to increase free school meals rates to reflect rising inflation at the moment. They will get their holiday breakfast clubs and the support we have previously announced.

Lord Young of Cookham (Con): My Lords, in her initial Answer, my noble friend mentioned the household support fund, which gives valuable support to low-income families. It was due to close in September, but I think she announced that it will now be extended into October, which is welcome news. Can she give guidance to local authorities so that there is some similarity in the assistance given to low-income families and not a postcode lottery?

Baroness Stedman-Scott (Con): It is correct that the household support fund has been extended until March 2023. The Government have kept it under review and extended it where possible and appropriate. The guidance for the household support fund is being written, and there will be a heavy emphasis on one-third of that money going to families with children.

Lord Brooke of Alverthorpe (Lab): My Lords, the Minister has a good heart. She says that she has a range of options which the Government are keeping under review. Can she share with the House which of those options she would like to see implemented?

Baroness Stedman-Scott (Con): We will have a new Prime Minister and anything could happen with jobs, so I will wait until then—before I get my P45. As soon as I can tell the noble Lord and the whole House what we can do, believe me, I will be the first one here to do so.

HS2: Speed Restrictions

Question

3.29 pm

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what steps they are taking to avoid significant settlements, and consequent speed restrictions, on the route of the HS2 rail line in the area above the Cheshire salt mines north of Crewe.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, HS2 Ltd has undertaken ground investigations to increase the understanding of geological risks associated with settlement. This work supplements examination of information from the British Geological Survey, historic boreholes, salt extraction operators and action groups. This information has informed the current design.

Lord Berkeley (Lab): I am grateful to the noble Baroness for that helpful Answer. She will be aware that underneath the area where the line goes north of Crewe, there are caverns that are 200 metres high, and only 25% of the salt is remaining and the rest has been extracted. It has been settling for 100 years and probably will continue to settle for that length of time. What is HS2 going to do to ensure that the line remains straight and level, which is necessary for high-speed rail work?

Baroness Vere of Norbiton (Con): Of course, HS2 is well aware of what has happened underneath the Cheshire Basin, and I noted in my previous Answer that groundworks have been undertaken. I am pleased to reassure the noble Lord that that is not the end of it. Plenty more work still needs to be done. A full programme of ground investigations across the entire route will happen between 2023 and late 2025. HS2 is confident that the line can be built on this route at an appropriate cost.

Lord Framlingham (Con): My Lords, what has this ridiculous project cost to date? Is its construction continuing on time and on budget? Have they yet found a way of getting in and out of Euston station?

Baroness Vere of Norbiton (Con): A further update on the HS2 project will be laid before your Lordships' House in October.

Lord McLoughlin (Con): My Lords, I draw the House's attention to my interest as chairman of Transport for the North. Is it not the case that the Bill will have

detailed consideration in Committee, which it is about to enter in the other place? This is the biggest increase in rail capacity in our country's recent history, and the simple fact is that it will do more to increase capacity on our rail network than any other project currently being looked at by the Government.

Baroness Vere of Norbiton (Con): My noble friend is absolutely right. The Bill for this leg of the HS2 project had its Second Reading in the other place on 20 June. As noble Lords may recall from the phase 2a Bill, which was before your Lordships' House recently, it now goes into a very detailed process of petitioning, which is really important as it allows local people to raise detailed concerns about the project. Obviously, it is key that we keep as many stakeholders as content as possible.

The Lord Speaker (Lord McFall of Alcluith): The noble Lord, Lord Jones, will make a virtual contribution.

Lord Jones of Cheltenham (LD) [V]: My Lords, I know from serving on an HS2 Select Committee how vital it is for the track to meet the highest standard, particularly in challenging areas like the Cheshire salt mines, to prevent perturbation of the timetable. With today's announcement of railway speed limits because of concerns about the effect of hot weather on current tracks, is the Minister satisfied that the high-quality steel being used for HS2 will cope with the likelihood that climate change will lead to more regular and more extreme hot spells?

Baroness Vere of Norbiton (Con): Of course, these are all considerations when we consider how the railway is to be designed and subsequently constructed. It is the case that where changes are necessary, HS2 is willing to look at them. For example, the 2016 route refinement consultation shifted the route slightly to take into account the salt mines in the Cheshire Basin. When issues come before us, we are able to make appropriate changes.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, the way things are going down the other end, these salt mines might prove useful. On the substance of question, the noble Lord, Lord McLoughlin, is right: this is a project to increase capacity; it is not just about speed. All the Government's stop-go on this project has bedevilled it. It is about time they rushed ahead with it, got back to its original concept and had it going all the way up to Scotland.

Baroness Vere of Norbiton (Con): It is the case that we have to get this project right. It has to be delivered within a reasonable cost, and it must actually be deliverable. As I have said previously, the Government are always willing to look at better solutions for Scotland. For example, the union connectivity review concluded that the Golborne link would not resolve all the capacity constraints on the west coast main line, Crewe to Preston, and would therefore not provide the benefits to Scotland. We are taking that away, and we are working on more options such that we can keep Scotland really well connected.

Lord Inglewood (Non-Afl): My Lords, I declare an interest as chair of the Cumbria Local Enterprise Partnership. The Minister mentioned the Golborne link and threw doubt on its effectiveness. However, is it not the case that if we are to improve links to the north-west and beyond to Scotland, the Golborne link provides a very substantial improvement? As such, it is not going to assist levelling up in those areas if it is not part of the overall final scheme.

Baroness Vere of Norbiton (Con): Sir Peter Hendy in his union connectivity review slightly begged to differ, and suggested that there are alternatives that would make for better journeys to Scotland. Nothing is off the table; that may mean new high-speed lines or improvements to existing infrastructure. Of course, any of the options brought forward would have to compare favourably with the Golborne link as originally planned.

Lord Tunnicliffe (Lab): My Lords, the spiralling cost of the Great Western electrification programme is a perfect case study of the importance of transparency between government and industry to ensure industry's preparedness to deliver complex infrastructure projects. Yet that link, the rail network enhancements pipeline, remains unpublished. Given that, how can we expect HS2 to be delivered on time and on budget when maintaining transparency with the rail industry is not a priority for this Government?

Baroness Vere of Norbiton (Con): The noble Lord has managed to combine many elements into one thing. I can reassure him that the RNEP document will be published shortly, which will reassure him about the Government's commitment to investing in our railways.

Baroness Randerson (LD): My Lords, in November, the Government decided to terminate the eastern leg of HS2 in the Midlands rather than at Leeds, as originally promised. When they were criticised for abandoning their policy on the grounds that it would affect levelling up, the Government promised £100 million to look at alternative ways to run HS2 trains to Leeds. However, eight months on, absolutely nothing has happened in terms of even scoping this study. Is this yet another broken promise from this Government to the people of northern England?

Baroness Vere of Norbiton (Con): Not at all. Work is of course well under way within the department as to how best to use the £100 million that we have set out to look at the options on the route to Leeds and to finally make some progress on a mass transit system for Leeds. However, one of the key things about the Government's decision for our plans for high-speed rail in the future is to make sure that we get as close to city centres as possible. In the older plans, it was far too often the case that the train never got anywhere close to the city centre but now places such as Derby and Nottingham will benefit.

Lord Forsyth of Drumlean (Con): My Lords, the report of the Economic Affairs Committee of this House on HS2 predicted that the net result would be

[Lord Forsyth of Drumlean]
that it would run over budget and we would lose the necessary expenditure for east-west improvement of rail services in the north, which has come to pass. Given that the business case was based on the premise that there would be a need for more business travel and given that, as the Civil Service has shown, many people are now working from home, should the business case now be reviewed?

Baroness Vere of Norbiton (Con): I reassure my noble friend that if there are changes to the budget or to the schedule, that will be put before Parliament in the six-monthly review. I slightly take issue about there being a lack of east-west investment from the Government. The £96 billion that we are investing in the integrated rail plan is a significant amount for east-west connectivity.

Lord Grocott (Lab): My Lords, is the Minister as weary as I must admit I feel from time to time of endless questions about the difficulties and problems associated with building a railway? Some 180 years ago, the Victorians managed to put bridges over estuaries, tunnels through hills and build railways over marshland, and heaven knows whatever else, and we seem to be incapable of proceeding because we are worried about salt mines in Crewe.

Baroness Vere of Norbiton (Con): I cannot recall 180 years ago, but it sounds idyllic. It is absolutely right that the Government should receive the correct amount of scrutiny, this is an enormous amount of taxpayers' money, and we want the line built as soon as possible.

Tax Cuts: Fiscal Impact

Question

3.40 pm

Asked by ***Lord Hain***

To ask Her Majesty's Government what assessment they have made of the fiscal impact of tax cuts.

Baroness Penn (Con): Her Majesty's Treasury does not produce fiscal forecasts; the independent Office for Budget Responsibility sets out its projections for the economy, including fiscal indicators, in the *Economic and Fiscal Outlook*, which will be updated and published alongside future fiscal events. This process includes certifying costings for and any changes to government tax policy. The Government keep all taxes under review and will set out any reforms at future fiscal events.

Lord Hain (Lab): I thank the Minister for all that. With social care falling apart, the NHS teetering, abysmal UK productivity and skills, our Armed Forces underfunded and millions, including universal credit recipients, struggling with record food, fuel and energy costs as inflation surges, how on earth can Tory leadership candidates credibly outbid each other with tax cuts? Britain has suffered more than 10 years of savage Tory austerity, and now the Tories are promising even more, destroying any hope of kickstarting growth, currently the lowest in the G7. After a mendacious serial rule-breaker as Prime Minister, can we please have some honesty and responsibility from his would-be successors?

Baroness Penn (Con): My Lords, all I can talk about is this Government's record, rather than speculating on the future. That is a record of repairing the public finances, protecting jobs during the pandemic through the furlough scheme, delivering cost of living support worth £37 billion this year to help people, and investing in the future in skills, infrastructure, levelling up and cutting carbon from our economy faster than any other G7 nation.

Lord Bilimoria (CB): My Lords, do the Government agree that our growth is forecast to be somewhere between 0% and 1% next year and our level of business investment is the lowest in the G7? Should we not be prioritising investment that leads to growth of at least 2% a year? Should we not cut taxes rather than have the highest tax burden in 70 years, which hampers growth and investment, including inward investment?

Baroness Penn (Con): My Lords, I hope the noble Lord will join me in welcoming the better than expected growth figures that we saw today, but he is right we need to continue to invest in our economy. That is why we are investing in our future skills system and more in infrastructure across the UK, and we will continue to do so to drive growth in our economy.

Baroness Kramer (LD): My Lords, the cruel inflation which has hurt so many families and so many businesses has delivered the Government a bumper windfall in value added tax, now estimated to be well north of £40 billion. Will she campaign to her friends in the other place and ask them to use that money to get rid of the increase in national insurance contributions, for the sake of individuals, but also of businesses, which need that money? Will she also ask them to keep the increase in the threshold?

Baroness Penn (Con): My Lords, I think my friends in the other place are doing a good job of campaigning themselves. My understanding is that, although VAT receipts are higher, the fact that individuals are spending more of their money on things such as energy, which have a lower rate of VAT, means that the latest OBR forecasts saw overall government receipts from VAT reducing in the next year.

Lord Sikka (Lab): My Lords, the contenders for the Conservative Party leadership, which include the Chancellor, have promised tax cuts adding up to £235 billion, without any consideration of their funding or the consequences of such cuts. Will the Minister publish a list of the courses the Chancellor has attended on economic literacy?

Baroness Penn (Con): My Lords, as I said, the Government do not produce fiscal forecasts, the OBR does, and it produces forecasts based on government policy.

Baroness Altmann (Con): My Lords, does my noble friend agree that there would be widespread opportunity for cutting taxes for millions of people across the country if the tax base was widened, such as by taxing large online companies or being rather less generous on offshore taxation? There is also the potential for reform of council tax and business rates, which could bring in more revenue.

Baroness Penn (Con): My Lords, the Government have taken a number of initiatives in the areas that my noble friend refers to, including the reform of business rates and looking at an online sales tax. She is right that, as our economy changes, we must always look at how our tax system can keep up with it. On tax cuts, the most recent tax change brought in by this Government happened this month, the largest ever increase in a personal tax starting threshold, which took an additional 2.2 million people out of paying class 1 and class 4 national insurance contributions.

Lord Tunnicliffe (Lab): My Lords, the Government argue that rising inflation is a global challenge. However, the IMF and the OECD have warned that when put alongside comparable economies, the UK carries a much bigger risk of persistent high rates. This is bad for household budgets and consumer confidence. What is it about 12 years of Conservative control of the economy that has left us in this position?

Baroness Penn (Con): The noble Lord will know that it is international factors that are driving high rates of inflation, including supply chain disruption after the pandemic and the war in Ukraine. However, he is right that the UK has a combination of factors. It is more exposed to higher energy prices than economies such as the US and it has a tighter labour market than fellow European countries. These put us in a slightly different position. However, people should be reassured that the Government are absolutely determined to tackle inflation. We have a plan that will bring it back under control.

Baroness Wheatcroft (CB): My Lords, the Minister said that the Government have been successful in repairing the country's finances. However, at the end of April, the net public sector deficit stood at nearly 95.7% of GBP, almost an all-time high for this country. Of course, Covid accounts for part of that, but can she elaborate on how the country's finances have been rebuilt?

Baroness Penn (Con): The noble Baroness says that Covid accounts for part of that. The Covid pandemic caused the biggest recession that we have seen in a generation. The response was the biggest galvanising of government action, in both our healthcare response and our response to support the economy. We were in a position to do that because we had taken responsible decisions in the lead-up to that period. If we look at how we are coming out of that period, the public finances will be returning to a more stable footing.

Baroness Foster of Oxton (Con): My Lords, the three lockdowns during the pandemic cost the economy £370 billion, and that was without the added costs for Covid. The taxes on fuel and energy are not being passed on to the consumer when we are putting reductions in place. Can my noble friend pleased look into this, as the cost of bills and fuel for the transport sector is absolutely excruciating? This must be addressed urgently.

Baroness Penn (Con): My noble friend talked about the impact of the lockdowns. They had a significant economic impact but also a significant social impact—for example, on children who were unable to go to school during those periods. However, our vaccine rollout meant that we could come out of that cycle of lockdowns earlier than many other countries. On her point about the tax cuts on fuel that we put in place to help with the cost of living, we have been very clear that they must be passed on to consumers. The Competition and Markets Authority has also been clear to retailers that this is the expectation.

Lord Rooker (Lab): Given that we still have many social security benefits based on contributions, can the Minister explain how taking people out of being able to pay the national insurance contributions does not, in the medium and long-term, affect their right to contributory benefits?

Baroness Penn (Con): I can reassure the noble Lord that the threshold at which the tax is paid is different from that at which the credits towards contributory benefits are earned, so increasing the threshold where people are paying the tax has not affected their ability to accrue those rights.

Baroness Ritchie of Downpatrick (Lab): My Lords, could the Minister explain how the Government will reconcile tax cuts, which seem to be the subject for the majority of Conservative Party leadership candidates, with the pressing need to bear down on inflation and high costs?

Baroness Penn (Con): It is possible to put more money into people's pockets—for example, through the national insurance threshold rise—without having a disproportionate impact on inflation. Similarly, we have been able to make our cost of living payments while bearing in mind the noble Baroness's exact point: we need to be careful of inflation as we make those policy changes.

Leasehold Reform (Reasonableness of Service Charges) Bill [HL]

First Reading

3.50 pm

A Bill to amend the Landlord and Tenant Act 1985 to provide for service charges to be reduced where they do not reflect the landlord's actual costs in providing goods and services; to make fixed service charges subject to reasonableness requirements; to amend the Commonhold and Leasehold Reform Act 2002 to make the same changes; and for connected purposes.

Baroness Kennedy of Cradley (Non-Afl): My Lords, I declare my interest as a leaseholder.

The Bill was introduced by Baroness Kennedy of Cradley, read a first time and ordered to be printed.

Sri Lanka

Commons Urgent Question

3.51 pm

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, with the leave of the House, I shall now repeat in the form of a Statement the Answer given by my right honourable friend the Minister for Asia and the Middle East to an Urgent Question in another place on the state of emergency declared today in Sri Lanka. The Statement is as follows:

"We are closely monitoring the fast-moving and fluid political, economic and security situation in Sri Lanka. The Minister of State for South Asia has engaged directly with our high commissioner and the team on the ground. We encourage all sides to find a peaceful, democratic and inclusive approach to resolving the current political and economic challenges.

Sri Lanka's political and economic challenges should be resolved through an inclusive and cross-party process. Any transition of power should be peaceful, constitutional and democratic, and I call on all parties to exercise restraint and refrain from violence."

3.52 pm

Lord Collins of Highbury (Lab): My Lords, I thank the Minister for repeating that response. Sri Lanka is now facing a state of paralysis and desperately needs a Government with popular support to emerge from this chaos. There is a desperate humanitarian crisis and Amanda Milling said in the other place that our support is being channelled through multilateral institutions, without providing any details. My honourable friend Catherine West asked the Minister to outline the immediate support offered to Sri Lanka, including through engagement with regional partners such as India. Since no answer was given by Amanda Milling, can the Minister now provide one?

Lord Ahmad of Wimbledon (Con): As the Minister of State for South Asia, I have been engaging directly on this issue. We are working with, for example, the Red Cross on its disaster relief emergency fund and its operation in Sri Lanka. We are providing direct support, including essential medicine, first aid and psychosocial support. We are also working through various UN agencies, based on their assessments, with a plan launched on 9 June. The Humanitarian Needs and Priorities Plan called for $47.2 million to provide lifesaving assistance, and we are supporting that directly through the UN. The World Bank has also announced assistance of $400 million, which includes funds for medicines and medical equipment, and we are looking at that. I assure the noble Lord that, on the state of emergency, I have again today instructed officials to look at what bilateral support we can provide. I acknowledge his point and I am very much on it: we are seeing how we can engage constructively with India as a near partner and friend to Sri Lanka.

Lord Purvis of Tweed (LD): My Lords, I agree with the Minister on the need for a peaceful transition back to stability. While he and I were in Kigali—he was representing the UK Government at the ministerials at CHOGM—two Sri Lankan Ministers were in Moscow negotiating the purchase of Russian oil. Can the Minister expand on the practical steps the UK can take—both the direct support we can offer, and bilateral support through the Commonwealth—to ensure that Putin does not exploit the instability in Sri Lanka, because he certainly wants to?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Lord's point about Mr Putin would apply in many instances. I met with Foreign Minister Peiris while I was in Kigali, specifically regarding the current state of play. He remains in position, notwithstanding the appointment of the Prime Minister as the acting President.

As I said in response to the noble Lord, Lord Collins, we are looking at how we can best channel our support through agencies on the ground. The UN is present, and we are engaging with other key partners. As the noble Lord will acknowledge, the UK is also looking at what has caused this crisis, which is an economic crisis. When I was in Sri Lanka and I met with the then Administration, I implored them to consider the importance of not just talking to the IMF but working through a specific plan. I believe that we have the fifth-largest quota share when it comes to the IMF, and we are working very constructively. Sri Lanka needs political stability, but the underlying cause and problem remains the economics. We are working with the IMF on that programme.

Baroness D'Souza (CB): My Lords, does the Minister have any evidence of increased tension between the Tamil and Sinhalese populations?

Lord Ahmad of Wimbledon (Con): My Lords, we are certainly watching that space very closely. Communal tensions arise in any conflict where communities perhaps seek to assign blame to another community. We are also looking very carefully at pre-existing religious tensions. Although there have been raids into the presidential compound and the Prime Minister's residence, we have not yet seen or monitored an increase in communal tension between the two major communities in Sri Lanka.

Lord Browne of Ladyton (Lab): My Lords, Sri Lanka has a dark history of human rights abuses, the vast majority being perpetrated with complete impunity. Today's fear, with the announcement of a state of emergency coupled with political instability, is that these terrible atrocities will begin again. What conversations has the Minister or any of his colleagues had with our partners about how we can avoid these fears being realised? On the issue of impunity, it appears that the Rajapaksa brothers are intent on

going to the United States of America. Can we have some conversations with our American ally about whether the impunity they have enjoyed up until now will survive that transfer to the USA?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Lord talks about impunity regarding conflicts past, particularly the civil war. That is why the United Kingdom has led on Resolution 46/1 at the Human Rights Council. When I was last in Geneva, I engaged directly with the Sri Lankan Foreign Minister, saying that we would sustain our support for it. That remains an important issue, and I am sure it will be a point of discussion when the UNHRC returns in September.

As to the current situation with the previous Administration, including Mr Rajapaksa and other members of his family, countries will make their own determinations but we want the perpetrators of the civil war to be held to account. Equally, we want to ensure that the communities that suffered do not see the conflicts of the past occur again.

Lord Dholakia (LD): My Lords, the Minister must be aware of the serious allegations of corruption against Rajapaksa and his Government. What efforts are being made to extradite him from the Maldives so that he can answer the charges in the Sri Lankan courts?

Lord Ahmad of Wimbledon (Con): My Lords, I will not comment specifically on the current situation with the previous President—we still await the final formal resignation. As to what will happen regarding his future, determinations will be made. At the moment we are focusing on the economic and political stability which will lend itself to whatever future inclusive Government are formed in Sri Lanka, to allow for full accountability for whoever needs to be held to account.

Lord McDonald of Salford (CB): My Lords, how many British citizens are in Sri Lanka and are Her Majesty's Government confident that they are all safe?

Lord Ahmad of Wimbledon (Con): My Lords, as the noble Lord will know from his own insight, we do not keep specific track of the numbers there, but we have a very strong Sri Lankan diaspora here in United Kingdom and many dual nationals. On Saturday I spoke to our chargé on the ground to ensure that we have the support in post for any increase in consular inquiries. There had been no increase, certainly up until Saturday. I also convened a meeting this morning to ensure that there is a specific plan regarding the humanitarian, economic and political support we can provide with key partners, but also the support we can provide to British citizens seeking to leave, as the noble Lord highlights. We have the experiences of Covid repatriation and other crises, which will ensure that, if and when required, we can mobilise the resources we need in Colombo and here in London to provide the support UK citizens might need.

Baroness Northover (LD): My Lords, following on from the Minister's answer to the noble Lord, Lord Browne, he said that people have to be held to account, but he also referred to countries to which the President might flee making their own decisions. There were rumours this morning that the President was intending to flee to the UAE. If the Minister does indeed think that people should be held to account, it is surely incumbent on us to engage with the country in question—be it the UAE or the US—to try to ensure that it is not seen as a safe haven that people can flee to and escape potentially being held to account in the way the Minister says he wishes to see.

Lord Ahmad of Wimbledon (Con): My Lords, I hope that the noble Baroness knows me well enough to know that when I say that people should be held to account, we would follow through on that. I am not going to speculate; there are a lot of rumours as to where particular people may seek to travel. Those are conversations to be had as and when we know the full facts, and then we will act accordingly.

Lord West of Spithead (Lab): My Lords, the Chinese have had considerable involvement with Sri Lanka and, indeed, have effectively got control of a deep-water port as part of their belt and road initiative. Are we aware of any Chinese involvement—or any actions at all—in what is going on there at the moment?

Lord Ahmad of Wimbledon (Con): On the noble Lord's first observation, he is of course absolutely right. As with a number of other countries, Chinese infrastructure support—economic support—in Sri Lanka has in itself had a quite disabling effect on its economy. Regarding the noble Lord's second question, I am certainly not aware of any specific engagement or involvement of that nature.

Viscount Waverley (CB): My Lords, can the Minister give any insight into the extent to which the Armed Forces will be providing support and ensuring security on the island, as requested by the Prime Minister?

Lord Ahmad of Wimbledon (Con): My Lords, we have not looked at that specifically. What we have said, as I have already indicated, is that our focus is and must be first and foremost on the humanitarian situation. As I have said in previous answers to the noble Lord, Lord Purvis, and the noble Lord, Lord Collins, if at all possible that includes where, how and to what extent we can channel humanitarian support bilaterally, particularly food. Equally, the next important element should be political and economic stability, and that is what the Government are focused on.

Ambulance Services and National Heatwave Emergency

Commons Urgent Question

4.03 pm

Baroness Penn (Con): My Lords, with the leave of the House, I shall now repeat in the form of a Statement the Answer given to an Urgent Question asked in the House of Commons today.

[Baroness Penn]

"Our ambulance service performs heroics every single day, and I put on the record my thanks to every single one of them for all their dedication and hard work. We have a duty to support this vital service and give it the resources and support it needs.

The latest figures from the NHS in England show that ambulance service response time performance has improved month on month, and that ambulance hours lost are also improving month on month. However, we fully acknowledge the rising pressures facing the service, and there are three significant factors influencing these. First, bed occupancy is currently around 93%, which we would normally see around wintertime. We know there are high rates of Covid admissions in hospital—that is either people 'with Covid' or 'because of Covid'—and that puts pressure on A&Es' ability to admit patients. We are roughly running on void beds of around 1,200 and part of this is because of the 16% increase in the length of stays. We also have pressures of delayed discharges: they remain flat, but a significant influence. We also have record numbers of calls to the ambulance service—100,000 more today compared with last year—so there is significant pressure on the system.

We also have to be mindful of the weather in the coming days. We have the *Heatwave Plan for England*, which was published earlier this year, and the hot weather plans that NHS trusts are able to put in place. We have also been providing sector-specific guidance setting out the best ways to protect people who might be at risk. As well as this specific support for hot weather, we are doing everything in our power to support the ambulance system more widely to make sure that it has the resilience it needs. We have allocated £150 million of extra funding to respond to ambulance service pressures in 2022-23, and we are boosting the workforce too. The number of national 999 call handlers had risen to nearly 2,300 at the start of June, which is a considerable increase on the previous September, and Health Education England has been mandated to train 3,000 paramedic graduates nationally per year during 2021 to 2024. On top of this, we have invested £50 million in NHS 111 in England for 2022-23 to give this vital service extra capacity, helping us to reduce demand on the ambulance service.

I will be meeting ambulance trusts over the coming days to make sure that we have the capacity and the resilience not just for these important few days but for the winter months too. This is an important issue that we are taking extremely seriously, and we will keep the House updated as the situation develops."

4.06 pm

Baroness Merron (Lab): My Lords, every ambulance service is on the highest level of alert. Just yesterday, the Association of Ambulance Chief Executives spoke of the intense pressure on the system. This is not new. As the Minister acknowledges, a maelstrom of long-standing factors is causing massive delays, leaving ambulances stuck outside hospitals unable to transfer patients, staff shortages exacerbated by the spike in Covid and, on top of this, a heatwave generating more 999 calls. Can the Minister confirm whether further COBRA meetings are planned? How are the Government prepared for the impact of this heatwave on health and care services? What communications are planned to ensure public safety?

Baroness Penn (Con): My Lords, there are well-established and well-practised co-ordination and escalation procedures in place to manage cross-system and cross-government impacts at all levels. These are activated when appropriate and on the basis of subsidiarity. UKHSA public health advice is being regularly updated and communicated for everyone to stay safe in the heat. As noble Lords will know, today the UKHSA and the Met Office have announced that all nine English regions will be under a level 3 heat alert from Saturday 16 to Tuesday 19 July. The heat alert system runs during the summer. Depending on the level of alert, a response will be triggered to communicate the risk to the NHS, government and public health systems. Advice and information for the public and health and social care professionals, particularly those working with at-risk groups, are provided, including both general preparation for hot weather and more specific advice when a severe heatwave has been forecast.

Lord Scriven (LD): My Lords, delayed discharges account for more than 2.5 million lost bed days in NHS hospitals. With the greatest respect, organisational reorganisation will not deal with the gross underfunding of social care that means ambulances spend hours outside A&E. What are the Government going to do now to deal with the crisis in social care funding, which causes ambulances to wait outside hospitals?

Baroness Penn (Con): My Lords, as the noble Lord will know very well, we have put increased funding into our social care system, but we also have in place a national discharge task force to drive further progress and support regional and local system arrangements. That has membership from local government, the NHS and national government. Local health and social care partners are already standing up the use of additional action to support discharge and improve patient flow. The task force is looking at a number of interventions—for example, identifying patients needing complex discharge support early and ensuring multidisciplinary engagement in the early discharge plan. There is more support going into social care, but there is also a specific piece of work with the national discharge task force.

Lord Watts (Lab): My Lords, have not the Government created the perfect storm? First, they cut the number of beds available, then they cut social care, then they do not plan for the number of doctors that we need, then they have Covid and now they have heat. What are the Government doing to address the long-term problem of hospitals that are underfunded and do not have enough beds, not enough GPs, accident and emergency units stopping functioning and the ambulance services being in crisis? What are the Government doing?

Baroness Penn (Con): My Lords, I am not sure that the Government are responsible for Covid. The pressures that we have seen on ambulances have come since the pandemic; we were seeing a much more effective

ambulance service prior to that. But we need to fix that so, as well as the specific action that we are taking to improve resources in ambulances, including more staff, more call handlers and more funding into the 111 service, we also have a long-term plan for the NHS that is putting record funding into the NHS. We have also created integrated care boards to ensure integration between health and social care in local areas.

Baroness Andrews (Lab): My Lords, the Minister talked about boosting the workforce and then she referred to the NHS training 3,000 new ambulance staff. How far does that go to fill the gap in retention and recruitment, what else is being done to boost the number of people we need to create a resilient ambulance service and when will we arrive at that point?

Baroness Penn (Con): The noble Baroness is right that, as well as additional training and recruitment, retention will be a really important part of the picture. The Government have put in place additional support save-line3for ambulance staff to ensure that retention continues. My understanding is that the target to train 3,000 paramedic graduates a year nationally between 2021 and 2024 will help the domestic paramedic workforce meet the future demands on the service. I also reassure the noble Baroness that ambulance staff and support staff have increased by almost 40% since February 2010.

Viscount Brookeborough (CB): My Lords, I declare an interest in that I am a member of the Order of St John in Northern Ireland—and therefore St John Ambulance—and we do not have a heatwave. Can I ask the Minister: what consultations have gone on with volunteer ambulance services in England, of which there are several, what has been the result of those and how many ambulances are they prepared to put on standby in order to support the ambulance service?

Baroness Penn (Con): My Lords, I know that both the Department for Health and Social Care and NHS England have a strong working relationship with the organisations that the noble Viscount has mentioned. On the detail of that work in terms of the heat health alert, I will have to write to him.

Baroness Barker (LD): My Lords, handover times at hospitals of nine hours are not uncommon and 26 hours is not unheard of. What are the Government doing to ensure that the other emergency services are working in co-ordination with the ambulance service to make sure that people who need urgent care are getting it?

Baroness Penn (Con): My Lords, I think there has been some co-ordination with other services looking at this issue. Of course, it varies from area to area and NHS England has focused its support on those areas that are struggling the most and account for the largest delays. We have talked about the taskforce to reduce delays in discharge, but the noble Baroness is also right that there is specific work going on to improve the handover process. We are looking to address the delays in every bit of the system that are causing delays up front to ambulance response times.

Viscount Stansgate (Lab): My Lords, I recently had occasion to contact the ambulance service—10 days ago—and I was struck by the fact that none was going to be available for a considerable period of time. Do government statistics show a difference between the availability of ambulance services in rural areas compared to urban areas?

Baroness Penn (Con): There are 10 ambulance service trusts and they have differing levels of performance. I acknowledge that across all those 10 trusts there is pressure on the system in rural and urban areas. Our focus is to provide specific support to those trusts that are struggling the most.

Lord Lexden (Con): What have been the results of Mr Johnson's promises to build new hospitals?

Baroness Penn (Con): There is work under way in the NHS and the Department for Health and Social Care to deliver on that pledge.

Baroness Pinnock (LD): My Lords, it is recognised that the difficulty with the handover to social care is one of the reasons for the problems faced by the ambulance service. The Local Government Association, of which I am a vice-president, estimated that there would be a £2.2 billion shortfall in funding for social care within local authorities. What are the Government going to do to address that challenging problem?

Baroness Penn (Con): My Lords, as I said, the Government have put additional funding into social care. We have also allowed local authorities flexibility in how they approach council tax and their own local precept to support that funding. Funding is an essential part of the picture, as is better co-ordination. We can learn from those areas that are more effective at smooth discharge and ensure that best practice is shared across the country. There are some pilot sites both within the NHS and in social care to try to spread that best practice.

Legislative Reform (Provision of Information etc. Relating to Disabilities) Order 2022

Motion to Approve

4.16 pm

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

That the draft Order laid before the House on 12 May be approved.

Relevant document: 3rd Report from the Regulatory Reform Committee. Considered in Grand Committee on 12 July.

Lord Sharpe of Epsom (Con): My Lords, I beg to move the Motion standing in the name of my noble friend Lady Vere of Norbiton on the Order Paper.

Motion agreed.

Occupational Pension Schemes (Governance and Registration) (Amendment) Regulations 2022

Motion to Approve

4.16 pm

Moved by ***Baroness Stedman-Scott***

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

Relevant document: 6th Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 12 July.

Motion agreed.

Identity and Language (Northern Ireland) Bill [HL]

Third Reading

4.17 pm

The Parliamentary Under-Secretary of State, Northern Ireland Office (Lord Caine) (Con): My Lords, as I and many other noble Lords have made clear on numerous occasions, it is a matter of great regret that we have been debating the contents of this Bill in your Lordships' House. It would have been far preferable had the Bill been taken forward by the Northern Ireland Executive in the Northern Ireland Assembly, as was originally intended, but that plainly has not happened, which is why we have had to make progress on the important *New Decade, New Approach* commitments that the Bill delivers within this Parliament.

Since the Bill's introduction into your Lordships' House there has been neither a functioning Executive nor an Assembly, and that remains the case. It has therefore not been possible for the Government to seek a legislative consent Motion. My officials have been engaging with counterparts in the Northern Ireland Civil Service throughout the Bill's passage and will continue to do so. I think I speak for the whole House when I say I hope that, by the time the Bill leaves the other place, such consent will have been given by a restored Executive and Assembly.

Motion

Moved by ***Lord Caine***

That the Bill do now pass.

Lord Caine (Con): My Lords, as we come to the end of the passage of the Bill through your Lordships' House, I want to place on record my gratitude to all noble Lords who have participated in our debates upon it. In particular, I thank the noble Lord, Lord Murphy of Torfaen, who speaks with great wisdom as a former Secretary of State for Northern Ireland and the Minister who helped negotiate the Belfast agreement in 1998, and the noble Baroness, Lady Suttie, for their support for the Bill and their constructive and pragmatic engagement during its passage.

I thank all noble Lords from Northern Ireland for their detailed and insightful contributions. While some of them might not like every aspect of the Bill, and I am sure that their colleagues in the other place will continue to push the Government in a number of areas, I appreciate the collaborative and open manner with which they have engaged with me and put forward their arguments.

It will come as no surprise to many that I found the most enjoyable aspect of the Bill's passage the debate on the Castlereagh Foundation, the establishment of which the Bill will enable. It provided us with an opportunity in Committee and on Report to discuss the great contribution that Viscount Castlereagh made to Irish, British and European history, not least as the architect of the Act of Union and a key figure in defeating the Bonapartist tyranny in the early part of the 19th century. In doing so, we have benefited immensely from the expert historical knowledge and wisdom of my noble friend Lord Lexden, who I see in his place and to whom I am especially grateful and have been ever since he took the bold decision to employ me 35 years ago.

Finally, I place on record my thanks to my noble friend Lord Younger, my officials from the Northern Ireland Office, the Whips' Office and all those involved in the Bill's drafting for their hard work and support. The aim of the legislation is to implement important commitments in *New Decade, New Approach*, which, noble Lords will recall, led to the restoration of devolved government in January 2020. In remaining faithful to *New Decade, New Approach*, I am pleased that the Government were able to table amendments to the Bill and to make commitments in response to the debates we had.

As a result, I believe that the Bill is in a better state thanks to your Lordships' scrutiny. Once again, this demonstrates the value of your Lordships' House in examining legislation in detail. It is now over to the other place and, I sincerely hope, to a reconstituted Northern Ireland Executive and Assembly, to continue and complete the work we have started in your Lordships' House.

Lord Murphy of Torfaen (Lab): My Lords, I echo the view of the Minister in the sense that the debates have been very good, informative and useful. They have also been informed from the point of view of many contributions from Members of your Lordships' House from Northern Ireland, which enhanced the quality of the debate considerably. I thank the Minister for the very civilised way he handled this Bill at Second Reading, in Committee and on Report, and all Members of your Lordships' House who took part.

The Minister rightly says that the Bill is based on *New Decade, New Approach*, which was an all-party agreement some years ago in Northern Ireland, and the Bill faithfully sticks to that agreement. There have been some improvements and, again, I am so glad that the Minister and the Government were able to accept those changes; for example, to how the Secretary of State's step-in powers would be dealt with by Parliament. There were also changes, such as the Castlereagh Foundation, which originally was not in the Bill, and in the title of the commissioner for Ulster Scots to add

the Ulster-British tradition. These came about because we had a good debate, and because these were sensible things to do.

I wish the Bill well. It is founded on the principles of the Good Friday agreement of equality, of ensuring that people have respect for each other, and of parity of esteem—which came up many times in debate. There is still an opportunity in the House of Commons for further changes to be made, so long as they are in step with the agreements made in Belfast. I wish it well on its legislative journey.

Baroness Suttie (LD): My Lords, I too thank the Minister and his Bill team for the constructive and positive way in which they have engaged with noble Lords on the Bill. I also thank my colleague Elizabeth Plummer in the Lib Dem Whips' Office for her constant support and knowledge as somebody from Northern Ireland.

The Minister sets an extremely positive example—perhaps the gold standard—with his willingness to listen and make changes, as the noble Lord, Lord Murphy, has said. It would be deeply welcome if a similarly constructive and listening approach were to be used for the two other Bills that have not yet reached your Lordships' House: the legacy Bill and the Northern Ireland protocol Bill. It is unlikely, perhaps, but one can live in hope.

I have two final brief points, if I may. I believe that everyone, including the Minister, has agreed at various stages of the Bill that it would have been much preferred if the Northern Ireland Assembly had been dealing with this Bill. The Northern Ireland Assembly, with all its relevant experience and expertise in being much closer than many of us are here, would have been much better placed to deal with this legislation.

During the slightly unusual and turbulent period that we are going through, I none the less hope that the new Northern Ireland Secretary will allow the Minister to use his many years of experience to leave no stone unturned in helping to bring back a functioning Executive and Assembly as soon as possible. It is in no one's interest, least of all the people of Northern Ireland, for this current stalemate to continue.

Lord Browne of Belmont (DUP): My Lords, I thank the Minister for all his hard work and dedication during the passage of the Bill. I am pleased that he and the Government have accepted the amendments to the title of the Ulster Scots/Ulster British commissioner and acknowledged the important role that the Castlereagh Foundation plays in research and exploring the shifting patterns of social identity in Northern Ireland.

Without wishing to add to the Minister's workload over the Summer Recess, I ask him whether he would consider looking at two important issues in the Bill, as it makes its way to the other place. First, I believe that the proposal for the Secretary of State to overrule the Northern Ireland Assembly sets a dangerous precedent. Secondly, it needs to be made clear that, although the two commissioners have different functions, they should have equal weight in those functions so that the unionist community can be given an equal opportunity to complain through its commissioners across the spectrum of their function. I hope that these points will be given full consideration when the Bill reaches the other place. I thank the Minister again for all of his advice and work.

Lord Empey (UUP): My Lords, as the noble Baroness, Lady Suttie, said, we are grateful to the Minister. A Minister being prepared to be flexible and listen to people makes a difference. But I gently correct the noble Lord, Lord Murphy: the Bill and the agreement did not have all-party support. My party does not support *New Decade, New Approach* and never did, and we consequently never supported this legislation. Unfortunately, it will ultimately become a grievance factor for people. Certainly, it should have been dealt with not here but in Stormont. The Assembly is now heading towards six months without a functioning Government, in unprecedented economic circumstances—and winter, when things will bite even harder, is approaching. As each day passes, it is a matter of great regret that we find ourselves in this position.

This is no reflection on the Minister or his team; it is merely a fact. *New Decade, New Approach*, which led to the restoration of the Executive, was flawed anyway. But we have to move on and see how we can concentrate minds and get the institutions re-established so that we can help to protect as many people in the community as possible from the surge in prices and the suffering that I have no doubt will emerge in the winter. Sadly, we are still in this limbo.

Could the Minister ask his right honourable friends in his department to step up activity to ensure that we can get the institutions replaced? No process whatever seems to be taking place—yet huge national issues are at stake. I thank the Minister for his flexibility, but I assure him that we have a long way to go.

Baroness Ritchie of Downpatrick (Lab): My Lords, I thank the Minister and his team for introducing the Bill. I also thank my noble friend Lord Murphy of Torfaen, his team on the Front Bench and the noble Baroness, Lady Suttie, speaking on behalf of the Liberal Democrats. Obviously, as an Irish language enthusiast and as someone who studied it up to O-level and attended the Gaeltacht on several occasions, I want to see the Bill implemented as quickly as possible. For me, it represents parity of esteem and the necessary equality of opportunity.

I agree with the noble Lord, Lord Empey, that the Bill should have been dealt with by the Northern Ireland Executive presenting it to the Northern Ireland Assembly. It is vital that those institutions, and all the institutions of the Good Friday agreement, are up and running as quickly as possible. I appeal to those preventing this taking place to act immediately to put the Assembly, the Executive and the other institutions in place, because that will be in the best interest of the people of Northern Ireland, who are suffering from high inflation and high energy and food prices.

I agree with the noble Baroness, Lady Suttie, that the other Bills need to be resolved: the Northern Ireland Protocol Bill and the legacy Bill. Several outstanding issues need to be resolved, but they need to be resolved on an equitable basis, based on equality and parity of esteem.

[Baroness Ritchie of Downpatrick]

Finally, I thank the Minister for agreeing to meet Conradh na Gaeilge, the Irish language organisation in Northern Ireland and hope that can take place shortly, so that they can discuss the need for an Irish language strategy to put in the Bill, perhaps in its passage through the other place, and a time limit on the Secretary of State's powers. The members of that organisation can embody those issues much better through their articulation as people who are enthusiasts. I do not make that by way of a political point—they are Irish language speakers in the truest sense of the word. Once again, I thank the Minister.

4.31 pm

Bill passed and sent to the Commons.

Restoration and Renewal

Motion to Approve

4.31 pm

Moved by ***The Lord Privy Seal***

That this House

(1) reaffirms its commitment to preserving the Palace of Westminster for future generations and ensuring the safety of all those who work in and visit the Palace, now and in the future;

(2) notwithstanding the Resolution of 31 January 2018, welcomes the report from the House of Commons and House of Lords Commissions proposing a new mandate for the Restoration and Renewal works and a new governance structure to support them;

(3) accordingly endorses the recommendations set out in the Commissions' report; and

(4) in consequence, approves the establishment of a joint department of the two Houses, under the terms of the Parliament (Joint Departments) Act 2007.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, on behalf of the House of Lords Commission, I ask the House to endorse the Joint Commission report for a new mandate for the restoration and renewal programme, and to approve the Motion before the House today. Before I turn to it, I should like briefly to comment on the amendment to the Motion in the name of the noble Lord, Lord Blunkett. He rightly highlights that sitting behind this Motion and the new mandate is the Parliamentary Buildings (Restoration and Renewal) Act 2019. That Act was the product of careful consideration and scrutiny by both Houses, and the noble Lord played an active part in our discussions. Your Lordships will recall that Section 2 of the Act sets out a number of important considerations to which we wanted the sponsor body to have regard in exercising its functions. I want to make it clear that those considerations will not be amended by the proposed secondary legislation.

The noble Lord has picked out three in particular, relating to the important points of the accessibility of the Palace and any temporary location; public engagement during the works; and the need to ensure that benefits from the works are available throughout the United Kingdom. Regardless of this amendment, the Motion before us does not override those requirements of the 2019 Act. The full list of matters that the client function must have regard to remains in place. The new parameters from the commissions are supplementary to the provisions in the Act; they do not replace them. This point is set out in paragraph 22 of the report, and I reiterate it now for the benefit of your Lordships' House. I hope that, with those reassurances, the noble Lord will be able to withdraw his amendment at the appropriate point.

Before I move on to the substantive Motion, I put on record our thanks to the sponsor body—to Sarah Johnson and her team—for the considerable work that they have done to date, and to the sponsor board, particularly those from your Lordships' House who have given time and effort in their active participation as members of it. I look forward to hearing contributions from several of them today.

The commissions have reiterated their shared commitment to preserve the Palace of Westminster for future generations. It is our collective duty as custodians, and our responsibility to all who work in and visit it. It is a duty that we do not take lightly, which I hope will be demonstrated in what I set out today. Noble Lords may ask why a new mandate is needed when we and the other place in 2019 passed the Parliamentary Buildings (Restoration and Renewal) Act, and gave effect to decisions made by both Houses in 2018, when a set of resolutions was approved about the governance and delivery of the programme. The answer is that we are in a very different situation today than we were then.

When we made our decisions in 2018, the best guesstimate we had was a programme costing £3.5 billion, with a decant period of around six years. Those were the figures in the independent options appraisal, provided in 2014. Those figures were only ever indicative estimates and not based on extensive surveys or design work, but they were the figures before your Lordships' House at the time.

A lot of work has been undertaken since. Detailed surveys of the condition of the Palace have begun and more will be undertaken over the coming months. Detailed work has also taken place establishing the requirements of the two Houses, both for the end-state Palace and for a potential decant period. As a result of this work, earlier this year the sponsor body published initial estimates of its essential scheme option. It estimated the cost of R&R to be between £7 billion and £13 billion; that the work would take between 19 and 28 years to deliver, with a full decant of the Palace of between 12 and 20 years; and that the work would not begin until 2027 at the earliest. This is a very different proposition from that presented back in 2018.

Of course, two years after the outbreak of the Covid pandemic we are facing an incredibly challenging fiscal environment. We are responsible to the British taxpayer for the effective use of public money but at the same time we are responsible to the British public for safeguarding this historic building for future generations. We are merely its custodians, entrusted with this building for the time being. It falls on us to make decisions that will affect future generations of both parliamentarians and the public. These duties must be weighed carefully.

In 2018, it was thought that an independent body was best placed to act on behalf of Parliament, to set the priorities and to guide this project, but once up and running this operational model has not worked as effectively as we hoped. In the light of this experience, an independent advice and assurance panel was set up to advise on a new approach to the works and governance. The panel consisted of individuals with proven track records in major projects, picked specifically for their expertise. They have provided an excellent report on the current situation and proposed the next steps that both commissions should take to best fulfil the duties which fall upon us.

The governance structure envisaged in the Parliamentary Buildings (Restoration and Renewal) Act 2019 drew upon precedent from other large-scale programmes. However, as the panel points out, Parliament presents a complex and varying array of stakeholders that is without parallel in other large-scale programmes. A programme of this scale will span multiple Parliaments, bringing with it further complexity.

Although the panel found that the concept of an independent sponsor body was reasonable in theory, it recognised that valid concerns were raised about how it worked in practice. In particular, the sponsor body was seen as operating in a way that was too distant from those who use this building the most. That perception was strengthened by concerns that there had been insufficient engagement by the sponsor body with Members of your Lordships' House, as well as Members of the other place, and that insufficient engagement was a mutual failing.

The arm's-length nature of the sponsor function has caused issues as the programme has developed. In the light of the fact that we as parliamentarians are accountable for the decisions—whether for money spent or choices that determine the future of the Palace—the commissions have concluded that to continue in this way is not the best approach to make this project a success.

The proposal before noble Lords today is that the governance of the programme is brought back into Parliament and integrated into the existing governance framework within which we operate. Both commissions agreed that this is best the way to ensure that the programme responds to our needs and changing political circumstances and requirements. The governance structure must, in the words of the panel, be able to

"anticipate and adapt to changing demands".

It must be one that is resilient and enduring. By bringing the governance closer to where ultimate accountability for decision-making lies, we can achieve that aim.

Today presents an opportunity to reset the direction of the programme, and it is one which we in the commissions are determined to seize. We all accept that we need to step up our engagement and leadership in this area. The proposals before your Lordships' House today are for a revised governance structure and a new approach to the works, prioritising safety and ensuring that works can start sooner. I will briefly address each of these points.

The Motion today would result in integrating the governance of the programme into existing parliamentary structures through the two commissions; a structure that will be responsive to the requirements of Parliament, and one that is engaged with and accountable to it. The new structure will see the sponsor body abolished and its functions under the restoration and renewal Act transferred to the two corporate officers, the Clerk of the Parliaments and the Clerk of the House of Commons, who will become the statutory duty holders.

The proposed new in-house governance will consist of two tiers: a client board and a programme board. The client board—in effect the two commissions acting jointly—will advise the corporate officers on the overarching strategic direction and make recommendations to the two Houses, which will remain the ultimate decision-makers for this programme. The new programme board will act with delegated authority from the client board and bring together parliamentarians, officials and external members with relevant programme expertise. The programme board will be the main forum for the programme. It will meet to resolve critical strategic choices and priorities, select options and resolve trade-offs and disagreements as needed to finalise the strategic case, which will ultimately be brought forward for both Houses to decide on.

The staff of the sponsor body—around 35 people—will be brought in-house to form a new joint department, accountable to the corporate officers, delivering the strategic case and working in tandem with strategic estates and other departments. This new joint department will be known as the client team.

I emphasise that there is no intention to change the role of the delivery authority, whose purpose is to develop proposals and ultimately deliver the works on the Palace. It will remain an independent body, bringing extremely valuable technical and commercial expertise and experience to the programme. We will have a closer and more direct working relationship with it following these changes. I take this opportunity to thank the delivery authority for all its hard work.

The independent panel has sought to meet the core challenge that this programme faces: the need to make decisions today for a project that will not be completed for decades. We are being asked to judge on the basis of our current needs and requirements, and current economic and political circumstance, what should be provided to our successors, who may face a quite different world and have different expectations and ways of working. However, unless we make a decision about our destination and engage constructively with it, this project will never get off the ground.

The independent panel's proposal, which both commissions endorse, is to accept that challenge head-on and determine a long-term vision for the programme, which will enable the development of a strategic business case, but at the same time to accept that the delivery strategy for the works is not entirely fixed and will be reviewed periodically, enabling us to take account of changes when necessary and adjust course when developments require. This is the right path for us to take: planning for uncertainty but not allowing that uncertainty to deter progress.

In line with our primary commitment to safety, your Lordships' House is being asked to endorse a revised approach to the works which puts safety first. Four areas will be the initial priority for the works: fire

[Baroness Evans of Bowes Park]
and safety, building services, asbestos and building fabric conservation. I hope noble Lords will agree that these are sensible and urgent priorities to focus on. The joint commission report sets out parameters to guide the works in this development phase, calling for a wider range of options and different levels of ambition to be considered, to ensure maximum value for money. This will include consideration of approaches that might minimise the period during which the Houses have to vacate the Palace.

In line with our commitment to maintaining the safety of all who work in and visit the Palace, we support the recommendation of the independent panel to take a pragmatic approach that allows for safety-critical restoration works to be commissioned and undertaken before the strategic case has been approved. While the 2019 Act allows for restoration works to be undertaken only once the proposals have been formally approved, that does not stop our teams doing essential maintenance and repair and other safety-critical work before the main Palace restoration works begin. The commissions are keen for restoration works to start sooner and deliver greater value for money through better integration with other critical works happening across the estate.

The Motion before your Lordships' House is to endorse the recommendations of the joint commission. Secondary legislation will be required in due course to give effect to some of these decisions. Options will be reviewed and a strategic case will be presented to both Houses by the end of 2023. Today, no decision is being asked for on either the costs or specific delivery approaches of R&R. Members of both Houses will be consulted on proposals and will have opportunities to engage with these matters in due course.

On the issue of decant, your Lordships' House is not being asked for a decision today on how, where, when or for how long the House will be temporarily accommodated during the R&R works. That is a decision for another day. I ask noble Lords also to note that there is no proposal for or against any specific option for temporary accommodation during the works presented in the commissions' report. Let us take that decision at the right time, when we are informed by the strategic case.

In conclusion, the commissions propose a new way forward, one which allows us to balance our requirements as a working legislature with our responsibility to take fiscally prudent decisions and our stewardship of this historic building.

It is incumbent on us, in both Houses, to show leadership and take difficult decisions. Both Houses and commissions must, going forward, stand by the decisions we make, and make them work. I look forward to working with noble Lords from across the House to do just that. I beg to move.

4.45 pm

Amendment to the Motion

Moved by ***Lord Blunkett***

"As an amendment to the above motion, at the end insert:

"(5) reaffirms its commitment that the client function for the Restoration and Renewal programme, in the form of the new joint department, must have regard to

(a) the need to ensure that—

(i) any place in which either House of Parliament is located while the Parliamentary building works are carried out; and

(ii) (after completion of those works) all parts of the Palace of Westminster used by people working in it or open to people visiting it, are accessible to people with disabilities;

(b) the need to ensure that the Parliamentary building works are carried out with a view to facilitating improved public engagement with Parliament and participation in the democratic process (especially by means of remote access to Parliament's educational and outreach facilities and programmes); and

(c) the need to ensure that opportunities to secure economic or other benefits of the Parliamentary building works are available in all areas of the United Kingdom."

Lord Blunkett (Lab): My Lords, in moving the amendment in my name on the Order Paper, I wish to indicate a debt of gratitude to all those who have strived to find a way forward, from the original Joint Committee back in 2016, the sponsor board and the sponsor body to the staff at every level who have done their best to try and move this on over the last six years.

Many people will have read *Mr Barry's War*—and if you have not, I recommend it—which indicates why I am concerned, and why I believe others should be, in relation to the Motion. I shall not like other Members today oppose the Motion, because I understand the politics behind it, but as spelt out in *Mr Barry's War*, it was precisely the constant political interference in decision-making, back in the late 1830s, that messed up the original construction that we are endeavouring to protect today. I say to the Leader of the House, and I will come to the comments at the beginning of her speech in a moment, that we need to learn from history rather than live in it. We need to understand what went wrong years ago when restoration and some form of renewal were undertaken and to take into account the wise words of those who struggled then to get the seat of our democracy, our Parliament as it was emerging as a democracy, into a fit state—for them, for the 19th century and now, two more centuries on, for the 21st century.

I say that because the noble Baroness the Leader of the House referred to paragraph 22 and the new mandate. It is not just the mandate that concerns me. It is the level of ambition, and the understanding of where we are and what we need to do. There are those of us who would like to see, in a sensible and rational fashion, a complete review of how this Parliament operates, and its relationship to our wider democracy, which is deeply under threat—I do not mean just from the chaos emanating from Downing Street; I mean the vision that people are talking about in the western world, about how fragile our democracy is at the moment. I refer to the interesting and wise words of the noble Lord, Lord Hennessy, over the last few days. We live in a very fragile environment.

The image of what we are trying to do, in putting the building right, needs to be matched by what we should be doing in putting our democracy right. At the centre of the democracy are this House and the other House. Unless we link the participative democracy in the community with the representative democracy in Parliament, and we take seriously how the construction and reconstruction of this building can contribute to that, both in its imagery and therefore its example, but also in its outreach which is mentioned in my amendment, we will get this very badly wrong.

I believe, as do many others—in fact, two amendments were put down in the other House yesterday and then withdrawn—that we need an ambitious programme that will lead us to a situation where, in 50 years' time, people will be proud of this generation rather than asking the same old question: "Why didn't they have the foresight to get it right? Why did they pass it on to us to botch up what they botched out in the first place?" That would be a terrible outcome.

What happened earlier this week in the Chamber of the House of Commons, when water came through the roof and the House had to temporarily adjourn, is almost a metaphor. I will not make any remarks about the new definition of drips in the other place because it would be deeply offensive, but honestly, that indicates both the urgent action we need, which the noble Baroness spelled out, and an understanding of what we are trying to achieve in putting it right.

I come to my amendment—noble Lords will forgive me if I run slightly over time. The reason why I am both concerned and so emotional about this goes back to the summer of 2019, following the joint scrutiny committee on the Bill on which I served. Incidentally, I thought that would be the most boring period of my parliamentary and political life, but it was not: it was an eye-opener, including the ridiculous arguments, which were eventually unlocked by then Leader of the Commons, the right honourable Andrea Leadsom, that a car park at the Ministry of Defence could not be used for temporary buildings and materials. We have staggered from one calamitous nonsense to another. It is important that, even with what I think is a flawed way forward, we try to get it right.

One thing that really got me all those years ago was the fact that when the original Bill, which became an Act in 2019, came to this House, it mentioned access for people with disabilities. It talked about access to the building, but it did not talk at all about access within it and therefore the functionality for either parliamentarians or those working in or visiting the building who by necessity would need to get around. That is why, along with the outreach function of making democracy work for the people out there and not just for the people in here, I was so keen to ensure that the amendments before your Lordships today were placed in the Bill in 2019. Such was my keenness that, over the Summer Recess—I pay tribute to the Ministers who were dealing with this at the time and who were prepared to give their time through that recess—I could not be there on the day that my cousin Abigail was buried because I needed to be here to ensure that those amendments were put forward and carried. That is why I am emotional about this.

I ask the noble Baroness not to take it for granted that everyone agrees that access and other key issues will be taken into account in years to come, unless we are crystal clear. I quote, for instance, the words of noble Lord, Lord Udny-Lister, on 16 May this year on this subject—I have given him notice that I would do this. He said:

"But the reality is that this building's problem is services, not access or modernisation."—[*Official Report*, 16/5/22; col. 245.]

Of course the problem is services, the plumbing, the wiring and the fabric of the building falling down. However, it is also about people—that is what this building and this Parliament are all about.

I would like to have it reinforced by the noble Baroness that nothing in this Motion precludes the implementation of the 2019 Act. Incidentally, the new mandate and the process which she has described are based primarily on ridiculous timescales and estimates of the cost; I say that having had 50-odd years in public life and having seen estimates like this before. We have moved from the ridiculous estimate for the Scottish Parliament, which underestimated grossly what it would cost, to grossly overestimating what it would take to get this right. For instance, the £13 billion that went adrift in fraud, which led the noble Lord, Lord Agnew, to resign at the Dispatch Box, should be compared to the likely cost of making sure that we have a Parliament fit for the late 21st century.

I do not want to hold anyone up. I tell the Whips that I will of course concede this evening, so nobody needs to stay on a hot summer night. But I expect and hope that the Minister will reinforce what she said at the beginning, because otherwise we will drift into a world where future generations will sincerely believe that we let them down.

4.55 pm

Baroness Wheeler (Lab): My Lords, I thank the noble Baroness the Leader for moving the Government's Motion and for her introduction to the joint report of the House of Commons and House of Lords Commissions. I also thank my noble friend Lord Blunkett for moving his important amendment on the key principles of accessibility and public engagement going forward, and I thank the noble Baroness for her reassurances to him in her speech.

As the House will know, my noble friend Lady Smith has long been a passionate advocate for the visionary, strategic and structured management and delivery of the programme for the restoration of the Palace as set out in the 2019 Act, and she will sum up for us later. She and I worked closely on the then Bill on behalf of these Benches, and I note that many other noble Lords who were also heavily involved in that, and who are highly committed advocates, are also speaking today. They will share our deep frustration at the position we are now in. Nevertheless, we have obligations to meet and we must move forward.

Under the 2019 Act, we all thought we had established restoration and renewal governance structures and accountability that were vital to the safe and efficient execution and delivery of such a huge and complex project. By passing the Act, MPs and noble Lords accepted the necessity for the arm's-length sponsor

[Baroness Wheeler]
body to oversee the entire project, provide the expertise needed and avoid the constant political interference, changing objectives and moving goalposts that was greatly feared would happen under an in-house delivery alternative. It also meant full acceptance of the extensive analysis and costings that had been undertaken, showing clear evidence of the overwhelming safety, security, logistical and practical reasons why full decant of both Houses to alternative venues during the works was absolutely necessary and the only viable and realistic option in terms of overall costs and minimising project delivery timescales.

Sadly, the argument for a continued presence—primarily of MPs—and remaining in the building, like latter day Miss Havishams, has still not been laid to rest. A decision on whether to decant is not now to be made until after the intrusive survey work is completed and there is greater understanding of the condition of the House and the work that needs doing.

We also know that persistent attempts to revisit the basis and scope of the programme began pretty much as soon as the sponsor board started its work. The Lords' spokesperson on the body, the noble Lord, Lord Best, who I am pleased to see is in his place and will be speaking later, has made clear his view that it has been hampered from the outset by political interference and has not been allowed to get on with the job Parliament gave it to do.

However, despite the regrettable changes to the established managerial and delivery structures and our disappointment at the stage we are now at, the House will know that, yesterday, the Commons supported this joint report produced by the two commissions. We strongly urge our Members in a free vote to support it today. We recognise that the joint report is now the only show in town—the only way to keep moving forward the vital restoration work that must take place on this wonderful building. It is the only opportunity we now have to try to make sure that the urgent and vital works that are needed are proceeded with in as coherent and managed a programme as possible, and the only way to get the essential House of Commons buy-in.

It is of considerable comfort that the joint report fully acknowledges the huge challenges and scale of the work that has to be done and outlines the key initial priorities of essential work that must be addressed to prevent the building falling into even further decay: on fire and safety; building services; asbestos elimination; and on the building's stonework and framework.

The noble Baroness has set out the new structures and arrangements under the joint report, and I will not repeat the details. The sponsor body is disbanded, and the much-reduced numbers of expert staff that we have succeeded in retaining from it will be transferred to the new joint department of the two Houses. We will have a new in-house client body, advised by an independent panel of experts.

The Public Accounts Committee's report on what has or has not taken place since the passing of the 2019 Act, and on the new mandate—surprisingly not referred to by the noble Baroness the Leader—raises a slew of key questions for her on how it will all work. I will come back to those later.

First, I pay tribute to the role played by our representatives on the sponsor body and draw the attention of noble Lords to their contributions in last year's Grand Committee debate in November, on the parliamentary sponsor body's 2020-21 annual report and accounts, led by the noble Lord, Lord Best. I commend it to noble Lords. It is a master class in the management of major renewal and construction management, with contributions from the noble Lord, Lord Best, and from my noble friend Lord Carter of Coles and the noble Lord, Lord Deighton, both of whom have extensive experience of managing and delivering large-scale construction and building projects—on NHS pricing and procurement in the case of my noble friend Lord Carter, and on the 2012 Olympics in the case of the noble Lord, Lord Deighton. The detailed analysis of the sponsor body's accounts by our Finance Committee chair, the noble Lord, Lord Vaux, was particularly insightful and informative in the light of the PAC's subsequent observations.

My noble friend Lord Carter and the noble Lord, Lord Vaux, are both speaking today, but it is worth placing on record the view of the noble Lord, Lord Deighton, that full decant is

"the only truly viable option which would produce the best value for money for the taxpayer."—[*Official Report*, 16/11/21; col. GC 58.]

He also stressed the inescapable fact that for any total budget for renovation, three-quarters of the costs would be for the necessary core engineering work—a key factor that the Government must remember when the key priority areas are being planned and budgeted for.

My noble friend Lord Carter warned that:

"Without a decision, or if the decision is to kick the can down the road, we will be faced with a catastrophe at some point."—[*Official Report*, 16/11/21; col. GC 64.]

This is a warning that we have heard many times and which no doubt will be repeated today. It is reinforced in the escalating media coverage on the state of the Palace, such as in the recent *Observer* article, "Britain's Notre Dame?", with some very graphic pictures of the decaying basement and antiquated engineering and plumbing works.

The steady but extremely slow-moving work of the sponsor body on the intrusive surveys and drilling down into the buildings and courtyards has urgently to be stepped up so that the maximum work can be achieved over the Summer Recess. I serve on the Services Committee, under the excellent chairpersonship of my noble friend Lord Touhig. We have spent a great deal of time over the past two years combing through detailed sponsor body reports on the urgent works needed and the proposed surveys—what they will cover, how they will work and what they are designed to find. My noble friend Lord Blunkett will be pleased to hear that this included ensuring that all the accessibility issues while the work takes place are fully addressed.

Can the noble Baroness the Leader assure the House that the surveys are going ahead at full steam on the priority areas of work over the summer, so that we know what we are starting with and the viable costs? The PAC report calls for this particularly in respect of

determining what the asbestos removal plan should be and the safety of remaining in the Palace while these works take place.

The PAC report makes for some pretty sober reading, recognising of course the realities of the post-Covid financial environment. However, it contains no real surprises to most of us: the colossal sums wasted; the loss of the critical professional skills built up by the sponsor body to develop the business case for the programme funding and undertake the specialist construction and technical work; and the delay and prevarication that has resulted in the start date for major works being pushed back by many years, up to 48 or even 76 years under some worse-case scenarios. The PAC pulls no punches on these issues and on the increasing risks that the delays have caused.

Can the Minister comment on three of the issues that it raised? First, the PAC calls for a clear plan and structure on how the short-term risks to value for money and to avoid nugatory expenditure and further health and safety incidents will be managed. What timescales are envisaged for this extremely urgent area of work? Secondly, given the lack of time to consider other options for going forward and why the 2019 Act structures have not worked, how will the performance and governance lessons be learned in the delivery phase for the new arrangements? Thirdly, how will transparency and accountability to Parliament be managed in the future? What are the plans to report regularly to Parliament and its various committees on progress, potential costs and risks? How will the independent expert advice needed to support decision-making be truly independent and objective?

In conclusion, and despite the many unanswered questions from the Public Accounts Committee and that I am sure that will be asked by noble Lords today, I come back to where I started. The joint commission report on a new mandate, and the Motion before the House, must be approved. It is the only way forward to meet our obligations and to preserve and develop this wonderful building—the only show in town. Comfort can be drawn from the joint report's undertaking to start the safety-critical works as soon as possible. There are definite signs of optimism in the first stage engagement survey of 20,000 members of the public, which shows strong support for the preservation and renovation of the Palace as the heart and centre of our democracy. This is a very welcome development and it must not be squandered.

5.05 pm

Lord Newby (LD): My Lords, it is not just the effect of the heat that makes the prospect of this debate so dispiriting; it is the fact that we are having to have it at all.

The blunt reason for it is that there were a small number of people in the Commons, led by the former Leader of the House, whose romantic notions of the sanctity of the Commons Chamber made them unwilling to accept the clear and incontestable view that the cheapest and quickest way of making this building fit for the future was to have a full decant. This view has never had any substantive support in your Lordships' House, and the commission has been clear throughout that a full decant was by far the best option. By requiring the sponsor body to investigate the case for a continuous presence, this minority view caused confusion and delay. When the sponsor body then produced its estimates earlier this year of the cost of going ahead and the time required, the figures looked so ridiculously large, particularly in respect of continuous presence, that their credibility was brought into question. That, in turn, undermined the credibility of the sponsor body itself.

That is why we have the current proposals before us. They are the answer to the question: if not the sponsor body, then what? The principal and obvious concern they raise is the one raised by the noble Lord, Lord Blunkett, and the reason the sponsor body was established in the first place: that the aim was to take the overall management of the programme away from Parliament itself. This was partly because of the experience of the 19th century rebuilding of the Palace, which was beset by parliamentary meddling, extending the process and making it much more expensive. It was also because more recently, Parliament has not shown itself to be overly adept at managing capital projects effectively and efficiently. I have a lot of sympathy with those arguments.

There are, however, at least some reasons to believe that the proposals before us today might work more effectively than what has gone before. First, the two commissions, Commons and Lords, will jointly play a continuing part in the oversight of the project. The key word here is "jointly". Until three months ago, the two commissions had not had a joint discussion on the issue at all, because the Commons refused to do so. If we had worked together throughout, it is highly unlikely that we would have reached this impasse. Hopefully, a commitment to joint working and a continuous strategic oversight by the commissions working together will ensure the continuing political support for the process that clearly has not been present to this point.

Secondly, there is a broader recognition that more delay is unacceptable and that all the politicians involved in the programme board should be committed to making a success of the project. While Members of your Lordships' House who served on the sponsor body did indeed do a noble job, there were some whose attitude helped to undermine its effectiveness. This new approach should mean that that does not happen in future. Thirdly, and related to that, as a result of broader political changes, the very few individuals who have caused so much damage to the programme are unlikely to be involved in any significant way in the future.

We have gone a long way backwards in terms of what R&R will look like. It had been agreed that there would be a full decant. It had been agreed where both the Commons and the Lords would go in the meantime, and preparatory activity was under way. Although some valuable work, such as the intrusive surveys, are going ahead this summer, beyond that nothing is now decided.

I have always supported the full decant and the temporary relocation of your Lordships' House to the QEII conference centre. The original proposals for this were almost certainly too lavish, and the use of new technology over the pandemic has shown how we can make the relocation operate with rather less disruption than originally planned. For example, we could reintroduce electronic voting on the estate so that those with offices

[Lord Newby]
in Millbank do not have to spend a huge amount of time moving between their offices and the conference centre.

As to what we do in the Palace itself, I support the proposals from the noble Lord, Lord Blunkett, very strongly. I hope we will also look at other changes, such as covering some of the internal courtyards to enable facilities for Members and visitors. As the restoration of the Bundestag showed, there are great benefits in being imaginative.

One common argument against doing the project properly now is that it will cost billions at a time when the country simply cannot afford it, given all the other pressures on the public purse. This argument simply must be rebutted. First, failure to act decisively runs the risk of a serious fire or health incident, and the country would hardly look sympathetically at us if our endless dithering allowed such an eventuality to happen. Secondly, even on the quickest timescale this is a multiyear project. Expenditure in any one year will, by definition, be a fraction of the total cost. The highest rate of expenditure that is likely to be incurred, even if all goes well, will not happen for a number of years, by which point I hope the current economic crisis will be well behind us. So at no point will this project have a significant impact on overall public expenditure or the Government's ability to spend their money where they deem it necessary to do so.

The key challenge now is to identify and appoint the political members of the programme board. They need to be fully committed to the success of the project and be prepared to spend a very significant amount of time and energy ensuring it. We will be asking a lot of them. As the first step in bringing sanity, speed and substance back into this project, we should support the proposals before the House. There is no other viable alternative and we simply must not tolerate further delay.

5.13 pm

Lord Best (CB): My Lords, alongside the noble Lords, Lord Carter and Lord Deighton, and the noble Baroness, Lady Doocey, I am a board member of the restoration and renewal sponsor body charged with implementing the Parliamentary Buildings (Restoration and Renewal) Act 2019. I act as the spokesperson responsible for reporting to your Lordships' House on behalf of the board. I am grateful to the Chief Whip and the usual channels for allowing me to speak for a couple of extra minutes. However, the opinions I express today are my own.

I have to say that the whole exercise, since the creation of the sponsor body and the attached delivery authority in 2020, has been deeply frustrating. There is a straightforward reason for this: our client, for whom we were required to deliver a full scale R&R programme, including the decanting of both Houses while major works were undertaken, has not been committed to the project. The client role has been represented by a House of Commons Commission that has not accepted the brief.

The approach of the House of Lords Commission, with leadership from the two Lord Speakers over this period, has been entirely positive. The Lords side agreed the mandate set out in the 2018 resolutions and the Act, and accepted, albeit reluctantly, that a move, probably to the QEII conference centre, would be necessary. But from the Commons, it has seemed that there has been a constant effort to kick the can down the road, specifically to resist all proposals for temporarily decanting the Commons from the Palace. This tension came to a head in March with the decision from the House of Commons Commission that the comprehensive programme should be halted, and the sponsor body dismissed. In essence, the new position—now incorporated into the Motion before us—comprises two significant changes.

First, instead of a full-scale R&R programme, as originally envisaged by the Act, the delivery authority is being asked to bring forward a selection of more modest propositions for works that could be undertaken end to end. This avoids committing to a very large sum, which is hard to face up to when public funds are tight. It is also implied that this will make possible the continued presence of the Commons in the Palace throughout the restoration, even if the Lords must move out. The details of this changed approach need clarity urgently, otherwise the delivery authority—which is continuing its extensive preparatory investigations with intrusive surveys during the forthcoming recess—will face a prolonged hiatus, with all the dangers of losing more staff and of substantial nugatory expenditure.

An extended sequence of major repair projects will probably cost far more in total and take far longer—and, of course, risk a major disaster in the meantime. All that aside, the approach will simply not work when it comes to the extraordinary challenge of the basement beneath our feet. Last week, I paid another visit to the basement's frightening scene: the tangle of intertwined sewerage pipes; miles of electric cables internet wiring, gas pipes, steam pipes and chilled water pipes; the newly installed fan to suck out smoke from the frequent small fires which stands idle because it stirred up the asbestos; and the inaccessibility of key infrastructure now behind layers of more recent installations. This part of R&R represents well over half the total cost and does not lend itself to being one of a series of smaller projects. Sooner rather than later, the complete upgrade of all the services in the basement must be faced. It is very hard to believe this can possibly be done sensibly, safely and economically with the Commons staying in situ.

The second change from the position prior to March 2022 concerns the governance structures for our R&R. This is the real focus of the Motion before us. Despite its governance performance being deemed exemplary by the relevant external bodies, the sponsor body is to be disbanded as soon as possible, with new in-house board arrangements as outlined by the Lord Privy Seal.

Should we accept or reject this Motion? I see three reasons why we should not oppose the proposed changes. First, the abolition of the sponsor body is a fait accompli. The process of dismantling the current structure has already gone ahead. Our excellent chief executive, Sarah Johnson, is leaving imminently and senior staff have already gone. Progress towards bringing the planned business case for Parliament to consider in 2023 has been discontinued and work on the QEII decant ceased

months ago. It would not make sense to try to return to the position before the abrupt stop to our work back in March.

Secondly, I recognise the case for stopping the programme's progress now because, if matters were to proceed as planned for a parliamentary decision this time next year, the House of Commons might well simply reject the sponsor body's propositions and the whole of R&R would be set back indefinitely. It may therefore be best to stop now rather than continuing to spend money for another year before crashing into the buffers in 2023.

Thirdly, even though proposals for new arrangements for R&R sound very much like the can being kicked further down the road, I think they are worth a try. What they could do is remove the ongoing hazard of a client that does not really want the project to progress. If the new arrangements engage Parliament's representatives more closely, with genuinely joint working between the two Houses, creating a greater sense of ownership of the brief and putting the deliverer and the client on the same side, it might at last resolve this inherent problem.

I feel sure that those of us who have served on the sponsor body will happily move on, and I am delighted that the majority of our highly capable and committed staff will form the team for the new in-house body, but a serious change of approach is required from the leadership of the Commons commission. The aversion to a decant has to go and I am encouraged by the view widely expressed in the Commons yesterday that a decant of several years should be accepted.

The client role must now be exercised with absolute clarity and there must be a proper recognition that the restoration and renewal of the Palace as a safe, sustainable and accessible building, fully in accord with the amendment from the noble Lord, Lord Blunkett, will be enormously costly but incredibly worth while. The total cost may be around £10 billion, spread over 15 years or so, although the rising annual spend of £150 million on maintenance will be saved.

Those in the Commons who are apprehensive about their electorate's disapproval of such spending may draw comfort from the sponsor body's consumer research, published last week, which shows that the wider public are hugely proud of this internationally recognised and iconic Palace and desperately want it fully restored. We should remember that all this spending supports businesses throughout the UK with contracts, jobs, apprenticeships and skills.

Because the new arrangements are a fait accompli, because they spare us a doomed outcome next year and because there is a chance that the new governance will at last achieve the commitment to the project that has been lacking, I accept the Motion before us. Let us get on with it.

5.21 pm

Lord Haselhurst (Con): My Lords, I am certainly not inclined to quarrel with this Motion, nor the amendment tabled by the noble Lord, Lord Blunkett. At the same time, I feel that we are seeing no more than a further twist in what is already an overlong tale. The risks attributed to further delay are mounting and I cannot understand why more people do not recognise that fact. There is no guarantee that a grave incident can be averted. I pay tribute to all those of our staff engaged in minutely looking after this Palace to ensure that no unfortunate incident is allowed to spread and become a total disaster.

It is also now to be recognised—this has already been said in the debate—that a total decant from the Palace is the means of achieving lowest cost and shortest displacement. When a few years ago we sought the views of the Austrian Parliament, which was faced with a similar situation, it was ahead of us but the message it gave us at the time was: "You must get out of the building before you can carry out the repairs and the restoration satisfactorily."

Staying on, as Peers and Members of Parliament did after 1834, proved a total nightmare. It has been graphically described in Caroline Shenton's book *Mr Barry's War*, and I am relieved that I am not the only person to refer to that volume. I think it should be made compulsory reading.

Even now, as described by the noble Lord, Lord Best, there are colleagues, maybe some of them entirely well meaning, who demur about what should be done. There is talk that, "They will not allow us back into this building". That is a very odd idea; if the public are willing to see a very large sum of money spent on its restoration, they will not take too kindly to Members of Parliament and Peers who then say, "We don't like it; we're not going to use it". There is some worry about whether an MP will be disadvantaged if his or her time is so short that they do not get to serve in the Palace of Westminster, because proceedings are taking place elsewhere. I find that a very strange way of looking at matters. To be a Member of Parliament should be seen as being about the honour and the privilege—not whether the upholstery is to your liking.

There is, as just referred to, the worry about the cost. Members of Parliament, looking to the people who elect them, worry about the sum of money being embarrassing when other difficulties are taking place throughout the country. The fact is that the evidence points to the public as whole caring more about the preservation of this building than they do about its inhabitants and we should realise that the British people have great pride in this iconic building. It would be seen by them as a total disaster if we did not attend to matters.

There are bound to be some cost overruns, as far as I can see. If the intention is to have a Parliament building on this site but updated for the likely needs of the next 100 years, inevitably there have to be some changes—some modernisation. Facilities for women would not be a bad idea. There is a classic quote from Lord Brougham, who said, on the question of whether seating capacity for ladies should be provided in the Commons part of the Palace, that

"ladies would be infinitely better employed in almost any other way than in attending the Debates of that House."—[*Official Report*, 17/7/1835; col. 679.]

Of course, ladies did not even have the vote at that time, so this Palace was ill designed to look after that basic equity.

In our new arrangements, we must ensure that handicapped people are better able to use the facilities of this building and play a part in whatever way they

[LORD HASELHURST]
seek. There need to be improved reception facilities for the greater number of visitors that we seek to attract to the Palace. It is an absolute scandal that at present we leave people in the open air, in queues, trying to get in. They can roast, freeze or be drenched. It is not the way that they should come to Parliament and get their first impression of it.

We need more space for meetings as we are taking on more and more issues and Members wish to congregate to discuss these things. All-party groups have swollen to, I think, more than 600 by now and it is very difficult to get facilities within the Palace at the moment. I quote again from Caroline Shenton, who said of Charles Barry and all he had to put up with:

"Battling the interference of 658 MPs, plus Peers, press, and Royalty; coaxing and soothing his collaborator, Pugin; fending off the mad schemes of a host of crackpot inventors and assaults from the egos of countless busybodies intent on destroying his reputation; and coming in three times over budget and 16 years behind schedule, its architect eventually won through—after countless setbacks and rows."

It seems to me that some of those people roam this building like ghosts, reminding it constantly of what they wanted, not now recognising what is needed.

Let us not ignore the lessons of history; let us learn from them. Let our overriding purpose be a handsome Palace on this site, updated to allow our parliamentary democracy to flourish for many decades ahead.

5.29 pm

Lord Carter of Coles (Lab): My Lords, I support the new mandate because clearly the existing arrangements are not working. In fact, they have been a shambles.

I have had a ringside seat as a member of the sponsorship board. I have watched with great interest as the board tried to be true to the 2019 Act while facing the Government and the House authorities working to a totally different agenda. We therefore had stasis with no progress. It was sad to watch both parties spending a great deal of time talking past each other and spending money trying to prove different points, none of which had any grounds.

We could change the governance structure. The old adage is, "We have failed, we have reorganised and we have tried again", but we must hang on to the fundamentals of the great challenges that we face. It will be interesting to hear in the response how we intend to organise to ensure that we are sticking with the things that we decide to do. There have always been three great challenges: what to do, how to do it and what we are prepared to spend on it. We have to get those questions nailed down. The delivery authority will bring forward proposals on that which will undoubtedly be well worked up.

When these great projects start, there is widespread consultation and everyone is asked what they would like. You build up an enormous wish list; I think the noble Lord, Lord Newby, described it as luxurious while others have described it as gold-plated. You inevitably end up with a long list of desirable things, and anyone involved in great projects knows that that is the moment when you have to edit. You have to seek to build a consensus about what you want to do and that has notably failed to be done. One of the most critical elements of the new structure will be to get people to sit down and agree what they are going to do. Will there be compromises on aspects such as access or security?

Are we really going to build something in here fit for the 21st century? We might want to consider the wisdom of trying to put a 21st-century future-proofed building into a mid-19th-century shell. That will cost a huge amount of money; maybe we should think a little around the edges of that.

On the question of how, other noble Lords have referred to what to do about full decant. That has been a subject of disagreement, the question that has most poisoned the progress of this scheme. We know that the two bookends were full decant at one end and significant continued presence at the other. The delivery authority is going to look at different proposals but—to dwell for a moment on continued presence—many of us who walk around the building, including underground, will realise how hard it will be to rebuild this thing if it is occupied. The estimates are that the most money we could spend, given the constraints of the building, would be in the low hundreds of millions a year. We cannot spend any more money if people are in the building. We might therefore end up with work lasting for 30, 40 or 50 years, and in that time there would be noise and dust as well as discomfort, not only to Members but to staff and visitors.

We therefore need to see a much more flexible approach—some form of decant. This will not work without decant to some degree. Again, though, we come to the central point: we need to get an agreement. We have had position-taking on this that has lasted years and people have not come together to get an answer. With the new arrangement, it is critical to sit down and decide, first, what we are going to do; secondly, how we shall do it, and settle that; and, thirdly, to settle the money.

I wondered the other day whether, when the joint commission came forward with its number of £3.54 billion for the scheme, if it had known at that point that the figure would be nearer £10 billion or even £13 billion, it would have proposed it. Other noble Lords have referred to the public being in support of this proposal, but we need to be aware of the climate. With Covid around the corner, would people have said, "We are prepared to spend £10 billion", at that point? We need to find out what it costs—and find out quickly—but we can do that only when we know what we want to do, and we have dithered. Having found that out, we know the cost. We then come to the question of affordability: can we afford it and are we prepared to spend it? That is where the Government come in. We cannot plot our way forward in this unless the Government come forward very clearly and say what they are prepared to spend and what they are prepared to commit to spending in years A, B, C and D. We need to get that very clear.

It is right to have a reset. We need a new degree of pragmatism. Things are going to change continuously. I would be very keen to hear what the governance oversight arrangements are going to be. How will Parliament know? What are the milestones? What are we expecting to be delivered and when? How are we going to keep our eye on that? Reassurance will be

critical but above all, like other noble Lords, I believe the key now is to use the reset to get speed into this. We are living on borrowed time, and it would be very sad if we did not take this opportunity to get on with things a great deal faster.

5.35 pm

Lord Fowler (CB): My Lords, I agree very much with what the noble Lord has just said about the Government and their role. One of the more misleading statements in the general debate so far—not in this debate this afternoon, but outside—has been that it is all a decision for Parliament. That is patently not the case. If Parliament was to make a decision on financial spending which went over the accepted limits, then it is a pound to a penny that the Government would intervene; there is no doubt about that whatever.

As it is, over the last eight years, government Ministers such as Mr Rees-Mogg have not thought twice about intervening in the debate of Parliament. Even more to the point, Governments can take decisions which limit the action of Parliament. If we take the issue of a decant of Members—I agree very much with what the noble Lord, Lord Newby, said about Members working while it is going on, and I do not want to argue the case because he has done it so well, as have others—the obvious place is the Queen Elizabeth II conference centre.

However, the former Secretary of State, Mr Gove, whose department ran the centre, said bluntly—rather like a 19th century mill owner—that this was not acceptable to him and that the House of Lords should not go to the Queen Elizabeth II Centre but hundreds of miles away. We have a position where a Secretary of State—here yesterday and gone today—appointed by a Prime Minister who is still here today but gone tomorrow has vetoed the most sensible proposal for a decant of this House, if it ever decided to go that way. I hope that the Leader of the House in replying to this debate will say if the veto on the Queen Elizabeth II Centre is still part of the Government's policy—or was it just Mr Gove's policy and not the Government's? It is rather a crucial question. If we cannot go to the Queen Elizabeth II Centre, that limits where a decant could go.

I cannot resist saying in passing that I am puzzled by a process that has a commercial conference centre run by the Government and not the private sector. I see that my old friend the noble and learned Lord, Lord Clarke, is here. We worked together very early on in the Thatcher Government in transport. We found a company called National Freight Corporation, which included a removals company called Pickfords. We came to the conclusion that you did not need a nationalised removals company in this country. I do not think its abolition as such has caused any controversy with any known political party.

In my position as a—what am I?

Lord Newby (LD): Cross-Bencher.

Lord Fowler (CB): In my position as a Cross-Bencher, I think that it is a very odd position for the Conservative Party. I do not believe that it is in our national advantage. I gently say that it might be better for the Government to go down the privatisation route in this area rather than in one or two others that they seem to support.

That brings me to my second point about the joint report. Frankly, I did not find it to be the clearest exposition of the case or the clearest piece of writing. I give one example, from page 6:

> "The Panel recommends that the parameters 'should be augmented by clear evaluation criteria' which are designed to support option assessment, and key trade-offs which will need to be made to arrive at a progressively shorter list of possible options for the works. These criteria should take account of longer-term perspectives and link to the programme's end-state vision and intended outcomes."

I am sure that that is persuading people around the country to be in favour of this report, but I am not altogether sure that it persuades me. There is much in the joint report about generalised vision but precious little about some of the real issues, such as the real cost of eight years of work—carried out prior to what is now called a "new mandate"—that we are turning our backs on.

Thirdly and finally, after the Great Fire of 1834, to which the noble Lord, Lord Haselhurst, referred, various efforts were made to agree a rebuilding plan, and it took 30 or 40 years for it all to be agreed. We should learn from that. I am concerned not just because of the complexity of the task but because of the many interests, including the Government's and government Ministers', all intervening at the same time. Unless we are very careful, we are likely to face exactly the same kind of indecision and delay as they did in the Victorian times—we have certainly done that in the first eight years. So far, we lack both leadership in this project and a determination to stay on the plan.

I agreed with the spirit and almost every word of what the noble Lord, Lord Blunkett, said, but I was not encouraged when the Leader of the House said that it would take "decades" to complete this project—I think I quote her right. Is it really going to take decades? If it is, we are in for a certain amount of difficulty. We need to get on with this; we should decide a plan and stick to it, rather than having the kind of debate and discourse that we have had over the last eight years.

5.43 pm

Lord Colgrain (Con): My Lords, I am sure that I speak for all of your Lordships when I say that I am very fond of this building. My affection has grown as a result of having been a member of your Lordships' Finance Committee for over four years. This gave me the opportunity to clamber all over its structure, up both Victoria and Elizabeth Towers, and on top of and underneath Westminster Hall, inspecting stained glass and other windows, all to investigate excellent works that were in progress, or which had been completed and had appeared in the accounts. It is fair to say that, in large part, notwithstanding all the scaffolding that we can see, the outside of the building is in pretty reasonable condition. I am not going to rehearse the comments already made by so many noble Lords about the internal conditions, other than to continue to highlight the difficulties attached to the unknown quantity of asbestos and the state of the cellars and basement—a tour of which should be obligatory for all able-bodied Members of both Houses. Lastly, there is the situation regarding fire hazards, whereby, as your Lordships know but can chillingly be reminded, there is a requirement for 24-hour fire marshals, who detect one fire a month on average in this building.

[Lord Colgrain]

So my interest in R&R has developed a personal focus, and my two questions for the Leader of the House are these. What real progress has been made since 2016? How much money has been spent on R&R to date? With regard to the first, I have seen a disappointing lack of focus on an operational level, which on occasion has led to a manifest waste of money without accountability. By way of an example, a management consultancy study was initiated to explore the design and cost for a floating dock on the river to facilitate the transport and unloading of building material that was forecast to be needed for R&R. This was done without prior consultation with the river authority, which when asked said that it had not granted permission for such a structure. Another example is the laying of an electric cable at Millbank House, infinitely more costly than necessary and with a much greater time delay than was forecast because the correct permissions had not been sought at the right time from Westminster City Council. Those are small examples, but they illustrate the disquiet that some of us feel as we inch forward slowly on this endeavour. Has anyone really thought through how and within what timescale world heritage site authorities, historic building conservation officers and the council will work together on whatever grand plan the proposed new joint commission will come up with? What likelihood is there that they will concur with whatever plans are proposed in any event?

The stop-go history of R&R to date tells its own story of obfuscation, just now so eloquently put by my friend the noble Lord, Lord Best. His speech should very much echo in our collective memory. For my part, having a passing knowledge in my professional life of the hiring and firing of people, I recently tabled two Questions with a view to finding out how much these comings and goings have cost in terms of personnel costs, both full time and agency. The first was to the Senior Deputy Speaker regarding R&R costs paid for by your Lordships' House since 2014, the answer to which is £58 million, with staff costs at £7.5 million and contractors at £51 million.

The second question was to the sponsor body and the delivery authority, to ask what their costs have been since they were established in April and May 2020. I am glad that your Lordships are sitting down, because the answer—in a six-paragraph reply—was that for two years, between 2020 and 2022, the figure was £212 million, of which £33.5 million was salary costs and £151 million related to contractor costs. I know that contractors are expensive, but what do we have to show for this investment? Any reference to long-term value to be gained from design and survey work, programme delivery, and project and programme management is debatable, since within a very short period of time all costings and designs become redundant and need to be reworked. Within that figure, £11 million was spent on work assessing and preparing decant locations. Is that really what it cost to direct us toward the Queen Elizabeth II Centre as a location option for this House?

Since we are pretty much back to where we started, my questions to the Leader of the House are these. First, should your Lordships have confidence that the new mandate for the R&R programme will bring about the cessation of what to date has proved to be in large part an egregious waste of money? Secondly, will its success or otherwise remain dependent on the whim of the Commons? I fear that history will not be kind to us if we continue to procrastinate and fail to make a decision before an accident occurs in this marvellous building. I echo in very large part the excellent speech of the noble Lord, Lord Blunkett.

5.49 pm

Baroness Andrews (Lab): My Lords, it is a pleasure to take part in this debate, and I am surprised to hear myself saying that. What pleasure there is comes from having more transparency in the past hour about what has been going on and what is likely to happen than we have had in any document or debate to date. It has been exceptionally helpful to hear the devastating speech from the noble Lord, Lord Best, and to hear from my noble friend Lord Carter and the noble Lord, Lord Colgrain. There are so many questions being lined up for the Leader of the House. I am sorry she will have such a limited time to reply, and so we look forward to her letter.

In deciding on the future of this building, we will be judged to have been derelict in our duty. What we have heard this afternoon is that vested interests seem to mean that we are incapable of acknowledging the consistent evidence that it is more expensive, more dangerous and will take far longer if we insist on staying in this building, for whatever period, than if we faced up to the realities of a full decant. That is what the evidence has been telling us for four years. That is what we voted on in 2019. That is what the work of the sponsor board, as we have heard, was geared to when collecting evidence as an expert, independent body. That is what we thought we would stick to. We thought we had a plan, but we have had a handbrake turn instead. Far from planning for certainty, we seem to have created even greater, indefinite uncertainty.

As the noble Lord, Lord Best, and others have said, in February this year the sponsor board came forward with figures. Those figures were unacceptable and took the commission by surprise: parameters of £7 billion and £13 billion, and a decant period of 12 to 20 years. The sponsor board also produced two other scenarios. First, that the Commons stay put in the building—probably in this part of the building, while we would be evicted indefinitely—at a cost of between £9 billion and £18 billion. Secondly, that we all stay put in the building site, at a cost of £11 billion to £22 billion, and facing the ludicrous prospect of work taking 76 years. That would be daunting to even the youngest of the hereditary Peers. There would be significant parliamentary disruption, with longer recesses and no parliamentary recall.

In response to this unwelcome evidence, the commission shot the messenger—what else could it do?—losing all the skills and the knowledge that had been accumulated. Now we have a situation where politicians and parliamentarians will be firmly in charge, but at least, as has been said, the commissions of both Houses will work together. That is a definite improvement. This is a scenario that Barry and Pugin recognised in extraordinary detail immediately in having to deal with what Bagehot called the interference of politicians—it

came close to killing one and really did kill the other. They were trying to design the Palace; we are trying to concentrate on saving the Palace, and the future and functions of Parliament.

The current—although possibly very temporary—Leader of the House of Commons seems to think that the answer lies in some sort of Shavian superhero; what he calls a star architect, who will be brought in to reconcile the irreconcilable. Parliamentarians would work in a dangerous building site for decades, rather than budge.

The building is dangerous: we have had 13 instances of falling masonry in recent years—the most recent being the north face of Westminster Hall. We all know that it is dangerous, and not least because it suspends the Commons. Yesterday, with masterly timing, a leak suspended the Commons. Removing asbestos has already proved to be dangerous to our staff. Experts outside this House tell me it would take at least two years just to remove the asbestos. Does the Leader of the House agree with the trade unions that

"the ongoing viability of the Palace of Westminster as a safe workplace is at stake and … anything less than the full decant envisaged under the Act would put that at risk"?

I would appreciate a clear answer to that at the end of the debate.

The temporary sprinklers in the basement may hold the worst fires at bay but they cannot prevent them all, and they will cause further damage. They have cost £140 million to install and will be ripped out when something permanent is put in. That is only one of the eye-watering examples of waste revealed by the PAC report a few weeks ago—the latest in a long line of devastating audits on lack of transparency, failure of accountability and waste.

I will put some specific questions to the Leader of the House; the noble Lords, Lord Best and Lord Carter, have answered many of them, but I still think I ought to put them to her. Why precisely did the commission propose dissolving the sponsor board? What did not work? Does she accept the sponsor board's evidence that not decanting the House fully will be more expensive and dangerous and take longer? Are the two alternative scenarios set out and costed by the sponsor board still on the table? Does she agree with the noble Lord, Lord Best, that what is proposed now will not work? Can she explain why she thinks it will? Can she expand on the Leader of the House of Commons saying yesterday that, notwithstanding the need for an agreed end view, there should be "opportunities for periodic review" to

"allow the programme to adapt to changing fiscal, societal and political contexts"?—[*Official Report*, Commons, 12/7/22; col. 275.]

Does that not mean a licence for political interference?

Put that together with the evidence that the House administration has a poor track record of project management and I have little confidence that we know what we are doing. However, I believe we have to support this, for the reasons that have been explained, because there is no alternative and we can see some improvement.

The commission now has the great challenge of showing real leadership and reconciling what is desirable with what is necessary. If we are going to be stuck in this limbo indefinitely, we face the risks of catastrophic failure, as people always do when custodians of heritage buildings fail to act in time. We will be accountable to not just this country but the world. UNESCO is looking at us extremely closely; it wants a plan to secure the building and protect its heritage, on a realistic timetable. At the moment it does not have that; if it does not get one, we will face the shame of being blacklisted as a world heritage site.

5.57 pm

Lord Lisvane (CB): My Lords, I find it difficult adequately to communicate the sense of frustration that I feel at the way these matters have been handled. In 2011, together with my opposite number Sir David Beamish, I commissioned the original condition survey of the Palace. I felt passionately that we could not be another generation of stewards who passed up on our responsibilities for this wonderful building; it had been only too easy to do, year after year and decade after decade. David and I agreed that this had to stop.

The principal conclusion of that survey was that doing nothing was not an option. Now, more than a decade later, we are still unable to escape from Groundhog Day. Still beneath our feet is that horrifying basement, so vividly and frighteningly described by the noble Lord, Lord Best, and which I very early on christened the "Cathedral of Horror". Certainly, there is no reason to change its name now.

I supported the original R&R governance structure on two main grounds: that parliamentarians would be unable to resist interfering with the delivery of the project, as happened for decades when the Palace was being built; and that Parliament is not good at taking executive decisions—and why should it be? Now, it seems, everything is to be put back into the melting pot.

I spoke in the debate on 6 February 2018, at the end of which your Lordships concurred with the House of Commons in recognising the

"clear and pressing need to repair the services in the Palace of Westminster in a comprehensive and strategic manner to prevent catastrophic failure in this Parliament".—[*Official Report*, 6/2/18; cols. 1916-17.]

The two Houses agreed that the only option was a full decant, and that the right governance model was a sponsor board and delivery authority. Now we are back to square one—or possibly square minus one. I do not feel strong enough at the moment to revisit the arguments about governance, nor those about the likely cost. My concern is with the immediate practicalities, which I hope the noble Baroness the Leader of the House will be able to address in her reply.

First, let us suppose that there is what the 2018 resolution of both Houses called a "catastrophic failure" of services. It might be caused by fire, flood, power outage, asbestos escape, whatever. If there were a major incident, it might well mean that the Chambers and perhaps large areas of the Palace were unusable for a long time. Let us also say that, instead of the vague possibility of such a failure, the very vagueness of which has been such a comfort over recent years, the disaster happens tonight—for the sake of argument, at about 11.30 pm. What happens tomorrow? How

[LORD LISVANE]
does Parliament continue its work? I hope there are good answers to these questions, but I fear I do not know them.

It is worth remembering, too, that there are already a large number of projects under way on this crowded and constrained site, and it is a credit to those who plan and carry out those works that the effect on day-to-day business has been minimised.

The first paragraph of the Motion before us emphasises the need to ensure the safety of all those who work in, and visit, the Palace, now and in the future. It is one thing to express such a commitment but quite another to fulfil it. We may think that we carry some collective responsibility for these matters, but legally they fall to two people only: the Clerks of the two Houses, who under the Parliamentary Corporate Bodies Act 1992 are the corporate officers. Those of your Lordships who have been corporate officers, in whatever contexts, will be only too well aware of the unforgiving nature of the law in respect of corporate responsibility. The Corporate Manslaughter and Corporate Homicide Act 2007 concentrates the mind wonderfully—it certainly concentrated mine. It is for a corporate officer, and for him or her only, to decide whether an organisation can discharge its duty of care and, if not, what remedial action to take.

In a parliamentary context, that could mean deciding that part of the Palace was too hazardous to allow access to. That could not be overruled by the commissions of the two Houses, and it might have a very significant effect on the transaction of parliamentary business. I would simply observe that in terms of hazards—multiple hazards—we are living very close to the edge. We can be lucky only for so long, and if we are not, national and world opinion will not be kind to us.

When I spoke in the February 2018 debate, which was just about a year before the Notre Dame fire, I suggested what I described as,

"a highly plausible scene … on a hot summer's evening, with both Houses sitting late to finish business before the Recess. One of the too many minor fires, which we are told occur each year, swiftly becomes a major fire and spreads rapidly because of the lack of completed fire compartmentation. The electricity supply goes down completely. A huge demonstration which happens to be taking place in Parliament Square means that the emergency services cannot get to us quickly. There are hundreds of casualties and possibly fatalities."

I asked:

"How do we feel about continuing to carry that risk…?"—[*Official Report*, 6/2/18; cols. 1972-73.]

The noble Baroness the Leader of the House emphasised the need to proceed more quickly with safety-critical works, but I would say—adopting Lenin's words, "everything is connected to everything else"—that it is quite hard to complete safety-critical works within the wider context of building restoration. You cannot do it properly without doing it as a single exercise.

I shall finish on a less pessimistic note. I endorse the aspirations of the amendment in the name of the noble Lord, Lord Blunkett. As chairman of the fabric advisory committee of a cathedral, I am very well aware of the shortages in the many heritage crafts that will be needed for the restoration and renewal of this world-renowned building and the desirability of these being found from all parts of the country. I am glad that it seems accepted that R&R should be supported by a heritage crafts academy, which partly through apprenticeships will support the skills needed and thereafter will stand as a permanent public benefit.

6.04 pm

Lord Lingfield (Con): My Lords, I remind your Lordships of my registered charitable interest as chairman of the Chartered Institution for Further Education, which has some national responsibilities for vocational education and apprenticeships, and I shall return to apprenticeship in one moment. I was delighted that the noble Lord, Lord Lisvane, has mentioned this aspect of R&R.

With other noble Lords, I believe we must accept these proposals for restoration and renewal. I have much to do in my life with the repair and restoration of historic places, and the one thing that we know about working on heritage buildings is that the unexpected happens. What look to be straightforward and relatively swift tasks very soon turn out to be complicated, slow and delayed ones, and it is rare that the opposite happens. I think, as my noble friend Lady Evans has said, we must have processes which anticipate and adapt as we go along.

I have two, brief observations: one of them cautionary, the other a request. Annexe A of the joint report says that it will be essential to ensure that,

"lessons from previous project activity are embedded in future project activity".

I think that is what noble Lords have been asking for throughout the afternoon. There is one particular reason that I want to outline for that, and that is that the number of men and women in the country who are skilled and experienced in the leadership, management and delivery of great projects, such as this one, is not infinite. During the coming decade, there will be large number of huge infrastructure programmes in the United Kingdom, many of them connected with the supply of energy, both conventional and green, and which current world conditions will demand of us. They will require exactly the kind of people that the restoration and renewal of Parliament will need. It is sad that we now have, out there, a reputation for vacillation, and that may not make us attractive employers. As page 27 of the report suggests,

"confidence within Parliament has been lost to … an extent".

If that is so, it will certainly be lost outside Westminster and we must now regain it by clear, unambiguous plans for the future, as the noble Lord, Lord Fowler, made clear to us in his speech.

Secondly, in the last few years—and I hope the noble Lords will find this rather more encouraging than some of the issues we have discussed this afternoon—I have been in discussions with the delivery authority staff, and I want to pay tribute to them for all their professionalism and hard work, in difficult circumstances during the last few years. We have been designing, in embryo, what has now been called the Palace of Westminster apprenticeship scheme. Briefly, it suggests that restoration and renewal should provide a superb opportunity to showcase apprenticeships of every kind. As well as heritage crafts, which have already been mentioned and are in danger of disappearing, there

are many which will lead to permanent, important employment opportunities for such as architects, surveyors, builders, electricians, safety engineers, plumbers, stonemasons, carvers, painters and those engaged in a host of other skills. I am delighted to say that the delivery authority's contracts over a certain sum will now require firms to employ an appropriate number of apprentices on or off-site. The scheme will offer employers the opportunity to register young people at the start of their apprenticeships and to report when they have successfully completed them. They will then receive a small medal, based on a Victorian example showing the Palace from the Thames, to remind them of their work on this historic site, which we want them to be proud of and remember. There are likely to be around 50 or 80 of these young people every year, and we hope that some of your Lordships will meet them.

This House knows that there is a serious skills gap in this country. Whereas large national businesses are good at training the young, small and medium-sized firms often find it difficult to do so. The incentives are too few and the bureaucracy complicated. Alas, the numbers of trained and up-to-date lecturers in vocational colleges are falling each year. If this country is to be competitive, then things must improve. This scheme, in a small but visible way, will help, and I commend it to your Lordships for approval.

6.10 pm

Lord McLoughlin (Con): My Lords, I very much regret the situation that we find ourselves in today. I served on the sponsor body until the last general election, with the noble Lord, Lord Carter, and others, and it is worth remembering that one of the reasons the sponsor body was put in place was that it was based on the backdrop of the successful delivery of the Olympic Games in 2012. It was very much based on the way the Olympic sponsor body was set up, to get on and do the job.

There is no doubt that this project will be vastly expensive and no Government, be they Labour or Conservative, will want to commit that kind of money to it. I look at the Elizabeth Tower as it is today. What a fantastic example of restoration that is. Yes, the costs overran, but the Elizabeth Tower is seen as a symbol of the United Kingdom around the world—it is absolutely prominent. While it was being prepared, it looked awful. In fact, when most people go past the Palace of Westminster today, they think we have started restoration and that we are committed to doing it. We are doing not restoration but repair, because in places the building is falling down.

I understand why we are where we are today and the sensitivity about the whole decant. When I spoke in the other place on this matter, I made the case that one of the large infrastructure projects that I saw commenced when I was Secretary of State for Transport was the rebuilding of London Bridge station. That was four years of sheer hell because it was still being operated. If you look at it today, everybody says what a fantastic job has been done, and likewise with some of the other restorations that have taken place.

The simple fact is that restoration is incredibly complicated and very difficult to do. I very much sympathise with what the commission has been saying. However, one suggestion I would like to make at this point is that perhaps we should think in the future of giving the planning authority to the Commons so that it can get on with the job. I fear that there will have to be a decant. Nobody really likes the idea that some of the works that need to be done, certainly in the basement or the cellars, will require it, but it will be impossible without it. Parliament used to have a three-month Recess and sometimes a lot of the building work was done in it. That is now seen as impractical and something that we will not go back to. I do not think we should—there might be a desire for it but I would certainly not like to see the headlines in the papers. I can say that today because I think the headlines in the papers tomorrow will be of a different nature. Therefore, I do not think we will go back to that position. Now, however, the whole Palace is almost like a building site; that is not to take away from the very difficult jobs that a lot of people do in and around the building, trying to maintain it.

I should like to see us give ourselves our own planning permission and to see 24/7 working once we start that basement work. We could get access via the river; that could be one way of overcoming the problem. Some of the things that the sponsor body has been attacked for coming up with were never its plans in the first instance. The whole Richmond House idea was not something that the sponsor body did; it was told that it had to do that. Sometimes I feel that elements of the sponsor body have been unfairly criticised for coming forward with proposals that were not originally theirs—the body was told that it was necessary to do them.

The noble Lord, Lisvane, aptly summed up the challenge to us. It is a huge challenge. I understand why the Leader of the House and the commission have come forward with today's proposals, and that is why I will support them tonight. However, this is an incredibly special building, not just in the United Kingdom but in the world, and we need to make sure that it is looked after and maintained to the highest possible standards.

Part of the reason we are in the mess we are in is that past Governments have not wanted to do any of this work. There has to come a time when we are on the front foot, saying why it is right and necessary to do it. I hope that the Leader of the House can reassure us that this will not lead to even longer delays. If we get longer delays, one day there might be a catastrophic incident and then people will say, "Why didn't you do this before when you knew about it?" We did know about it but, at the moment, we are not acting.

6.15 pm

Lord Vaux of Harrowden (CB): My Lords, I remind noble Lords that I chair your Lordships' Finance Committee and therefore sit on the commission. In those roles I have become more involved in the discussions around R&R in the last year or so, but I stress that today I am speaking entirely on my own behalf.

I wholeheartedly support the Motion in front of us today and the changes being made to the governance of the R&R project. We have heard quite a lot of doom and gloom so far and I am sure we will hear more, so let me try to put a more positive view on things, if I can.

[Lord Vaux of Harrowden]

First, I will say a word on what the proposal is, and what it is not. This is not about prejudging the end result—what options will be chosen, whether we decant or not, the level of accessibility and so on. Those decisions are for the next stage, once the delivery authority has done its job in providing us with a range of options. This proposal is about how we get to that point and ensure that we are able to take the right decisions. I am sure that some will think we already know what the options are, but really, we do not. No intrusive surveys have yet been carried out—they are, at last, happening this summer—and only very limited options have been considered. Like most noble Lords, I expect that a full decant or at least some decant will be required. But again, that is not a decision for today.

I thank our representatives on the sponsor body board. They have worked extremely hard to get us to this stage and, frankly, their task was pretty much impossible. They deserve our sincere thanks. But the existing structure was flawed and, frankly, not working. The sponsor body was created in part to put R&R at arm's length from Parliament and to remove the politics from it. That failed. It was not the fault of the sponsor body but we ended up with the two Houses of Parliament taking opposing positions. The whole thing became, frankly, rather Brexity, split between "decanters" on one side and "non-decanters" on the other, rather than trying to find imaginative solutions to the problem. One of the great positives to come out of this new situation is that the two Houses are now working much more closely together. Personally, I have been encouraged by the amount of common ground we have had in our joint meetings.

The sponsor body was also meant to be the "critical client" for the delivery authority but, in reality, I am afraid that it has become its de facto communications arm. This has been most evident in the poor control of expenditure, as the noble Lord, Lord Colgrain, previously raised. The combined expenditure of the sponsor body and the delivery authority to date has been well over £200 million—I think the noble Lord said £212 million—which includes incredibly high expenditure on corporate overheads and consultants and, in particular, extraordinary levels of expenditure on IT. The sponsor body itself has been paying between £5 million and £7 million a year to a big four accountancy firm just for the business planning. As I say, the intrusive surveys are only now kicking off, nearly two years later than planned. Most of the work done has been desktop analysis and modelling rather than genuine "sleeves rolled up" investigation.

The structure also created a very "them and us" situation. Our in-house teams, who probably know more about this building than anybody else, have not been sufficiently involved in the R&R process so far. This reset should ensure much closer collaborative working—it is already achieving it. However, we should be looking at how we can improve the situation, and I believe that this reset creates some real opportunities.

First, we have heard comments, and I am sure we will hear more, about kicking the can down the road. I have a more optimistic view. There has been a tendency to defer decisions on important work simply because it will be part of R&R. Part of that is to avoid nugatory spend, but part of it has simply been "It's simply too difficult to make that decision now: let's park it." We now have the opportunity to bring some of those elements forward, especially where they relate to safety and risk, and I very much hope that will happen. I urge the teams to give us tangible examples of that as soon as possible.

Secondly, I hope we will now see a fundamental change in approach and mindset. So far, the way it has worked is that the sponsor body and the delivery authority come to us to ask how we want things to look and then go away to investigate that scheme. To me, that is the wrong way round. As Members of this House, none of us are experts; we do not know what is the art of the possible; and we do not really understand the state of the building. Of course, we know the broad parameters of where we want to end up—safety, accessibility and fitness for purpose as a home for Parliament in the future—but there are many ways to achieve that. To prejudge the detail before we have the options is the wrong way round. In this, I disagree with the noble Lord, Lord Carter: we should not set the endgame before we know the situation and before the delivery authority has imaginatively come up with what we need to do.

We need the delivery authority to do the work, including the surveys—which should have been done two years ago—and come back with a range of options that will allow us to take an informed decision. We must also test some of the articles of faith that have emerged that are not always entirely based on fact. One I hear regularly is that the building is falling down faster than we can maintain it. I see no evidence of that anywhere and, when I asked for it, the sentence was taken out of the paper.

This requires much greater imagination and creativity by the delivery authority. Let me give your Lordships some examples. One reason the costs are so high is the assumption that everything should stay the same. First, we must remove all the services out of the basement and then we put them all back in the same place. That has huge time and cost implications. If it is possible to do it differently—to install services in a different location—we could do those two things in parallel, or even avoid the first step by leaving what is there. We do not have to remove it if we do not have to replace it there.

We have also been overly cautious over heritage constraints. I am quite pleased that the noble Lord, Lord Cormack, is not following me, because he might choke at this point. Of course we need to preserve this amazing building, but not in aspic. Buildings evolve, as this one has since it was built. We should look seriously at options that would reduce costs and, potentially, make the building a better home for Parliament, even if there are heritage implications.

The noble Lord, Lord Newby, mentioned glazing in the courtyards, and I agree. My example is lifts. Putting improved accessible lifts in current locations is very difficult, time-consuming and expensive. An easier solution might be to put them up the outside of the building in the courtyards, where no one can see them. That is easy and cheap, but has not been considered so far. That is just an example—it may not be workable—but I am asking that we think more creatively to save and improve this building. The current proposals would

see a 20% reduction in usable space for the £7 billion to £13 billion we are talking about. Where is the imagination in that? Where is the out-of-the-box thinking? I am sure we can do better.

The new governance structure will help, with more co-operative working between the two Houses—it already is. It should allow some work to be accelerated and, I hope, will encourage greater creativity of thought, hopefully leading to better proposals for the Houses to agree. I am completely behind the proposed changes, and I urge noble Lords to accept them.

6.25 pm

Lord Mann (Non-Afl): My Lords, I do not share the noble Lord's optimism, having listened to and participated in debates over the past 10 years. When I hear the term "sponsor", it appears to me that this whole thing probably should have had a sponsor's name in the traditional style. British Leyland would probably be the most apposite sponsor, given how the whole thing has been managed and handled.

I am a bit nosy, and when I was first elected to the other House, I had the curiosity to ask random members of staff to show me around until I knew my way around everywhere. They were always quite surprised that anyone was asking them anything. A few years ago, I did a tour of the Victoria Tower. The gentleman who kindly showed me round had worked there for 44 years, and he showed me every nook and cranny. It was fascinating. At the end, I asked him how many Members—we are talking about the Commons here—had actually visited and looked around. He said, "Two." I thought perhaps he meant two that week or two that month. No, it was two in his 44 years. Anthony Wedgwood Benn had previously done so with a camera crew; I was the second that he was aware of in that entire 44 years. When Members of the House of Commons cite their great knowledge of this building, my experience is that they know not what they talk about. They have not been around. They talk about a fantasy of the little bits that they follow, the little routes they go through.

The reason I have no optimism is that, having once had the privilege—sometimes the burden—of being elected, I know that their timescales are rather shorter and, therefore, decision-making is easier to put off because someone else can do it in the near future. But we have had a decant: two years, in essence, of a decant of pretty much the entire building. Can anyone demonstrate, since we undecanted, that governance of the country has improved or that our decision-making is better than it was? I put it to the House that, at a minimum, our decision-making was as competent when we decanted, pretty much en masse, as since. Indeed, when one looks at some of the alcohol-related allegations made about the other House, it has perhaps been rather worse—certainly for the Government—given what has happened since.

I did an international conference a few years ago in the Bundestag with the German Government. I had President Steinmeier, Chancellor Merkel and the leaders of all the main parties there. It was appropriate for various reasons that it be held inside the new Bundestag. But there was a bit of a difficulty, because I learned in many meetings over there that, when they rebuilt the Bundestag—their R&R—they did not rebuild it as was. They got rid of most of the meeting rooms. In essence, I had to have a conference in a corridor in order to be able to have a conference inside the Bundestag; it was the only place available. It was quite extraordinary. They went to great efforts to assist. It was on anti-Semitism, so there was a symbolism to why they wanted it inside the Bundestag, and so did I. But they had moved all their facilities outside—they did not rebuild and restore what was there.

I see precisely the intention. On the timescales, once there are major engineering works, they will take whatever time they have. That will cost the bulk of the money; of course, they must be done. Of course, the building will have to be decanted for however long, however many years.

But that leaves the rest. All these curious corridors and steps up and the offices that are there—do we need them all in the same way that they have been perceived to be there in the past? Do they all need broadband enabling, for example? Modern design is much more about the wi-world, as I believe it is called, with desks in open-plan and people going in to use a facility with their laptop—we can all have laptops, if we wish, now. That is where the world is already at. We could choose to be that. We are very peripheral, but it is symbolic.

Why would we keep different catering departments? Would we not rationally have one catering facility? As to whoever is agreed to use it whenever, I am not sure—we could occupy many hours on who, where and when—but why not run it as one, plan it as one and rebuild it as one? What do we need two Libraries for? Just because there has always been— I am sure there have not always been, but for the past 50 or 100 years there have been two Libraries.

I appreciate that for some Members of the Commons, these things are sacrosanct and we should not go anywhere near the so-called traditions, but this place has evolved over, essentially, 1,000 years in a vast array of different ways. I would be in favour of going back to the days when we said, "Let's go to York". It would be far more convenient for me and far more pleasurable, and it would be good for the health of us all. That is a debate I will not recreate, because I will not win it; but let us not just stay as we are. Based on the timescales, some of this place could be a semi-museum, which would be perfectly appropriate. Let us get to the core of the issue.

My final point for the Minister concerns corporate responsibility and liability. Who precisely will be responsible for corporate manslaughter if we do nothing? Which individuals will accept responsibility for the future public inquiry when there are deaths here because nothing has happened? Who will take that liability for corporate manslaughter? It is rather important that we know.

6.31 pm

Baroness Jones of Moulsecoomb (GP): My Lords, I have some sympathy with the noble Lord, Lord Mann. I too would like an answer on the corporate manslaughter issue.

[Baroness Jones of Moulsecoomb]

This is a ridiculous building. I speak as a former archaeologist of prehistory. It is modern Victorian kitsch. I do not understand why we hold it in such reverence, particularly now that it is falling apart. I have a lot of respect for the past, but I also respect what it teaches us, which is that things do not and cannot stay the same for ever. Societies, organisations and governments move on, develop and become quite different. I realise that that is unwelcome news for some, but over the millennia we have seen systems rise and fall, however powerful and stable they appear. We certainly cannot say that about our system: we look as though we are letting democracy slip through our fingers. Systems fall, however stable, however powerful, and we need some drastic changes. I support the Motion—I see no alternative—and the amendment tabled by the noble Lord, Lord Blunkett. I regret that it is even necessary to table it, and that it is not simply obvious.

Like the noble Lord, Lord Best, I visited the basement and was absolutely horrified by it. I took a lot of photographs, and one thing I noticed was that quite substantial waterpipes had rusted through completely at the bottom and had been bound up with gaffer tape so that they could still push water through. They were running over electrical wires, telephone equipment and so on, which was absolutely horrifying. This is a disaster waiting to happen.

Therefore, of course we must fix this building, and as soon as possible. We are in a dangerous situation. This has been put off for long enough, and a full decant is the only option. It is interesting to think that the pandemic was a full two years we could have taken advantage of to fix things here. We need some creative thinking. I also agree that moving our Parliament to another city much further north is a very good idea. It would be very healthy for democracy in our country. However, I accept that it is not going to happen.

We did test remote electronic voting, however, which is quite modern, and we did better than the House of Commons. Yet somehow, we have gone back on that because other people think it terribly important to mix and give each other Covid or flu in the corridors. Well, I admit that those machines work extremely well. Remote voting might be the way forward for other circumstances.

This is a very adversarial way to run a Government. I do not know if it is true that the Front Benches are slightly more than two swords' length apart so that people could not kill each other when they got annoyed at what was being said. I was elected to the London Assembly, which had a horseshoe shape. That worked much better and was much better for co-operation. Your Lordships' House does co-operate: by and large it is extremely generous and kind to people who have different views, but this Chamber is not conducive to anything except an adversarial situation. A horseshoe shape is used in Edinburgh as well. I am not sure whether that does help co-operation up there, but it could. I, too, think that we could turn this place into a museum. We could get some very beautiful artefacts in here and make it much more of a destination than it is at the moment.

I do not expect these ideas to be taken up, but we must widen our expectations of what government is and what it can be, and what suits our modern, global ideas of democracy. I do not want us to stagnate and collapse, as earlier civilisations did. Yes, please let us get on with it. Please let us not have more and more debates and more and more delays.

6.36 pm

Baroness Rawlings (Con): My Lords, I wish to raise three related points: transparency, cost and risk.

At the outset, a long time ago, we were promised a transparent, open process throughout. Alas, it has been the opposite. A recent Answer to a Parliamentary Question revealed that £212 million has already been spent on R&R, almost all of it on consultants, professionals and salaries, as we have heard from the noble Lord, Lord Vaux. Alternative schemes and costings have been prepared for different locations and for substantial pieces of work that we have never seen. They lie largely unpublished and unexhibited. A few groups of Peers have had a peep at folders during a visit or meeting but have never been given anything to study. A pop-up display on screens in the Royal Gallery was diagrammatic but had no plans of the proposals.

We are constantly told, as many speakers have said in today's debate, that we must push ahead, as with every passing week costs will escalate. Curiously, these postponements have brought us a dividend. We have saved £1.5 billion by abandoning the extravagant rebuilding of Richmond House, a 40 year-old public building built to last as long as its great Georgian and Victorian forbears. I am not sure about the view of the noble Lords, Lord Newby and Lord Fowler, on the QEII conference centre. We have saved close to £1 billion by not knocking it inside out to provide a replica Lords Chamber and rooftop restaurant. As a result, the Government and the taxpayer also regain the considerable revenue from letting the capital's prime conference centre for events.

I turn now to timing. All are agreed that the really important and urgent task is to shut down and replace the outdated cabling and servicing in the basement, as mentioned by the noble Lord, Lord Best. Yet under the grandiose schemes produced by R&R, this job was left until last. It was not to be done until the two new temporary Chambers had been built. This was under the R&R sponsor team, deemed now too distant and renamed in the report as the client team and programme team. Why? Why not be transparent and call it the Palace of Westminster team, so that people know what it is about?

At present, the planning application to Westminster for the northern estate is stalled and that for the Lords has not even been submitted. This was mentioned in the very good speech of my noble friend Lord Colgrain, and I agree with him. However, during all these delays, a parallel process has been taking place and is now completed on time and on budget. This is the £80 million repair and restoration of the entire roof of the Palace of Westminster, using the architect Sir Charles Barry's fire-resistant, cast iron trusses and tiles. A sound roof is the most vital element of any building in Parliament, and this Parliament is now good for another century.

The spectre of a Notre Dame-style fire is constantly cited, but Barry was even more conscious of these matters, as he was replacing historic buildings destroyed

in the great conflagration of 1834. Many large buildings have had their services wholly replaced, but none of them has ever been told it is an 80-year process. We all know Rome was not built in a day, but 80 years for R&R seems excessive, costing £13 billion or more. This is way above the original £4 billion.

The immediate need is for the costs and timings, not just headline numbers, to be published and brought into the open. I urge the Lord Privy Seal on this. Parliament is otherwise in danger of signing a blank cheque for a job that will continue to run out of control. If the whole roof can be repaired for £80 million, there has to be a better and less ruinous way to do the basement. We should also not forget how much was well-spent in the 1980s on restoration of the Chambers, the Royal Gallery, the Lobbies and the committee rooms.

There are several other more detailed points in the report that give cause for concern, but they will be for another day, as we shall no doubt be debating this further. Meanwhile, I look forward to the Lord Privy Seal's informed and, I hope, positive reply, as she has been involved with the project for some time.

6.42 pm

The Earl of Devon (CB): My Lords, I take note of the comments of the noble Lord, Lord Mann, and the noble Baroness, Lady Jones, on the history and traditions of this place. I just add that, when the Earl of Devon was first in Parliament, we were in Shrewsbury, and then we sat for a number of centuries in St Stephen's Chapel, which explains why we sit opposite each other in the manner of a medieval chapel.

I note my entry in the register of interests and my role as a custodian of a medieval building, which has a number of crumbling Victorian and Edwardian extensions, utilities and services. Like this one, that building operates as the home of a working business, housing staff, tourists and visitors and hosting functions and events. We consistently balance the challenges of health and safety compliance, equality of access and the need to preserve and explain important local heritage, with a wholly inadequate budget. I am therefore very sympathetic to the issues here.

The one big difference is that, as a private individual, I am obliged to comply with the rules and regulations of heritage listing, alongside health and safety and public access requirements. I understand that, as Parliament, we are not strictly required to comply with such things, and I would be grateful if the Lord Privy Seal could confirm that fact. I would also like to know the extent to which the Palace of Westminster, in its current condition, complies with such obligations of heritage conservation, access, and health and safety, as I do not believe it does. Just because the soon to be former Administration do not care to comply with the rules, that does not mean that we, as Parliament, should ignore them. We need to set a good example, and we do not.

I think we are all agreed that the condition of this building, and the conditions in which we expect our visitors and parliamentary staff to operate, are a disgrace. We were agreed on that back in 2019 when we passed the legislation to establish the sponsor body, which the joint commission now recommends we get rid of. In the three years since, and despite the hard work of many dedicated people, it appears that we are no further forward with the big decisions that are necessary to see restoration and renewal complete. I reviewed the joint report of the Lords and Commons commissions, and nowhere do I see a thorough analysis of exactly why the sponsor body is due to be disbanded, or how it has failed in the task it was set in the 2019 Act.

I note that much reliance is placed on the findings of the independent advice and assurance panel. Its members are indeed an eminent group, but their review lasted only three days, during which they interviewed some 25 people. This amounts to considerably less than one hour with each person and gives the sense of a review conducted in a considerable rush. Given the huge amount of work that has gone into R&R over recent years, I am not clear that such a brief review provides a sufficient basis on which to take the drastic action currently proposed.

As far as I can tell, the issue that the sponsor body has faced since its formation—something confirmed by my noble friends Lord Vaux and Lord Best—is the complete overpoliticisation of the decision-making process. Issues of whether or where to decant, what adjacencies and proximities to the Chambers should be adopted, and how parliamentary business should be conducted during the works have all become political questions. They should not be so: they are practical, procedural and administrative issues.

I understand many Members, including those of the other place, are concerned that the works programme envisaged by the sponsor body would be too disruptive of the rhythms and traditions of Parliament, but if we have learned anything in the last few years it is surely quite how flexible Parliament can be in the face of adversity. I may be new here, and I may be naive, but I am worried that we are far too precious about our procedures and processes, to the detriment of this building, our staff and the future of Parliament.

I am also particularly concerned that the proposed solution, far from fixing things, will only make them worse. The new mandate under which we revisit the key questions of the extent of the works and the process by which they are achieved will be overseen now by a new in-house sponsor function, overseen by the clerks of the two Houses. This will bring these issues directly into the political sphere and make them only more subject to the vagaries of the relations between the Lords and Commons commissions. They appear to be somewhat like the warring couple, Michael Douglas and Kathleen Turner, in "The War Of The Roses," sitting at either ends of a grand and crumbling house that finally burns down. I cannot therefore endorse the mandate for this reason, though I do understand it is a fait accompli, and so cannot seriously object.

As to the new approach outlined in the joint commission's report, while I salute the important focus on health and safety, I am concerned that the coming years will see yet more sticking plasters and no long-term solutions. The joint commission is going right back to the drawing board, seeking a wider range of options for decant, a broader range of options for delivering

[The Earl of Devon]
the works and different levels of ambition for the programme's scope. It appears that we are starting all over again.

We have done this. We have agreed to decant and to move to the QEII building, so please can we not just get on and do it? The longer we wait, the greater the risk to ourselves, our staff and our visitors, and to our beloved building.

6.48 pm

Lord Inglewood (Non-Afl): My Lords, I begin by echoing the general thrust of the vast majority of comments made in this debate, and the critiques behind them. I must also at the start of my remarks refer to the register, which contains a significant number of entries related to buildings, listed buildings, heritage and such like.

Let us go back to the start. In April 2020 the National Audit Office published its report, *Palace of Westminster Restoration and Renewal Programme*. It states:

"For more than 20 years, Parliament has been thinking about undertaking significant works to restore the Palace."

We can all agree it is worth taking time to think things through. Two years before that, in January 2018, Parliament approved the restoration and renewal programme and in the following year the Parliamentary Buildings (Restoration and Renewal) Act 2019 became law. Currently, it seems to me that progress comprises the document around which this debate is being conducted, *Restoration and Renewal of the Palace of Westminster—A New Mandate*, which I hold in my hand; such is the speed and extent of taking this proposal forward.

Almost simultaneously with Parliament approving the restoration and renewal programme in January 2018—to be precise, on 19 April that year—Notre Dame Cathedral in Paris, which is a real symbol of France just as Parliament is for our country, burnt down. Mention has been made of it already. Allow me for a moment, even if the circumstances are not exactly equivalent, to compare and contrast. Notre Dame is most impressively being put back together again, and President Macron's stated aim is for the project to be completed in April 2024, the fifth anniversary of the inferno. Even if that deadline is not met precisely, the work proceeds with pace, conviction and commitment. In this country, I stand here in your Lordships' House clutching the restoration and renewal document that we are discussing, rather like Neville Chamberlain on his return from Munich brandishing a piece of paper that merely delays the inevitable.

I am afraid I believe that we as Parliament have collectively made ourselves national laughing stocks. As your Lordships will know, there has been quite a bit recently about government and Parliament leading by example. If we cannot put our own house in order, we are not in a very strong position to get others to do so.

As I see it, the Government are the guardian of our national heritage, which is the collective national memory of our nation and an important pillar of our national identity. They set a general framework within which the owners of our listed buildings, whoever they may be and who are the custodians for the time being, then actually have to look after them. In my view, the framework is wobbly and inadequate, but that is for another day. In this instance, I agree with the noble Lord, Lord Fowler, that in these circumstances, de facto, government and Parliament are the same, which makes what has happened—or perhaps what has not happened—all the more lamentable.

Anyone who knows about these things knows that, in circumstances such as those of today, inflation is hitting construction costs more aggressively than prices in general, and that delay in addressing structural problems in buildings aggressively and progressively worsens the state of the problem. Having said that, if there is anyone who has the resources to remedy this kind of thing, it is the Government, because Governments of all political views always find plenty of money for fripperies of what they like. Let us be clear, as has been made absolutely apparent in this debate, we are not talking about fripperies.

I will briefly echo the noble Earl, Lord Devon. Speaking as an owner of a listed building—there are more than half a million listed buildings in this country, some of which are owned by private individuals, some by third sector organisations and some by the public sector—we are not encouraged to spend our money on our statutory obligations to the buildings for which we are responsible when we look at what the Government have done in respect of the sad story of the Palace. The Government and Parliament should lead from the front, not rather unconvincingly cheerlead from the back.

We all know that everybody has a view about the Palace and what we should do. I have given my views and, I suspect like many others, I have subsequently modified them, but I will not go into that now. Not everyone will be satisfied. Indeed, everyone may to some extent be dissatisfied, but I expect that everyone can agree that progress has been slow, indecisive and inadequate. Reams of paper have been consumed, hours of meetings have taken place and nothing much has actually happened, and heigh-ho, the Palace of Westminster is slowly and quietly deteriorating.

A strong, imaginative and proper grip needs to be taken of the whole proceedings. Action is needed now, and it needs to be firm. It is plain as a pikestaff that, unless something is done soon and decisively, it looks as though the way this country commemorates Brexit will be by allowing the greatest worldwide symbol of Britishness to deteriorate and disintegrate in front of our eyes.

6.54 pm

Lord Herbert of South Downs (Con): My Lords, if today's approach to restoration and renewal of the Palace of Westminster had been taken in 1835, we would not be here in this majestic building. The decision then to establish a royal commission, with a competition for designs, produced 97 entries and Barry's visionary new Palace. It might have been three times overbudget and taken 24 years to complete rather than six, but it was done.

Two centuries later, as inheriting custodians of the Parliament that was created then and repaired after the war, it is surely nothing less than our duty to maintain and repair it. Of course we must control

costs, but we are talking about a capital sum spent over a period of years to renew a world heritage site for a further 200 years.

In an overreaction to the scale of earlier proposals, all ambition truly to renew this royal Palace seems to have gone. Instead, we have a deliberately more modest proposal to deal with the safety of the building first, perhaps last. Of course we must heed the warnings. Our predecessors did not, ignoring the public alarm sounded by leading architects of the day, Sir John Soane and Robert Adam among them, that the Palace was a fire risk. The rest is history.

Of course we must act to protect this building and the thousands of people who work here, but essential repair, though it might be an argument from which the naysayers cannot so easily escape, should not be the limit of our ambition. This building is not fit for today's purposes—for modern meetings with technology, for greater public engagement, for the number of staff who now have to work here, for the disabled.

If you go to Canberra, you can visit the pokey old Parliament building, which is now a museum. You can still smell the tobacco in it. Up the hill, there is a purpose-built Parliament, with the space and facilities which a modern legislature needs. I am not suggesting—at least not today—that we move out of this place altogether, but we need to do more than repair the building. We know about the importance of public and shared space; a Parliament especially, where meetings and discussion are fundamental to our life and work, needs such space. We know that performance improves when people work in a good environment, yet we cram staff into appalling conditions. My ministerial office beneath the Commons Chamber was overrun with rodents and alarming spores were growing on the walls. A shocked eminent doctor visited me and pronounced my office a health hazard, but it was also occupied by members of my staff because there was nowhere else for them to work. This is true even of Cabinet Ministers' parliamentary offices, such is the overcrowding.

Piecemeal improvement, which is now to be institutionalised in these arrangements, has led to suboptimal development. The ugly visitor centre that has been added on to the western end of the Palace is a great facility for schoolchildren, but it shamefully obscures the aspect of the Palace from Victoria Gardens. The visitor centre at the United States Capitol is not an eyesore; it has been built underground. By the way, the environment around Capitol Hill is immaculately tidy, free of the litter which blows around Whitehall and chewing-gum mashed into the floors of this Palace—a detritus which is somehow a metaphor for the disregard we collectively have for this special place.

Of course we should decant while the work is done. Disliking the prospect of leaving, or fearing never returning because parliamentarians are approaching retirement age, is neither an honourable nor an acceptable reason to stand in the way of a cheaper and necessary temporary measure.

I agreed with everything the noble Lord, Lord Blunkett, said. Restoration and renewal cannot just be about health and safety; it needs to support a renewal of our democracy. That requires ambition, not reactionary opposition. If we had vision, for instance, we might consider ideas such as those of the Commission for Smart Government, which I had the honour to chair, to build a new ministerial centre as part of a revamped Parliamentary Estate. Ideas such as this might improve the performance of government.

I suppose I agree, albeit reluctantly, with what noble Lords have said: the proposals put before us are the only way forward now. But this is worse than a menu without prices; we have now been told that what might be on offer for the main course and pudding cannot be seen at all. All we are left with is the starter: the essential safety-critical work, apparently the only thing we can agree on. I am afraid it reflects badly on us. This is not our building; it belongs to the nation. It is an international symbol of who we are, where we came from, and the parliamentary democracy that we stand for and are known for.

That we should repair this building urgently, now, should be beyond debate. But I believe we should do more, lift our sights, and try to show at least a measure of the same leadership, ambition and foresight which a few good parliamentarians and a great architect showed 200 years ago.

7.01 pm

Baroness Deech (CB): My Lords, clearly, I know next to nothing about construction, albeit that I oversaw from a distance the construction of two new buildings at my college. So to prepare myself for today, I sought advice from a national expert on megaprojects. I feel compelled to speak because of my alarm at the paralysis we find ourselves in and because of my respect for this building and all that it represents. The urgent start needed is held up by Members of Parliament who know that it will not be completed while they hold their seats. To them, I have to say that if you love it, you have to leave it.

I call on your Lordships and the Minister to declare today our willingness to decant for the sake of doing the job in the most efficient way possible, thereby earning the gratitude of future generations rather than their disbelief that things have been allowed to degenerate to such a level. It is not hyperbole to describe this moment as our Notre Dame. In recent years, there have been about 25 minor fires and a major asbestos leak. Dithering over the role of the sponsor body has cost at least £100 million. Some £70 million was written off when the Commons decided against moving to Richmond House, and there is no plan B. Incidentally, Richmond House, standing vacant with its forecourt by the Cenotaph, would make a far better location for the planned Holocaust memorial than Victoria Tower Gardens, where it is literally bogged down by water, stubbornness, and the usual underestimate of costs and overestimate of benefits.

This project seems fit to join the list examined by the political scientist Sir Ivor Crewe in his study, *The Blunders of our Governments*. From the poll tax, child support and super casinos to the Millennium Dome, projects fail because they are commissioned by Ministers and designed by civil servants, both of whom move on to other jobs. Policy is separated from reality and from implementation, while in the end there is no penalty for failure, and no one takes the accountability. Meanwhile,

[Baroness Deech]
in this Motion, we are being sent backwards. Resignations have cost us much needed experience and the whole project has gone back to the drawing board. We need one small outside body to drive it forward; we need to confirm our decant; we want no plethora of options, because people will always favour the cheapest; and we need to hear directly from the professionals.

There are lessons to be learned from history and from the study of megaprojects. Nine out of 10 such projects have cost overruns. The Scottish Parliament cost overrun was 1,600% and the Channel Tunnel 80%. For many of the world's most iconic projects, it could have been said that if people knew the real cost from the start, nothing would ever be approved. We should brace ourselves now for the disapproval that may come from transparency over expenditure, and we should keep our eyes focused on the future working parliamentary democracy of this country. By way of illustration, does anyone regret the Channel Tunnel or the Sydney Opera House, or indeed our current Palace of Westminster, which itself took decades to construct and ran into the same problems of governance, cost and political disarray that we are facing now, more than a century later?

Instead of learning from the past story of indecision, unwillingness to move and lack of leadership, there is this decision before us today to terminate the sponsor body, apparently because it told the truth about the budget—up to £13 billion—and the need to decant completely for 12 or more years. Decisions of both Houses have been reversed, with no reasoning given for this new model of governance. As the Public Accounts Committee said, this Motion before us will cause further risk and delay; there is no one person or body to be in charge.

Much as we respect them, we know that the clerks do not have construction expertise—indeed, they were never expected to have that as part of their job—nor do the Speakers, not even with a client team and a joint department of both Houses. Why, at the very least, does the Infrastructure and Projects Authority not have oversight of this rather than being excluded? Why was a meeting of interested Lords called the day before the report from the Public Accounts Committee? That report is critical of the fact that there is still no start date and of the new oversight given to the House authorities. We have no evidence as to why the existing governance model was rejected. The sponsor body had already spent £145 million in readiness. Our delay is costing us £60-85 million a year and that is an old estimate.

Every expert has told us that a full decant is called for. Our experience with Zoom during lockdown has shown that Parliament can function in innovative ways, without losing its authority and without changing for ever. We have to accept that we will be a generation who sacrifice our own convenience for the sake of generations of politicians to come. A decision to decant is the kick-start this programme needs. In this House, it has already been approved and we should not resile from it in the face of this Motion. We should not encourage work to minimise the decant or plan for a shorter life expectancy for the completed works, which would mean leaving our successors that recurrent nightmare. The decision should be made now, before the recess. No amount of rejigging of the governance will change the need to decant, not least for the sake of the staff.

We need to move from policy development to project execution. I fear that some of the current debate about governance is really about finding a new organisation that will tell us that the project is cheaper and less risky. The worst-case scenario is that the new organisation will come up with more palatable numbers, and then overoptimistic costs and timelines are approved. The best-case scenario is that the new organisation will go back and redo the work that has already been done, and come up with the same conclusion. The Commons yesterday were also pretty pessimistic about this new governance.

My final thought on governance is that we need to bring together decision-makers, so that stakeholders can debate, align their objectives and find common ground. I tried to piece together an organogram of the new structure, and it ended up looking rather like that tangle of wires and pipes beneath our feet in the basement. I do not really see how it can work efficiently.

A number of individuals are currently putting themselves forward as our next Prime Minister. The one question I would ask of each one is: are you committed to progressing the restoration and renewal of the Palace, and will you convince MPs that they must vacate it as required? I agree with my noble friend Lord Devon that ideally this Motion should be rejected in its entirety, but I envisage that that is not possible.

7.08 pm

Lord Desai (Non-Afl): My Lords, when I was a schoolboy in India, we were told stories about the British Parliament. One of the stories, of course, was of how Guy Fawkes tried to blow the old Parliamentary building up. But then I heard that every year, there was an inspection—just on Guy Fawkes Night—to check whether Guy Fawkes was there or not. Obviously, given the state of this restoration report, I think they all expect Guy Fawkes to turn up only on Guy Fawkes Day to set fire to this place.

That is what traditionalists and romantics think our history is about. What we are suffering from is the fact that there are romantics and the so-called modernisers. The romantics want this place to be exactly as it was and not change anything, which is why we are talking about restoration.

This is a great building. It is a fantastic building, but I have always thought it utterly useless as a parliament chamber. All other parliament chambers you see in the world are much more modern than this: you have a proper seat of your own, a desk, computer facilities, meeting halls and decent catering. You do not have this very crowded place, where deliberately not everybody can find a seat. If there are 800 Members, God forbid that you may think you will get a seat—heavens! You are here not for sitting down but for the gorgeous decorations, history and all those sorts of things. Yes, the pandemic forced us into modernisation, but we are rapidly marching to restore all the old habits. We do not really like modernisation.

Obviously, this report will have to be agreed to because we have no alternative. I do not think any good will come out of it, because 15 years from now we will have another debate like this—I will not be there, because I was 83 last Sunday and I may not be alive—and discuss the same things: what different committees we have formed and whether the House of Commons is refusing to decant. Let us hope that, in the meantime, no Guy Fawkes has set fire to the basement—not so much for ourselves but for the staff who work here. They will pay the cost of our laziness, not us.

If I had any choice—thank God I do not—I would not have thought about anything other than not decanting but building another parliamentary building. At the start of the pandemic, I wrote a letter to the noble Baroness in charge of this thing and said we should start building a new parliamentary building while the pandemic was here so that we would have a building ready for occupation. Had we done something like that, we would all have decanted there, Commons and Lords, and restored this building as one of the most fantastic museums of British history, exposing it to the public and showing all the decorations. I quite agree that this is an incredible building, but a parliamentary building it is not. It is useless as a parliamentary building.

I was surprised to hear that when the restoration took place after the House of Commons Chamber was bombed during the war, it was insisted that the Commons Chamber be restored exactly as it was, so that it would always be overcrowded if everybody decided to turn up. I think this is the only country in the whole world that worships democracy but makes quite sure that the parliamentarians do not have a comfortable life. The parliamentarians love it, because they think not being comfortable is the great strength of British democracy. Being comfortable would absolutely corrupt us like all the Europeans, and we do not like the Europeans. Given that we made that mistake and are not going to move out of here—we may move out, but the Commons will not—all we can do is hope and pray that within the next 50 or 100 years we get this place fully restored and are able to do what is proposed by the noble Lord, Lord Blunkett, which is very important.

We really ought to think of Parliament in a different way, because our democracy is different. This Parliament was refurbished at a time when the franchise was only 10% of the population. Most people in the House of Commons were second sons of Peers, and the voting public were hardly more than 10%. We are in a very different situation now. We should use a much more consultative system whereby our citizens can communicate with us their preferences regarding our proposals and the legislation before us. How many people are aware of what we are discussing? We ought to be able to connect constantly with our citizens so that they can tell us their proposals. We should have a people's budget in which people can tell us their preferences regarding taxes or expenditure. We do not know any of that, because we are not able to consult our citizens.

Let us concentrate on the positive aspects and, whatever we do for restoration, make this a more fit place for democracy than it has been so far. We know from what is going on in the selection of a new Prime Minister that we are not a very successful democracy.

7.16 pm

Baroness Doocey (LD): My Lords, this Motion marks the end of a very sorry chapter. I entirely agree with my noble friend Lord Newby, who clearly outlined how we have got to where we are today. It almost beggars belief that Parliament set up a sponsor body through primary legislation and gave it a clear brief agreed by both Houses, but found itself unable to live with the independent process that it had set up.

I pay tribute to Liz Peace who, as chair of the sponsor board, worked tirelessly with her team to try to make the relationship with Parliament a success. I know there were considerable frustrations that it was not possible to set up a proper liaison committee between the sponsor board and Parliament, so I cannot agree with the Leader of the House that Parliament was not fully consulted. I know that Liz Peace and her team did everything possible to ensure that that was not the case.

But we are where we are, so I want to move forward and look at how we can make real progress on restoration and renewal. First, it is obvious to me that bringing the functions of the sponsor board back in-house is the right way forward under the circumstances. As this process has unfolded, it has become painfully obvious that the parallel with running the Olympics is easy to draw but very hard to sustain. I have seen at first hand how well this model can work, having been involved in overseeing the delivery of the Olympics, but the Olympics was totally different. It had a clearly defined budget and minimal political interference—the exact opposite to where the sponsor body found itself.

It is clear that the two Houses wish to retain ownership of how this precious building is made safe for the present and preserved for the future, and this is unlikely to change. I believe that putting these arrangements in place for just the programme definition period of 12 to 24 months is very unwise, because this is likely to be the best structure going forward. We should set it up accordingly and not just see it as a short-term fix.

We have been told that the commissions are set to delegate authority to a new programme board, a joint decision-making board of the two Houses, but we have been here before. Parliament delegated this role to the sponsor body, but then refused to accept its findings. It is really not rocket science to work out that costs would be lower and the project much more straightforward to deliver if the building closed for several decades.

It is therefore essential that the programme board has strong political leadership and cross-party representation, otherwise it just will not command authority or be able to act consistently across several electoral cycles. It should include representation from the major parties in both Houses and the Cross Benches and be chaired, in my view, by a senior member of the governing party who has the ear of the Government. This is crucial if we want to make sure there is no repeat of the current fiasco.

Giving it real responsibility for delivery of the project is vital, as is keeping the process in-house for the long term. But let us not delude ourselves that in-house automatically means good and efficient. As chair of the Lords Finance Committee for four years,

[Baroness Doocey]
I saw some disturbing examples of work not being properly defined before tender, surveys and advance investigations that were limited in scope, budgets running out of control and virtually no corporate memory.

We must above all else ensure that these mistakes are not repeated on an epic scale during restoration and renewal. But before we start, we must tackle the safety issue in the basement so graphically outlined by the noble Lord, Lord Best. In my view, a first step would be to re-provide above ground crucial mechanical and electrical infrastructure currently in the basement. If we were, for example, to use electricity above ground to heat the Palace rather than the steam boilers in the basement, we could end the highly dangerous practice of mixing steam and electrical cabling underground—a fire risk for which any other building would almost certainly be prosecuted. It would also enable full access to the basement, allowing the underground renovation to be undertaken over a longer period, at a lower cost and with a better outcome.

While the safety work is under way, the commissions and/or the programme board can concentrate on what is the minimum viable way forward for the wider R&R programme. We simply must move away from endless assessments of options in the foreground and political wrangling in the background, since both are barriers to making real progress. Instead, let us recognise that with a project of this kind even the minimum option is enormous in complexity and cost. I would rather, if necessary, now deliver the minimum than keep on arguing about the parameters of the maximum.

Let us now seize the moment to make this building safe once and for all, establish what we are prepared to spend to preserve it for the long term, take responsibility for delivering it and, above all, get on with it.

7.22 pm

Baroness Smith of Basildon (Lab): My Lords, this has been an interesting and very thoughtful debate. Like the noble Baroness who introduced it and spoke to her Motion, I also confess to being a member of the House of Lords Commission.

I first thank my noble friend Lord Blunkett for his amendment and his comments, which were widely appreciated. Although technically, we are talking today about the governance of the project rather than the underlying principles, let us be honest: it is not the problems of governance that have brought us to where we are today but the deeper concerns that some have raised, and which we have touched on. It is really important that we state our commitment to inclusivity and engagement, to the need to ensure that the regions and nations of the UK have opportunities to benefit from the building and other works that have been undertaken, and that we have some vision of the project—of what we are seeking to achieve as we move forward. I am grateful to the noble Baroness for being clear about the amendment from my noble friend Lord Blunkett and her commitment in that regard.

I support the principle of the Motion and if there were a Division, I would vote for it, but I will be honest: I would do so with a sense of enormous frustration and, I have to say, some qualification. That is as much to do with what has led us to this point as the Motion itself. As I was saying earlier, when we are having this debate, it is hard not to feel a sense of déjà vu—again and again. I feel that I have been here many times.

This building, the Palace of Westminster, as we have heard, is recognised throughout the world and is designated a UNESCO world heritage site, as the noble Baroness, Lady Andrews, said. That status is really important. It is our privilege to work here, as the noble Baroness, Lady Deech, who is not in her place, said. Part of the attraction for the thousands of visitors who come here is that it is a working parliamentary building. It is not just a museum; it is the living heart of the democracy of this country. But it is not our building. It belongs to the nation as the home of Parliament, and we have a responsibility as custodians of this building for future generations.

For me, R&R was never just about replacing the bits that are falling off, not working properly— "Last week, the door fell off in my office"—and so on. It is about something more than that, as the noble Lord, Lord Herbert, said. It is about something inspirational, something special. Every single national project of this kind has always had its detractors. There is never an ideal time to spend that money or to look ahead to what we are going to do to try to future-proof it.

Many consider that this building is now outdated as a home of Parliament. I disagree but, along with all the changes that have been made over many years, we need to look at what changes will be made in the future for future workers in this place. I felt so disappointed. The noble Baroness, Lady Deech—who is back in her place—mentioned those supporters who really just did not want to leave. Let us be honest: if we want to do it properly, it is impossible to do the work on the scale required if we all stay here.

I think it was the noble Lord, Lord Vaux, who made the point about creativity in what comes next. Let us think outside the box; let us be enthusiastic about the project. We cannot look at how much this part costs and what we can scale down for that; we have to be visionary and look at how we can achieve it. We have to be mindful of the cost, but not to the detriment of ensuring that we do the work properly.

The noble Lord, Lord Mann, made interesting points about some of the things that could change, but I say to him that we do not need R&R to do some of those. For me, a House-wide catering department is a no-brainer, but we will work on that one. The noble Baroness, Lady Jones, talked about moving Parliament completely. I am not necessarily against that, but the work still has to be undertaken on this building because it is a heritage site. If we relocate Parliament permanently, we need to relocate the business of government as well, not just a couple of buildings where people talk.

The need for an overhaul and repair, for restoration and renewal, is indisputable: it has to happen. The Library briefing is very helpful on this saga of dither and delay. It started at the time of the 2016 committee on which I served, which reported in 2018. The noble Lord, Lord Haselhurst, was also involved in some of those earlier debates. They have been going on for years and years.

We have referenced *Mr Barry's War*, the excellent book by Caroline Shenton about the rebuilding after the great fire of 1834. It would be fair to say that Charles Barry's mental health suffered as a result of the constant chopping and changing and the problems he had to deal with. It sounds all too familiar when we look at some of the things we are facing today.

When we passed that legislation in 2019, we did not do so in a vacuum. It followed the 2018 Joint Committee of both Houses, which the noble Lord, Lord Carter, and other noble Lords also served on. It had pre-legislative scrutiny from another Joint Committee of both Houses on which Members in today's debate served. We also had earlier reports—such as the one from the noble Lord, Lord Haselhurst—for which considerable work had been undertaken to identify the scale of the deterioration of the building.

In passing the legislation in 2019, we went through all of this and decided on the governance model that experience told would best manage the programme. All the reports and investigations have identified the same problems and the same potential crisis points. All recommended that the most efficient, quickest and least costly way of undertaking the necessary work was a full decant of the building.

Working conditions are poor—noble Lords are right to reference that. Our maintenance staff are crucial to the continuation of business, as the House of Commons found when they had to delay a Sitting this week because of a leaking air conditioner.

Only a couple of Members referred to the report from the Public Accounts Committee. I was surprised by that, because it provides helpful guidance on how we got here and how we can get out of the mess we are in.

There are three things I would like to reference, one of which is uncertainty. There should not have been uncertainty. Clearly, the pandemic made things difficult and we had to look at the financial environment; however, it strengthened the case for not wasting public money but spending it wisely. It is political uncertainty, even to the extent of MPs bringing in their own surveyors to check the work we had done, that has increased costs. There are individuals—Jacob Rees-Mogg, the former Leader of the House, has been mentioned, but there are others—who are not prepared to accept the decisions and have reopened the issues, taking us to where we are now.

There has been constant changing of scope and other options to be considered or explored, even when they had previously been examined and rejected. Having agreed to a full decant, the House of Commons Commission asked again for a continued presence on the site, as the noble Lord, Lord Newby, referenced. That continued presence got bigger and bigger, beyond the Chamber. As the Government withdrew support for the option identified—to decant the House of Lords—and then floated nonsense about splitting Parliament into two in different parts of the country, all that work cost more money. The noble Baroness, Lady Rawlings, referred to a waste of money. That was the biggest waste of money here: the work undertaken that did not need to be.

The House of Commons Commission made the decision to remove the sponsor body without any attempt to look at alternatives or manage the programme differently, or even to consult or discuss this with the House of Lords Commission, which should have been an equal partner in all this. I say to the noble Baroness, Lady Rawlings, that there is no cost-free option here. If the public were aware of the cost of delay and the daily, weekly and monthly cost of maintenance, they would be horrified that we are not moving along much more quickly and getting the work done.

I understand the frustrations of those who feel they have not had enough engagement. Communication must be better. However, all projects change, and as this one moves forward not everyone can be consulted on every single issue. There has to be widespread consultation, agreement and buy-in for the general direction, but not every single detail of the work has to be consulted on.

Part of the reason why we are here today is that some have sought to undermine the work. However, despite the real concerns, we need to make progress. This is the only game in town, so we need to make sure that we can move forward. There are opportunities here for better engagement and consultation.

The noble Baroness the Leader of the House has borne the brunt of many of the questions here, but she is on the House of Lords Commission and I consider her to be one of the good guys in this matter. The noble Lord, Lord Newby, made a point about the joint approach by both commissions, and that is welcome. Many of us in the Lords commission have been really frustrated that decisions have been taken on which we have not been consulted. We have been careful in our approach to this; it is no secret that we have felt frustrated when we have been carried along in trying to make things work, even when on one occasion the House of Commons Commission walked out of a meeting that we thought we were having with it to discuss this. So it has been a bit of a saga, but I hope that we can now move forward and that the House of Commons Commission will genuinely want to work with and engage with us.

I have only one question for the noble Baroness the Leader of the House, which should be an easy one. In passing today's Motion, we need an unequivocal, 100% commitment that, when the programme board is established, it will have a membership that is committed to the programme, and that no Member will be appointed to that board if they do not support it 100%. What we cannot have again and again is those opposing the project seeking to undermine it with their positions when taking important decisions.

I am sorry that I have gone over my time, but today's debate is about responsibility, and this may be the last chance that we ever have to fulfil that responsibility. If we lack that commitment now, it may be too late.

7.33 pm

Baroness Evans of Bowes Park (Con): My Lords, I thank all noble Lords for taking part in today's debate and those who have engaged with the R&R teams over the course of recent weeks. I entirely recognise and understand the frustrations expressed by everyone in this debate. Those of us who have been involved in this—the noble Lords, Lord Newby, Lord Best, Lord Fowler and Lord Carter, and the noble Baronesses,

[Baroness Evans of Bowes Park]

Lady Smith and Lady Doocey—all share them. I am not going to pretend that we are not all in the same place. There is no denying, as the noble Baroness, Lady Smith, and the noble Lord, Lord Newby, have alluded to, that we have had problems between the two commissions. Again, there is nothing I can say to dispute that; it has been absolutely true up until now. We have not been a good client, as the noble Lord, Lord Best, rightly pointed out.

Let us try to take this opportunity to reset. As the noble Baroness, Lady Smith, said, the commissions have demonstrated more collaborative working, as the noble Lord, Lord Vaux, also outlined. Amazingly, we finally have joint meetings, which we have been trying to get for months—years, in fact. We have published a joint report, and I think we have acceptance of our joint responsibility to safeguard the Palace.

I am not promising—and it would be foolish of me to do so—that there will not be further frustrations and bumps in the road, but I believe we have reached a more constructive place. Unfortunately, that is now going to be on the record so let us hope that it proves to be true and that we can move forward from here. I am grateful that, despite noble Lords' misgivings and clear frustrations, the overwhelming view from the debate is that we need to move forward and this is the way to do it. Whether we ever wanted to get here, we are here, and we are trying to work together.

I entirely agree with the noble Lord, Lord Newby, and the noble Baroness, Lady Doocey, that the make-up of the programme board is now going to be critical. I echo the comments of the noble Baroness, Lady Smith, that we have to have people on the board now who want to take the project forward. That must be at the forefront of the minds of all those involved in taking it forward. I hope that is how we will move forward from here.

I shall respond to a few questions that came up during the debate. The noble Baronesses, Lady Wheeler and Lady Smith, talked about the PAC report. I am sure noble Lords know that the accounting officers for the two Houses have responded to the recommendations addressed to the PAC. That response has now been published and is available for people to look at. There is a recognition that important lessons need to be learned that the House authorities are taking on board, including around issues of transparency. Indeed, we believe that the joint commission report is one part of the evidence showing that we are taking those issues on board, and we want to engage further. Obviously, reflections on the PAC report will be taken into account.

The noble Lord, Lord Lisvane, asked about contingency planning. I assure him that we have a set of business resilience plans in the event of fire, flood or other emergencies that might disrupt the Parliamentary Estate. The aim of the plan is to ensure the continuity of essential parliamentary business with minimal delay, and I can confirm, having been involved, that the contingency plans are regularly reviewed and updated.

The noble Earl, Lord Devon, and the noble Baroness, Lady Andrews, referred to health and safety. That is an extremely important issue which has been highlighted in the joint commission report as a priority. The two clerks, the corporate officers, are the responsible officers and take their responsibilities enormously seriously. For instance, the Regulatory Reform (Fire Safety) Order 2005 expressly identifies the two corporate officers as responsible persons for areas occupied by their respective Houses, and they have a duty to ensure that appropriate fire precautions are in place, risk assessments have been carried out and appropriate fire safety arrangements have been made. Again, I can say from personal experience that we have regular conversations with the authorities to make sure that our duties are being upheld.

The noble Earl, Lord Devon, and my noble friend Lord Inglewood asked about our heritage obligations. We abide by the relevant legislation. We follow planning legislation and go through all statutory consent required for a grade 1 listed building.

The noble Lord, Lord Mann, and the noble Baroness, Lady Jones, asked who had corporate responsibility if anything went wrong. John Benger, the Clerk of the Commons, told the PAC in the evidence session that he gave that

"if there is a catastrophic failure and if life is jeopardised, it is our legal responsibility"—

that is, the Clerk of the Commons and the Clerk of the Parliaments. He emphasised:

"It is no one else's."

So that is where the responsibility lies, which is why, again, we work closely with the House authorities to try to ensure that we uphold our responsibilities.

The noble Lord, Lord Vaux, is right when he says that our decision today is not about prejudging what may be in the strategic case. A number of noble Lords talked about a whole range of issues that they might like to see in the strategic case that is put to both Houses, but that is not what we are talking about today.

The noble Lord, Lord Carter, my noble friend Lord McLoughlin and the noble Baronesses, Lady Jones, Lady Deech and Lady Andrews, all talked about decant. That is not a decision for today but, although I cannot make promises to noble Lords, the House of Lords Commission has been clear—I am being honest here—that, as the noble Lord, Lord Carter, said, we cannot quite see how it cannot happen. Still, let us see the strategic case that comes forward, and then it will be up to this House and the Commons to make their decision on the back of it.

The noble Baroness, Lady Smith, and my noble friends Lord Colgrain and Lady Rawlings talked about the money already spent by the sponsor body and delivery authority. It is not right to look at this as money wasted. A significant amount of work has been done and is required to prepare for, design and develop the plans for R&R, irrespective of the approach we choose. For instance, spending has included design schemes to RIBA standards, detailed programme planning, decant scoping, public engagement and plans for heritage collections. I would just say that the money spent to date has not been wasted; it has been spent on work that we will still need to build on no matter where the programme goes from here.

The noble Lord, Lord Carter, asked about milestones and next steps. Assuming that we approve this Motion, the plan is to establish the client board, with the first

meeting planned for October; to agree the terms of reference of the programme board, including composition and membership, at the client board first meeting, which is of the joint commission in September; and the recruitment of external members with required major programme expertise over the course of the autumn. Until the programme board is set up, the client board—which is the two commissions—will act in its place to ensure that there is no loss of momentum.

The noble Baroness, Lady Wheeler, asked about surveys. Intrusive surveys will commence next Friday, as soon as the House has risen for recess. Over 150 sites will be surveyed over the summer and the programme of surveys will continue into 2023. The aim is that the strategic case will be presented to both Houses by the end of 2023.

Finally, I return to the points raised by the noble Lord, Lord Blunkett. I recognise and welcome his sustained, principled commitment to these issues and the passion with which he spoke in his contribution. It is right that we consider the importance of sharing the benefits of the restoration and renewal programme. That of course means taking into account the importance of making the building accessible and ensuring that the public are welcomed in, that engagement with Parliament and democratic processes are fostered and that opportunities presented by this tremendous programme of works are shared across the United Kingdom through programmes such as the one my noble friend Lord Lingfield mentioned.

As I said in opening, I hope I have been able to reassure the noble Lord, Lord Blunkett, and all Members of the House—a number of whom spoke in support of his amendment—that the changes proposed today do not alter the statutory framework in that regard; nor will the regulations that we propose to bring forward to give effect to the proposals we are considering today. As set out in paragraph 22 of the joint commission's joint report, the programme will

"continue to have a mandate to consider these areas and how best to address them".

That commitment remains.

Anyone who has either been in or will read about this debate will recognise the deep affection that every noble Lord has expressed for this incredible, historic building. I understand the strength of feeling about the importance of ensuring that this new way forward is robust and takes us on. The task before us today is to ensure that the project has the structures and processes in place to allow us to deliver the best possible options for this House and the other place.

As the noble Baroness, Lady Wheeler, rightly observed, whatever your views, I am afraid this is the only show in town so I hope noble Lords—despite misgivings and frustrations—can support the Motion. The Commons managed to pass it without amendment, which we should take as a good sign so that we can start to move forward together.

7.43 pm

Lord Blunkett (Lab): My Lords, I am very grateful for the indications of support from around your Lordships' House for my amendment. I am particularly grateful to the Leader of the House for her reassurances. I am taking it that the strategic case will be completely aligned with the 2019 Act of Parliament. In light of that—I take the same view as my noble friend Lady Smith of Basildon on agonising about how we are progressing but recognising that we have to—and the excellent speech from the noble Lord, Lord Best, I am prepared to withdraw my amendment.

Amendment to the Motion withdrawn.

Motion agreed.

Supply and Appropriation (Main Estimates) Bill

Second Reading (and remaining stages)

7.45 pm

Moved by ***Baroness Penn***

That the Bill be now read a second time.

Bill read a second time. Committee negatived. Standing Order 44 having been dispensed with, the Bill was read a third time and passed.

Energy (Oil and Gas) Profits Levy Bill

Second Reading (and remaining stages)

7.46 pm

Moved by ***Baroness Penn***

That the Bill be now read a second time.

Baroness Penn (Con): My Lords, we will take a little more time over this Bill. We are here to debate the Energy (Oil and Gas) Profits Levy Bill, introduced in the House of Commons. It may be helpful to start with a little of the context behind the Bill.

People across this country are facing rising energy costs and an increase in their overall cost of living. Of the basket of goods and services we use to measure inflation, a record proportion are seeing above-average price increases. Indeed, this country is now experiencing the highest rate of inflation we have seen for 40 years, and this is causing acute distress to the people of this country.

In May the Government announced a series of measures to help the British people during this difficult time—a period in which we have seen prices in oil and gas reach new heights. Oil prices have nearly doubled since early last year and gas prices have more than doubled. This is a global phenomenon, driven by factors out of any single Government's control and in part by Russia's war.

With increased prices at this global level, profits from oil and gas extraction in the UK have also shot up. These are unexpected, extraordinary profits, above and beyond what forecasters could have expected the sector to earn. Because of these extraordinary profits and to help fund more cost of living support for UK families, the Government are introducing the energy profits levy. This temporary levy is a new 25% surcharge on these extraordinary profits. When oil and gas prices

[Baroness Penn]
return to historically more normal levels, it will be phased out. However, we have a responsibility to help those who, through no fault of their own, are paying the highest price for the inflation we face.

I now turn to the content of the Bill. As set out in the energy security strategy, the North Sea will still be a foundation of our energy security. Indeed, currently around half of our demand for gas is met through domestic supplies. In meeting net zero by 2050, we may still use a quarter of the gas that we use now. It is therefore necessary to encourage investment in oil and gas, encouraging companies to reinvest their profits to support the economy, jobs, and the UK's energy security.

It is possible to both tax extraordinary profits fairly, and to incentivise investment. That is why, within the energy profits levy, a new super-deduction style relief is being introduced to encourage firms to invest in oil and gas extraction in the UK. The Government expect the energy profits levy, with its investment allowance, to lead to an overall increase in investment. The new 80% investment allowance means that businesses will get a 91p tax saving overall for every £1 they invest, providing them with an additional immediate incentive to invest. This nearly doubles the tax relief available and means that the more investment a firm makes, the less tax it will pay. It means that the allowance can be claimed when the spending on the investment is actually incurred. This is unlike the allowance under the existing permanent tax regime for oil and gas companies, which can be claimed only once income is received from the field subject to the investment. As noble Lords may know, this can take several years.

I will provide some clarity on what the investment allowance will apply to. First, if capital or operating expenditure qualifies for the supplementary charge allowance, it will qualify for the energy profits levy allowance. Since the levy is targeted at the extraordinary profits from oil and gas upstream activities—that is, the profits that came about due to the global price increases—it makes sense that any relief for investment must also be related to oil and gas upstream activities. Secondly, such spending can be used to decarbonise oil and gas production, through electrification, for example. Therefore, any capital expenditure on electrification, as long as it relates to specific oil-related activities within the ring-fence, will qualify for the allowance. Examples of electrification expenditure on plants and machinery are generators, which include wind turbines, transformers and wiring.

I remind noble Lords that there are other tax and non-tax levers to support non-oil and gas investments, such as in renewables. These levers include the super-deduction and the UK's competitive R&D tax credit regime. Importantly, returns on these investments are taxed at 19%, rather than 65%, as for UK oil and gas profits.

The Government have been listening closely to industry feedback. Late last month, the former Chancellor met industry stakeholders in Aberdeen to discuss the levy and make sure it works as the Government intend. Since then, the Government made a change to the legislation, which is reflected in the Bill. Tax repayments that oil and gas companies receive from the petroleum revenue tax related to losses generated by decommissioning expenditure will not be taxed under the levy. These repayments are typically taxed under the permanent tax regime, but, since wider decommissioning expenditure is also left out of account for the levy, this change is consistent and fair. I reassure noble Lords that, with this change, the Government still expect the levy to raise around £5 billion over the next year.

Finally, I turn to how long the levy will be in place. It will take effect from 26 May this year, and it will be phased out when oil and gas prices return to historically more normal levels. The sunset clause in the Bill ensures that the levy is not here to stay. Very few taxes have expiry dates set in law, so this provision demonstrates the Government's commitment to keeping the levy temporary, and it gives oil and gas companies further reassurance, as they seek to plan their investments.

The Bill, and the levy it legislates for, should be seen against the backdrop of the reality that we find ourselves in: people are in hardship across the country, while businesses in the UK oil and gas sector have made profits surpassing their expectations, reflecting the extraordinary global context. Through the Bill, the levy will raise around £5 billion of revenue over the next year. This is not about maximising revenue for the Exchequer but about targeted objectives: to help with significant targeted support for millions of the most vulnerable, and to encourage the oil and gas sector to reinvest its profits to support the economy, jobs and the UK's energy security. For these reasons, I commend the Bill to the House.

7.54 pm

Viscount Hanworth (Lab): My Lords, this legislation, which is being rushed through Parliament, has the ostensible purpose of addressing the crisis of fuel poverty that is affecting an increasing number of households. The crisis is a consequence of the escalation of fuel prices in the international energy markets. Temporary measures are to be taken to tax windfall profits that are accruing to the domestic energy companies, which are the providers of oil and gas. The Labour Party has called for such measures, and the present legislation should be seen as a welcome response by the Government. Therefore, it might seem surly and ungracious to call this legislation into question, but that is what I intend to do.

Although the Explanatory Notes suggest that the measures are intended to help fund more cost of living support for UK families, they are not directly connected to this purpose. The additional energy taxes or levies have not been hypothecated in this way; that is to say that they have not been pledged in a legally binding manner to serve the purpose of alleviating fuel poverty. The levies will serve to bolster the tax revenues of the Government, which sustain a multitude of purposes. Nevertheless, the Government can expect to derive some significant political capital by imposing the levies.

The current high prices that we are paying for gas and petrol have been determined in the international markets. It does not necessarily follow that our domestic energy suppliers are bound to profit from these circumstances or that their profits will have increased automatically. We are led to believe that their profits have increased; this is true for the US but the figures to

prove that it is true for UK companies operating on the UK continental shelf are not yet available. We know that, in 2021, their total profits across supply and generation fell by £133 million, or 3.4%, on the previous year. However, profits increased in the domestic supply market, providing an average profit margin of 4.3%, I believe.

The truth is that the UK's oil and gas revenues are now a fraction of what they were in the peak period in the mid-1980s, when North Sea oil and gas were plentiful. The supplies are virtually exhausted now, which means that only a small proportion of what we consume comes from domestic sources. Therefore, one should not expect the levies on windfall profits to generate a large amount of additional revenue. The aspersion that the companies have been adding a substantial mark-up in selling what they have been purchasing on international markets is not substantiated. Companies operating in the North Sea are subject to a 30% corporation tax levied on their profits and a supplementary charge levied at the rate of 10%, whereas the standard rate of corporation tax is currently 19%. The energy profits levy, which will take effect retrospectively from 16 May—which is when we were notified of this legislation—will represent a 25% tax on oil and gas profits, bringing the total tax burden on profits to 65%.

In the financial year from 2021, the total receipts from profits on oil and gas from companies operating in the North Sea were £3.1 billion. The Treasury estimated that the additional revenue from the oil and gas levies will be £5 billion in the first 12 months—a highly speculative figure, which may represent an exaggeration. Moreover, as we have heard, the additional revenues are not expected to persist, and the legislation includes a sunset clause that will remove the levy after 31 December 2025, when it is expected that the profits will have declined.

The proposal to impose the levies has been met with the criticism that they are bound to deter investment by energy providers. The Government have met these criticisms by providing some very substantial investment allowances. A new 80% investment allowance will be available to companies in respect of qualifying expenditures. Such expenditures are closely circumscribed to prevent the allowance being used in financial acquisitions, for example, or covering decommissioning costs. It appears that the Government envisage further investment in oil and gas extraction.

However, the allowance will not be available for investment in alternative sources of energy, and here lies the main criticism of the legislation. To encourage investment in fossil fuels flies in the face of the commitments to staunch emissions of carbon dioxide. One can be fearful that these provisions represent the beginning of an attempt to roll back the measures to attain net-zero emissions, to which the Government are seemingly committed.

In any case, one must question the rationale behind investments in oil and gas. Given that the prices of oil and gas are determined in the international markets, and that domestic UK production is now a negligible fraction of global production, there can be no expectation that expanded domestic production could impact significantly on prices.

An economic rationale for an expanded domestic production might be to alleviate the impact on our balance of payments of the cost of our energy imports. Given the magnitude of our balance of payments deficit on the current account in respect of goods and materials, this alleviation would be small in proportional terms.

The truth of the matter is that the UK has failed to take the appropriate steps over the past decade to secure its supplies of energy. Now is a time for urgent action to embark on a viable long-term strategy for the provision of energy. Instead, the current exigencies are encouraging the Conservative Government to attempt to suck from the North Sea what little energy there remains under the waves, and to encourage further attempts at deriving oil and gas by a process of fracturing rocks, which has already been strongly resisted by the citizens of the UK.

8 pm

Baroness Kramer (LD): My Lords, there is just one question that I would like to ask the Minister before I begin. There has been some rumour in the press that this legislation would be passed but not implemented because of the change in the leadership. I hope that is a misreading of comments that have been made, and perhaps it applies to a potential tax on the energy generators rather than on the oil and gas companies involved. I thought that this might be an opportunity for the Minister to clarify the issue.

My party called for a windfall tax on the surging profits flowing to the oil and gas companies because of soaring prices back on 24 October 2021, well before Labour made up its mind to support such a tax and seven months before the Government suddenly effected their U-turn. Because the profit surge was well under way last October, we are calling for the levy to be backdated to that date in October. I know that we have no possibility of amending this legislation, but I hope that this might cause the Minister to think again. Had the levy been put in place back then, many families would have had significant help with their struggles over the winter.

The Liberal Democrats would also have structured the levy differently, to ensure that the 25% surcharge applied to the excess global profits of oil and gas producers headquartered in the UK, rather than just profits from their domestic activity. Those two changes combined would have yielded the Government some £11 billion, rather than their expected £5 billion. It is a real missed opportunity at a time when ordinary people need so much help. For those who doubt that there are excess profits flowing to oil and gas companies, I suggest that they need only look at the share buybacks announced by the major oil and gas players—more than $8 billion a year announced in share buybacks by Shell, and something like $6 billion announced by BP, with both companies hoping that their shareholders will permit even larger share buybacks.

The Government have also missed the opportunity to use this levy to promote green investment. The super-deduction of 80% in effect doubles the tax relief for oil and gas companies increasing investment in oil and gas extraction in the UK. For every £1 invested,

[Baroness Kramer]
they get a tax savings of 91p. I accept that gas has a role to play in the transition to net zero, but it is a temporary role as we switch to green hydrogen. I also accept that the Russian war in Ukraine has raised issues of energy security, so that some extension of the life of existing UK oil and gas fields may be required. But we have no practical plan from the Government to get to net zero or to deal with the issues of energy supply while dealing with affordability. All we have is a vague strategy which is leaving consumers, businesses and investors in a state of confusion and uncertainty. In that situation of overarching uncertainty for any kind of investment, this reward for oil and gas extraction risks tilting investment back towards fossil fuels and away from green energy. It really is shambolic. At the very least, investment in renewables should have qualified for the super-deduction. I would argue that, given the need we have to immediately tackle soaring energy bills, investment in energy efficiency and retrofitting homes and commercial properties—the quickest way to bring down bills—should have been included.

None of us knows who will lead the Government in the autumn, and none of us knows how the money raised from this levy will be spent, but at least we can get some recognition today that it ought to be on those who are suffering the most from soaring energy bills and the cost of living crisis. I hope that we can hear that reassurance from the Minister.

8.05 pm

Lord Moynihan (Con): My Lords, I hope that the rumour to which the noble Baroness, Lady Kramer, refers is correct. I will argue the case as to why this should not be implemented if passed by both Houses.

We all support energy transition, and we are all committed to working towards net zero. The fundamental questions are these. What is the appropriate timeline and what is the policy framework we should be pursuing? The answer on policy underpinning has been unchanged since we first developed oil and gas reserves in the North Sea. Security of supply is best delivered through diversity of supply. At the present time, we vitally need to produce gas within a regime of strict environmental standards—gas coupled to policies to promote energy efficiency, as the noble Baroness said, supporting the vital issue of creating effective baseload energy while intermittent renewables and a new generation of nuclear plants are developed. That must underpin energy policy in the UK.

After 20 years and nearly $5 trillion of investment, the world has only 15 million barrels of oil equivalent of wind and solar, against the 237 million barrels of oil equivalent per day which we require. So it will take many decades more to complete the transition. In the meantime, we must encourage investment in gas production in the UK, while insisting on rigorous environmental controls surrounding its production. To have the capacity to invest, the industry must be profitable and be fiscally encouraged to invest its profits in future production.

The noble Viscount, Lord Hanworth, is correct that oil and gas companies operate in a highly competitive global market for the marginal investment dollar. Political uncertainty and populist short-term fiscal measures turn those investment dollars away to more stable provinces. Rather than a short-term measure—despite the good words of my noble friend the Minister regarding the sunset clause—there is no political chance whatever that this levy will not be in place until at least 31 December 2025, which is currently shoehorned into the Bill as a sunset clause. There is no conceivable way that an outgoing Government, in the run-up to a general election, will phase it out, whatever the price of gas, nor a new Government court political unpopularity by taking immediate action.

So what has the EPL done? By announcing the energy profits levy on UK oil and gas production, it almost halved the post-tax profits of the industry by increasing the marginal tax rate from 40% to 65% effective immediately, which Lambert Energy Advisory estimates could cost companies up to $30 billion in taxes over the next three and a half years, to the end of 2025. This was despite repeated protestations over the last three months from the Prime Minister that

> "The disadvantage with those sorts of taxes is that they deter investment in the very things that they need to be investing in ... I don't think they're the right way forward",

and the Business and Energy Minister, Kwasi Kwarteng, saying:

> "I don't believe in windfall taxes because what you're taxing is investment in jobs, wealth creation, and investment".

As Philip Lambert, who has been one of the leading advisers to successive Governments around the world, has rightly summarised through the publications of Lambert Energy Advisory:

> "In the end these reservations counted for little when faced with the political pressure from opposition political parties and the general public to be seen to do something about the current energy and cost of living crisis, even though the action taken will make matters worse."

Again, as the noble Viscount, Lord Hanworth, pointed out, this is not hypothecated. At its core, the issue is that there has been systematic underinvestment over the last decade in the primary lifeblood of the global energy, gas, leading to a squeeze on supply versus ever-rising demand, combined with an inability of policymakers to recognise or act on this fact. The Russian invasion of Ukraine has recently magnified this crisis but did not create it, and in fact made it harder for policymakers to focus on the root problem.

The only solution to high prices and energy insecurity is more investment to create new supplies from a diverse range of sources. Oil and gas still account for more than 10 times the global energy supplied by wind and solar, and without continuous investment this will immediately start depleting rapidly. Even with the intermittent wind and solar industries continuing to grow at the current exponential rates, it would still take about two decades for wind and solar annual generation additions to match current oil and gas annual depletion with zero investment, let alone start meeting growing global demand for energy. Furthermore, the current rate of wind and solar growth may slow, given the rising costs of import materials and supply chain bottlenecks. Therefore, an increase in oil and gas investment is essential to meet the world's energy needs and alleviate the current energy cost crisis even as other low-carbon initiatives are welcome and progressed.

While the UK continental shelf is a modest contributor to the global energy mix, accounting for about 1% of both the world's oil and gas production, and UK energy prices are as much dependent on the USA's energy system as they are on the UK North Sea, it is still a bellwether for the state of the wider industry and matters at the margin. Hence, the EPL is important both as a signal of wider trends and for its impact matters in its own right. In that regard, despite the UK Government's rhetoric couching it as an incentive for investment, make no mistake that the EPL is bad for investment in the UKCS. It confirms the UK's existing reputation for fiscal instability and political opportunism with regards to oil and gas, having already drastically changed the UKCS tax regime rates multiple times in just the last decade. Its policymakers are introducing an additional layer of tax which will come on top of the natural windfall that the sector would pay anyway due to high prices. The EPL is designed to disallow offsetting of historic tax losses only two years after the industry endured severe losses from the crash in commodity prices in 2020 from the Covid crisis, when the UK Government provided the industry with no tax support.

I am sure that the noble Baroness, Lady Bennett, will argue strongly against what I have just said, but this contrasts with Norway, a country I am sure she praises—she shakes her head, but it does at least claim to take a very strong line on environmental policies and in that context, I think it is worthy of comparison. Across the median line, the basic marginal tax rate and principles that have underpinned its approach to investment have remained unchanged for the last two decades. Recent structural changes were carefully signalled in advance and designed to allow a smooth transition, and its Parliament did not hesitate to support the sector in 2020, unlike here. They were confident that the support would be paid back in the long term through greater profitability from a healthy industry. They invested some $10 billion of support. Consequently, despite much higher marginal tax rates than in the UK, Norway retains greater investor confidence than the UK and is already attracting heavy investment in new production with a much healthier independent E&P sector, which is really relevant to gas production in the North Sea. Whatever the details of the law which we are considering today, the mere fact of the EPL's introduction will certainly impair foreign direct investment in the UKCS because of its reputational impact. It was already very difficult to attract long-term investment into the UK oil and gas industry at a time when three out of the four major party leaders in our county have either called for, or signalled they are open to, an end to new oil and gas investment.

The oil and gas sector globally, but especially in the North Sea, has limited access to new incremental equity and debt capital. Indeed, it is a net repayer of equity and debt capital, so almost all its capital expenditure is funded out of operating cashflows. Hence, the UK Government removing $30 billion from the capital pool in the next few years via the EPL will impair the sector's ability to spend and to pay out to equity investors, especially for those who are leveraged and still have to meet their debt obligations. There will likely be reluctance, even among those who have the choice, to divert cashflows from other geographies to the UK to make up for this. While the construction of the EPL is in theory designed to encourage more investment, it is questionable whether it will do so even for those who are already committed to the UKCS.

Regrettably, I stand to say this is a bad tax at the wrong time. It will have a negative impact on investment at a critical juncture in our early steps towards a net-zero economy and it should be scrapped.

8.15 pm

Lord Sikka (Lab): My Lords, it is good to see the Minister advancing and defending a policy that the Government so vehemently rejected not so long ago. The Bill is not what it seems to be. A large chunk of the £5 billion that may be raised is to be handed back to the oil and gas companies through the 80% investment allowance. The Explanatory Notes do not say how much that would be; there is no information. Neither is there any requirement that the gas and oil produced with that investment should be used in the UK—after all, we are short of energy. Companies can claim the investment allowance on assets that they do not legally own. In other words, they can claim it on leased assets. I can tell noble Lords, having worked in the oil industry as an accountant, that accountants would be very busy concocting transactions so they can claim this £91 in every £100 for the allowance.

The Government's treatment of renewables is absolutely lamentable. At the moment, for every £100 of investment, renewables receive £25 in various reliefs. In 2023, that goes down to £4.50. Of course, if the Government think that this 80% investment allowance is so good that it will stimulate additional investment, why not extend it to all the other sectors too and see whether it achieves that? Of course, it will not.

The Government are handing billions to the oil industry. The real reason for that is that it has given vast donations to the Conservative Party: some £1.5 million since 2019, and this is its pay-off.

The 25% levy, or the windfall tax, is actually low. The companies are collecting extraordinary profits without making extraordinary effort or taking additional risks. In my writing, long before the Government or any other political party came around to it, I called for a 90% windfall tax—Greenpeace talked about 70%—which would have generated a lot of money for insulating homes and putting solar panels on every single public building. The 25% windfall tax is simply a gesture by the Government to manage public opinion. It will not really have much impact on oil and gas companies, which have highly diversified income streams. Only about 5% of BP's consolidated production is based in the UK. The 25% levy will account for less than 2% of its earnings before interest, taxes, depreciation and amortization—in accounting circles, the acronym for that is EBITDA, in case anybody is wondering about that particular expression. This small 2% charge will hardly worry any major oil producer, especially BP. In the first quarter it had profits of $6.2 billion, and it handed over $4 billion to shareholders in the last 12 months. BP reported an average refinery profit margin of $18.90 per barrel during the first quarter of 2022. That is nearly three times the $6.70 per barrel

[Lord Sikka]
margin reported in 2020. This windfall tax will hardly make a dent in that kind of profiteering. BP has now paid tax on North Sea operations for the first time in the last six years because the Government have showered that industry with all kinds of relief, and that is the result. It has now paid $127 million in tax on profits of $12.8 billion. It will hardly be affected by this levy that the Government are telling us about.

Only about 3% of the consolidated production of Shell is in the UK. Its share of the windfall tax, in terms of impact on EBITDA, is barely 1.5%—hardly worth worrying about. The Government are just making a gesture. Shell tripled its profits to $9.1 billion in the first quarter of 2022 and has just completed an $8.5 billion share buyback programme. It is awash with cash; its refining profit margin rose in the second quarter of this year to $28 per barrel, from $10.23 a barrel in the first quarter and $4.17 a year earlier. That is seven times more profit from refining, and the Government are hardly making any dent in it. Shell has paid no corporation tax on its oil and gas production in the North Sea for the fourth consecutive year.

In the broader context, the yield from the windfall tax is too low, and a vast amount of it is being handed back to the same industry. No questions are being asked about how these oil and gas companies have managed to dodge taxes. There is no investigation into the transfer pricing and profit-shifting techniques used by these companies to dodge UK taxes or any review of the government policies permitting them. In 2019, the UK collected $1.72 in tax per oil barrel; in contrast, Norway collected $21.35 per barrel. Yet the UK Government are mounting no investigation into why they are giving away vast revenues.

Oil and gas companies are also rigging the market. They not only produce but buy, sell and speculate on gas and oil that they have produced themselves. BP alone employs more than 3,000 traders to do exactly that; this speculation has generated $2.3 billion of profit. There is absolutely no transparency about it or any disclosure of the accounts. No accounting standard or government department demands it, so these companies are buying and selling products which they produce, speculating and pushing up the price. That should really be looked at.

There is profiteering at all stages of the entire circuit of producing and selling oil, gas, petrol and electricity, but no windfall tax on all stages. Between June 2021 and June 2022, the refiners' margins on petrol increased by 366% and margins on diesel increased by 648%. Why is there no windfall tax on the refiners?

On 8 July, the Competition and Markets Authority said:

"Increase in 'refining spread' added 24p a litre to fuel over the last year"

and:

"The 'refining spread' tripled in the last year, growing from 10p to nearly 35p per litre."

That is a massive amount of profiteering, yet there are absolutely no checks on it. The RAC and other motoring organisations tell us that major retailers are incredibly slow to pass on falling wholesale costs, yet very quick to pass on rising ones. Again, the Government have done nothing about this, thinking that these organisations will somehow regulate themselves. They have got used to picking our pockets and are carrying on doing so, with the Government's help. There is profiteering by banks, supermarkets, electricity generators, water and other companies; why are there no windfall taxes on them but a tax on oil and gas companies operating from the North Sea? I hope the Minister can answer these questions.

The Minister will also have noticed that Spain is now levying a windfall tax on banks and utilities to provide free train travel to help people and alleviate pressure on energy demand and petrol prices. Why do the Government not do the same?

8.24 pm

Baroness Bennett of Manor Castle (GP): My Lords, it is a great pleasure to follow the very powerful speech of the noble Lord, Lord Sikka. I apologise to the Minister for missing the first few seconds of her speech; we had a very long group in Grand Committee on the Procurement Bill.

I must commend the noble Lord, Lord Moynihan, on bravely—in the "Yes Minister" sense—highlighting the importance of stability in government policy, using the example of Norway, which is known for such stability in its policy-making. It has a modern, functional constitution and a Parliament that reflects the view of the people, elected by proportional representation, producing what is generally agreed to be a fine quality of governance. I point out that, whatever the final belated delivery of this very modest—as the noble Lord, Lord Sikka, just highlighted—tax on the oil and gas industry, the renewables sector has seen instability in policy. The sudden pulling out of the rug on the feed-in tariff saw many small, independent businesses—solar installers and small-scale hydro—see their businesses disappear overnight because of government policies and the installation sector was encouraged to build up several times by government policies before having the rug pulled out from under it. So I commend the noble Lord, Lord Moynihan, on being terribly brave in criticising his own Government.

Now we find ourselves in the strange situation that a Government on their way out are finally seeking to tax oil and gas companies that have made huge profits, as the noble Lord, Lord Sikka, just outlined—not through innovation, positive activity or investment, but because of a perturbation in the global energy markets and, as the noble Baroness, Lady Kramer, highlighted, President Putin's invasion of Ukraine. These are profits made on damaging products that impose heavy costs on us all. We have been experiencing those costs today: of course today's temperature is just weather, but we are seeing a great deal of notable, extraordinary weather on this overheated planet, for which the oil and gas sectors bear the greatest responsibility.

This tax applies only from 26 May, which means the bumper profits enjoyed by companies such as BP and Shell in the first quarter of 2022 are not covered. The Government say that this is a temporary tax; it was brought in belatedly, long after the Green Party, and then others, called for its introduction. They say it will be dropped when prices "normalise", whatever that means, or, by the terms of the Bill, on 31 December 2025 at the latest.

Of course, it could also be by government fiat. I would be interested to know if the Minister can tell me the position of the field of Conservative leadership candidates on this dirty profits tax. I had not heard the rumours that the noble Baroness, Lady Kramer, has, but I have not heard any affirmative statements either. Do they intend to maintain the Government's current policy? We have heard very little about any environmental issues in the leadership debate—astonishingly, given that our nation remains the chair of COP and in the recent integrated defence review identified the climate emergency as a major threat.

The *i* reported, and I have no reason to disbelieve, that not a single Conservative leadership candidate attended the emergency briefing led by the UK's Chief Scientific Adviser Sir Patrick Vallance, which outlined the catastrophic impacts of a warmer planet—an updated version of the one that converted Boris Johnson, at least rhetorically, to the cause in 2020. I am sure the party is aware of the fate of the climate change-denying Government of Scott Morrison in Australia—which has so many similarities to our current one—and must be concerned about how the public will see the huge black hole at the centre of the Conservative leadership debate.

With this tax, as with so many of the Government's so-called green measures, what is on the wrapper does not reflect what is in the tin. There is nothing extraordinary about the tax rate being temporarily introduced; it simply reflects, as the Institute for Fiscal Studies notes, a return to levels

"broadly typical of the historical rates of North Sea taxation since the 1970s".

Perhaps that is some of the stability the noble Lord, Lord Moynihan, was looking for. That is without counting the super-deduction so many noble Lords have already covered, which means that investing £100 in the North Sea for new production will cost companies only about £8.75. The remaining cost is met by the Government. That is the money of so many hard-pressed citizens, struggling with the cost of living crisis, going into new oil and gas. Dan Neidle of Tax Policy Associates, commenting on this, said that applying this for three years simply did not square with long-term investment planning. He says,

"Short term allowances don't incentivise investment, they just give money away."

That is that £91 being given away by the Government to the oil companies.

Many commentators have noted that investments can take decades to produce results, and indeed are expected to. That immediately demolishes any claim about this gas being simply a bridging fuel towards renewables. Instead, what that public money would be doing is adding to the carbon bubble, and I note the latest figures from the respected analytical group Carbon Tracker, which show that global stock markets are currently financing companies sitting on three times more coal, oil and gas reserves than can be burned without beating the 1.5 degree Paris climate target. In its latest report, it also revealed that the embedded emissions in the fossil-fuel reserves of companies listed on the global stock exchange has grown by nearly 40% in the last decade, despite the growing urgency of the climate risk.

Given that a third or more of the money raised goes straight back to oil and gas producers, that suggests that it is the largest companies, the giant multinational companies that can most afford to pay, which are most likely to profit from this provision, while smaller firms may not be in a position to do so.

I am sure I can predict with some degree of certainty, since these issues have been much canvassed, what the Government are likely to say in response—"energy security"—and they will probably know what I am going to say, at least in a general context. I think it is worth highlighting that we are part of a global energy market. This is not gas that is going to go into our market; it is gas that goes into the global market. I have seen in one or two places the Government trying to say, "Well, you know, supply and demand—more supply means the price goes down." According to 2017 figures, the UK has 0.106% of the world's natural gas reserves, so the claim that this will make any difference to the global price does not add up. Coming back to the point raised by the noble Lord, Lord Moynihan, there is also the fact that we get we get most of our external gas from Norway and that has a carbon footprint significantly lower than that in the UK.

I come back to the points raised by the noble Lord, Lord Sikka, about the economic context. I think one useful way of framing this is by a recent report the Common Wealth think tank, which noted that workers in the UK would be paid £2,100 a year more on average if wages had grown in the same way as company dividends in the past two decades, in our rentier-dominated economy. The Common Wealth think tank joined in a May Day statement with other groups—including the Women's Budget Group, reflecting the gendered nature of inequality in the UK—that pointed out that this current cost of living crisis, which is often dated to the start of the Russian invasion of Ukraine, is a long-term trend. The economy has been arranged for the benefit of the few, at the cost of the many—not coincidentally in a political system that is funded largely by the same few. We get the politics they pay for.

I cannot but conclude that this belated, limited, inadequate gesture reflects the political place of the oil and gas companies in our current political system. It is deeply disappointing that the renewables sector is not getting similar incentives—I will not go into detail as the noble Lord, Lord Sikka has already covered this very well.

I come finally to one point about how much the failure to head towards renewables is costing people in this cost of living crisis. We have seen recently the new contracts for difference let, and that is expected to cover about 12 gigawatts of power for the coming year. Had that been done 12 months ago, it would have saved average household energy bills about £100 a year. That is what delays a costing moment by moment, day by day. The renewables sector had ready, and was prepared to go ahead with, 17.4 gigawatts of energy, but the Government did not offer all the contracts that could have been offered. That is going to cost consumers on their bills every day.

[Baroness Bennett of Manor Castle]

This is a belated, inadequate measure, and every government failure every day—this focus towards oil and gas—is costing people in their bills, as well as costing us the planet. We are not doing the long-term, steady renewables policy that could deliver the future we all need.

8.36 pm

Lord Teverson (LD): My Lords, I congratulate the noble Lord, Lord Sikka, on his forensic analysis of the market. It was quite astounding. He is an accountant, so he has to be right—we know that, in the western world. I thank him for that, and I look forward to the now extended half-an-hour reply from the Minister to his questions.

I have to say that one of the things that I like about the Bill—let us start off with the positive things—is that to some degree it is fiscally responsible. The Government are spending something a mere £37 billion—the Minister will correct me—on trying to solve the crisis in price increases, and here we have a Bill that, while it is not hypothecated, puts some £5 billion estimated back into the Treasury to pay for that. One of the reasons I welcome the Bill is because now, whenever I see a Conservative Party letterhead and that tree that is its logo, I think of it as the magic money tree. That has gone from rhetoric aimed at the Opposition Benches to the Government Benches because of the first round of the Tory leadership competition, where we had absolutely zero fiscal responsibility of any sort whatever. Maybe these are the last vestiges. Maybe the noble Lord, Lord Moynihan, will be rewarded by the fact that, if one of those now remaining eight candidates —or six or whatever it is—get in, this will probably disappear due to low tax and high spend. It will be interesting to see.

My noble friend Lady Kramer is absolutely right. At the end of the day, the core of this is the fact that households are having to pay huge amounts of extra money for their energy, and it is a real challenge to them. I quoted this figure in Grand Committee yesterday in a debate on an SI. Looking at myself, my standing order to Octopus Energy at the beginning of the year was £212 a month; this month, I paid £355. That is a huge increase, and one which I am fortunate enough to be able to afford—although even I blinked. However, to many of the households in this country, not least the 3.5 million households that were in fuel poverty before these prices even rose at all, it will be a huge challenge.

One of the sad things about that £37 billion that is going into trying to solve this crisis in the short term is that it is money just to stand still. There is no investment in there in energy efficiency or putting our housing stock right—all those challenges that we need to meet. It is just money that is coming through the Treasury and, importantly, out to households again. However, if these high energy prices continue, that will not have solved that problem one little bit.

When the noble Baroness, Lady Bennett, mentioned Scott Morrison, it was like a voice from the past. I thought I had forgotten that name forever, and I wish that I had. I hope that Anthony Albanese, who has now taken over, will now very much change the southern hemisphere's look at climate change.

I come back to Norway, which seems to have dominated this debate to a degree. The great thing about Norway, of course, is that it has a sovereign wealth fund, one of the largest in the globe, which is invested internationally and well, and is a great asset, whereas we in the United Kingdom have no sovereign wealth fund whatever, despite having depleted those resources in the North Sea. I am not pointing the finger at anybody or at any particular party, but one of the tragedies is that we have not used that ability to invest in our future.

No doubt this is a tilt back to the carbon economy rather than the clean economy—one of energy efficiency led by renewables. I would like to ask the Minister a question. I read through what was allowed or not for investment—the noble Baroness will excuse me if I did not read it sufficiently well—and I wanted to understand whether investment in new fields in the North Sea was allowed. Would it include that, depending on how long this levy lasts for, or is it just around—I say "just" carefully—greater extraction from existing resources?

I would also like to ask the same question that the noble Lord, Lord Sikka, did. Although I understand that this £5 billion is a net figure after the investment incentive, I would be very interested indeed to understand whether that is the case or what the Government are forecasting with regard to the take-up of that investment.

On a minor point—I do not want to take the House's time up on it hugely—it seemed to me when I read through the Bill that it took up a huge amount of space to make sure that nothing recycled was used. I can sort of understand all that, but it does not say a lot about the circular economy to a degree. I would hugely prefer recycling rather than new equipment, but maybe that is a small thing.

This industry is moving towards carbon capture and storage, which is perhaps more beneficial—I am slightly sceptical about CCS, but the Climate Change Committee tells us that it is a key part of meeting net zero. Is investment in carbon capture and storage included in this?

Contracts for difference were mentioned by someone—was it the noble Lord, Lord Moynihan? Sorry, it was the noble Baroness, Lady Bennett. Sorry I mixed the two up—their views and speeches are so similar. Where we have contracts for difference, this problem of excess profits is solved. The Treasury, through the contracts company, is doing very well at the moment, because the strike price on contracts for difference is well below the current wholesale or reference price for electricity. If we have those sorts of mechanisms—introduced by a Liberal Democrat Secretary of State for Energy and Climate Change—we solve these things automatically. I think there are ideas to apply that to the traditional power sector as well, which would indeed be interesting.

As my noble friend said, we see ourselves—no doubt, along with others in the House—as progenitors of this legislation, to which the Government were very late to the table, but we are at the crossroads, a fork, in energy policy. There are the siren sounds of, "Hang on a minute. Let's take the route back to fossil fuels to put this right. Guys, it's only temporary; we'll invest in new fields, but we will still be in transition." There is a

real danger here. We have seen that in the leadership contest for the government party at the other end of the Corridor, during which this issue has not been seen as sufficiently important by candidates and their campaigns. We really are at a fork.

Lastly, I put a challenge to the Minister. Just to make sure I am wrong, can she confirm that the Government will not approve the coal mine in Cumbria?

8.45 pm

Lord Tunnicliffe (Lab): My Lords, I am grateful to the noble Baroness, Lady Penn, for introducing this important Bill. It is legislation that we could and should have debated many months ago, had the then Chancellor, the current Chancellor and the rest of the Cabinet not railed against Labour's longstanding proposal for a windfall tax on oil and gas profits.

The Labour Front Bench facilitated three votes on this issue in another place, with Conservative MPs voting against the proposal on each occasion. Ministers told us that a windfall tax would be unfair. It is not. The revenue raised will fund vital support for households across the country in the face of spiralling bills. They told us that the energy companies were against it. They were not. Energy bosses were clear that their increased profits had not been expected and would not be missed. They told us that it would stifle investment. It will not. Firms said that plans were already in place and were unlikely to be scaled back in the face of a higher tax burden. When the inevitable U-turn came on 26 May, with the announcement of the creatively named "temporary, targeted, energy profits levy", we welcomed it—subject to seeing the detail.

The Bill before us creates the legislative underpinning for the levy. We will not oppose it, but that does not mean we fully endorse the Government's approach. The levy will be charged only from the date of the policy announcement, rather than being backdated to a point where both wholesale prices and company profits began to rise above what would be considered normal.

The Government's preference was not to apply a tax measure retrospectively, but can the Minister confirm whether the Treasury has calculated how much could have been derived from a levy between January and May 2022? Can she also confirm that the Treasury commencing the levy at an earlier date was indeed an option? Although it is not a fiscal measure, your Lordships will remember that in March, during consideration of the economic crime Bill, the Government introduced rules relating to entities disposed of prior to the Bill's introduction. This levy can be phased out if and when prices return to normal; otherwise, the Bill contains a sunset of the end of 2025.

In another place, much debate focused on what the Government mean when they talk of normal prices. The Chief Secretary suggested that the Treasury would be looking for parity with the prices seen in 2019 or 2021, rather than the "artificially" low prices of 2020. Can the Minister confirm exactly what figure the Treasury has in mind as a trigger for phasing out the levy? Do the Government believe there is any realistic prospect of those prices being seen before the 2025 sunset, or is the expectation that inflated energy bills are here to stay, at least into the medium term?

The Treasury's announcement of a windfall tax came alongside the scrapping of its proposals for a "buy now, pay later" loan to households and the introduction of a £400 discount instead. It soon emerged that owners of more than one property will be entitled to multiple reductions. That includes the then Chancellor, Mr Sunak, who said he would donate the extra money to charity. He urged other wealthy people to do the same.

Instead of leaving it to individuals' discretion, why has the Treasury not performed another U-turn and closed that loophole in this Bill? Do Ministers really believe that it is fair for those who can afford multiple properties to receive more support? The cumulative cost of this decision is likely to be in the region of £200 million. Would that money not have been better spent providing further support for the least well off households beyond that already announced? We are, after all, expecting another significant hike in energy bills from October. That is about real people; it will place household budgets under further pressures at exactly the point at which temperatures start dropping and people fire up their heating.

There are several other issues with the detail of these proposals. This calls into question the Government's line that their delay in adopting this levy was so that they could work through its practical implications. The decision to include investment relief was not an inherently bad judgement. While we believe that the Government has massively overstated the investment implications of a windfall tax, it does make sense to carry out such an assessment. However, the way that the investment-related tax reliefs have been drawn up is problematic. The super-deduction style of relief will see an astonishing 91p returned to oil and gas producers for every pound that they invest. Much of the revenue raised by the levy will therefore go straight back into oil and gas producers' pockets, rather than serving the stated purpose of helping consumers with their higher energy bills.

Those tax reliefs mean that, from next April, fossil fuel investment will be subsidised in the tax system at a rate of 20 times the investment available for renewable energy schemes. Much of this investment was going to happen anyway. These schemes have been in the pipeline for years and many firms had already scaled up their ambitions when wholesale prices started to rise and profits grew. This means that the investment tax relief is unlikely to produce any meaningful benefit in terms of future energy supply or energy security. There are also fears that funds could be used for exploratory fracking.

Some analysts believe that as much as £4 billion may be lost to subsidised investment that is happening anyway. Again, does the Minister not think that this could be better spent elsewhere? That £4 billion could provide generous further support for consumers, begin reversing the Government's neglect of energy storage, or boost the UK's green energy capabilities. Are these not worthy causes? Doubling our onshore wind capacity by 2030 would power an extra 10 million homes. Insulating 19 million homes over the next decade would slash household bills, while drastically improving the quality of the nation's housing stock. Further investment in offshore wind, solar power, tidal power

[Lord Tunnicliffe]
and hydrogen could improve our energy supply and help in our fight against climate change. These are the Labour Party's priorities. They should be the Government's priorities too.

Instead of helping people through the cost of living crisis, the Treasury has designed a windfall tax which hands money back to the oil and gas giants, incentivising further exploitation of fossil fuels. The British public will be grateful for the limited help that they are receiving with their bills, but they will also see through the Government's claim that they are on their side. It took too long for the Treasury to act, and there is still much work to be done in the UK if it is to weather this cost of living storm.

8.54 pm

Baroness Penn (Con): I thank all noble Lords for their contributions to this debate. In closing, I will focus on responding as far as possible to the many and varied points raised.

As I said at the beginning, the global context of high oil and gas prices has driven extraordinary profits for UK oil and gas producers. It is both fiscally prudent and morally right therefore that, through the Bill, we introduce a temporary and targeted levy on these extraordinary profits, which will help fund more cost of living support. At the same time, companies must have ample incentives to continue to invest and the Bill has been tailor-made to account for this. The new 80% investment allowance will provide them with an additional, immediate incentive to invest. This means that, overall, businesses will get a 91p tax saving for every £1 invested.

Turning to the points raised in today's debate, the noble Lord, Lord Tunnicliffe, asked about revenue that could have been raised had the levy been in place between January and May this year, and the noble Baronesses, Lady Kramer and Lady Bennett, made similar points. It is not standard for the Government to publish assessments of the fiscal and economic impacts of measures that are not being introduced and it is not clear that doing so in this case would be a beneficial use of public resources. I would also add that since the beginning of the year, three significant things have changed. The situation in Ukraine altered considerably, inflation is considerably higher than previously expected and the Government had concrete information on the indicative levels of the autumn and winter energy price cap, allowing us to design the levy and the related cost of living support to meet the scale of the challenge we faced.

As for whether an earlier commencement date for the levy was an option, as noble Lords would no doubt expect, the Government carefully considered several options. Indeed, following thought and with time to consider, the levy has a more appropriate tax base. The result is that it is not depressed by historical losses and has an investment incentive that is not only more generous but more effectively targeted at new investment. The Government are also very careful when it comes to the retrospective application of taxes. Although this tax will apply from 26 May—the date it was announced—there needs to be careful consideration whenever the question of retrospection is raised, particularly in relation to tax.

The noble Lord, Lord Tunnicliffe, also asked about the Government's plan to phase out the energy profits levy if oil and gas prices return in future years to historically more normal levels. As the former Chancellor told the Treasury Select Committee, the Government are discussing that with industry. The former Chancellor also mentioned the Brent crude price over the last five or 10 years, which is along the lines of $60 or $70 a barrel. Similarly, companies have communicated to their shareholders what they would consider normal oil prices; they tend to use numbers in the range of $60 or $70, so that gives a sense. The situation is complicated because prices have changed at different rates, with gas, for example, reaching a peak in March. However, as the noble Lord mentioned and other noble Lords noted, there is a sunset clause of just over three years in the legislation as a backstop. If prices come back to the range that the former Chancellor discussed, one might expect the levy to fall away sooner.

The noble Lord, Lord Tunnicliffe, also mentioned that fossil fuel investment will be subsidised in the tax system at a rate of 20 times the incentives available to renewable energy schemes. Other noble Lords expressed concern around the investment incentives in the Bill and whether these challenge our commitment to net zero. Having an element of independence of oil and gas in our energy system is important, and sourcing gas locally, through the North Sea, makes us less dependent on imports. As set out in the Government's energy security strategy, the North Sea will still be a foundation of our energy security, so it is right that we continue to encourage investment in oil and gas. Our oil and gas have lower emissions intensity compared to imported liquid natural gas.

As I noted in my opening speech, in meeting our net-zero target by 2050 we might still use a quarter of the gas that we use now, so to reduce our reliance on imported fossil fuels we must fully utilise our great North Sea reserve. However, that does not in any way contradict our commitment to our net-zero targets. I take issue with the noble Baroness, Lady Bennett, claiming that this Government are in any way climate change denying. The UK has decarbonised its economy further and faster than any other G7—

Baroness Bennett of Manor Castle (GP): Just to clarify, I was referring to the Scott Morrison Government of Australia when I said "climate change denying".

Baroness Penn (Con): I believe she was comparing that Government to this one. This Government have legislated for our net-zero targets—the first major country to do so. We have decarbonised further and faster than our G7 counterparts, and we have shown global leadership on climate change and wider nature and biodiversity through our chair of the G7 and COP 26. I know that noble Lords will continue to push the Government to do better, go further and do more. That is absolutely right and appropriate. The noble Baroness believes in effective campaigning; I am not sure that an effective way to campaign is not to recognise some of the progress made on the journey.

The noble Lord, Lord Tunnicliffe, said that investment will be subsidised in the tax system at a rate of 20 times the incentives available to renewable energy schemes.

We do not recognise these figures. Oil and gas companies within the ring-fence regime are already paying tax on their profits at more than three times the rate of other companies, so any tax relief is reducing a higher tax bill. Although oil and gas companies save an additional 45p in tax for every £1 they invest—91p in total from the levy—they will pay tax at 65% of remaining profits. In contrast, outside the oil and gas ring-fence regime, profits on companies such as those in the renewables sector are taxed at 19%. So if a company made £100 in profit it would pay £65 in tax in the oil and gas regime but only £19 if it were outside the regime. If it then reinvested £25 of that profit, an oil and gas company would still pay more than twice the tax of a normal company—just over £42 compared with just under £13 for a company outside the regime.

The noble Lords, Lord Sikka and Lord Teverson, expressed concern that a large proportion of the estimated £5 billion of revenue raised in the first 12 months of the levy being in place would be lost to the investment allowance. I reassure noble Lords that the £5 billion estimate is net of the effect of the investment allowance.

Lord Sikka (Lab): Will the noble Baroness tell us the cost of giving this 80% investment allowance? She said that the £5 billion is net; what would it have been without that, so that we know what the cost is?

Baroness Penn (Con): I will come on to that in just a minute. Relatedly, I was just about to answer the question about whether the money going into the tax relief might be dead weight, in that the investment would have happened anyway. The Government expect the combination of the levy and the investment allowance to lead to an overall increase in investment.

In relation to the noble Lord's question, the OBR will take account of this policy in its next forecast. I think we will see some more detail from its assessment then. I hope that the net additional investment that we expect from the design of the levy provides some reassurance to my noble friend Lord Moynihan.

The legislation also includes an anti-avoidance provision to prevent any recycling of existing assets getting the allowance. I think that is about the targeting of the allowance and avoiding dead-weight costs, rather than not being supportive of the general concept of recycling assets.

Lord Sikka (Lab): I appreciate the point the noble Baroness made about recycling, but there is nothing whatever in the Bill to prevent an oil and gas company leasing a used asset, saying that it is a new investment and claiming this allowance. That asset need not even be owned by a company in the UK—the lessor could be somewhere else in an offshore tax haven. It could be an affiliate of the same company that pays, acquires a right and then uses it. The Bill does not prevent that, does it?

Baroness Penn (Con): My Lords, the investment allowance has been carefully designed to ensure that it incentivises investment but does not provide relief for investment that would have taken place otherwise.

I will pick up on a couple of further points from the noble Lord, Lord Teverson, who had a few questions. To clarify, the allowance does apply to new as well as existing fields. It will not apply to carbon capture, usage and storage, as it applies only to upstream activities, and carbon capture, usage and storage is not an upstream activity. However, it would apply to the decarbonisation of those upstream activities. I hope that makes sense.

On energy storage, the Government published an energy security strategy in April to increase domestic energy production and accelerate the move away from gas towards low-carbon energies such as nuclear, renewables and hydrogen. It builds on delivery over the past decade, including giving the go-ahead to the first nuclear power plant in a generation and a fivefold increase in renewables. The Government will ensure a more flexible, efficient system for both generators and users by encouraging all forms of flexibility, with sufficient large-scale, long-duration electricity storage, to balance the overall system by developing an appropriate policy to enable investment by 2024.

The noble Lord, Lord Tunnicliffe, asked about the £400 energy discount and whether that may apply to second homes. The Government's intention is for the Energy Bills Support Scheme to reach as many households as possible from October, while minimising the administrative complexity of the scheme. We consulted on the basis of delivering the £400 via domestic electricity meter points. While he is right that some households have second homes or multiple meter points, it will be important to balance this against the timely and efficient delivery of the scheme. I know noble Lords have expressed concern about the targeting of the support that the Government will provide. I just say that, in contrast to calls from other Benches—for example, around a different route, which could be to reduce VAT—the flat-rate payment provides a better targeted level of support to those households that are most vulnerable. I think that is something that we should support.

The noble Baroness, Lady Kramer, asked for reassurance that the proceeds of the levy will go towards support with the rising costs of living. As her noble friend said, the support announced this year is worth £37 billion. Our estimate for the first year of the levy is around £5 billion. While there is not a direct ring-fence, it was announced at the same time as the additional measures in May, which were about £12 billion of that £37 billion. The extra support that the Government are giving people actually outweighs the revenue being raised from this levy. The distributional analysis published alongside the May package shows that it was highly progressive, and around three-quarters of total support will go to vulnerable households. As noble Lords will also know, we made it clear at that point that next April's uprating of benefits will use the normal September CPI—as we expect that level of inflation to be higher than it will be the following April—to account for ongoing high energy costs for those households on the lowest incomes.

The noble Baroness, Lady Kramer, the noble Lords, Lord Tunnicliffe and Lord Teverson, and others asked about energy efficiency. I talked about the £37 billion of cost of living support, and I reassure noble Lords

[Baroness Penn]
that the Government are spending £6.7 billion in this Parliament to improve energy efficiency and decarbonise heat in buildings. Over the next three years, the Government are investing a further £1.8 billion on low-income household energy efficiency, on top of the £1.2 billion spent since 2020. This will improve around 500,000 homes, saving households on average £270 a year on their energy bills long term, at current energy prices.

Some £471 million has been spent to date on the social housing decarbonisation fund and sustainable warmth programme, estimated to save households an average of £350 to £450 a year on their energy bills. We are also consulting on expanding the energy company obligation to £1 billion per year for improvements to fuel-poor households. The Government agree with noble Lords about the importance of improving energy efficiency, as well as providing immediate support to households with the cost of living.

I cannot answer the question from the noble Lord, Lord Teverson, on the coal mine in Cumbria, or all the questions from the noble Lord, Lord Sikka, but maybe I will write to them both and copy in all noble Lords so that they get satisfaction on those points.

Lord Teverson (LD): I was slightly mischievous in asking the question, because clearly the Minister will not be able to write and give me the answer, although I would like her to. The Government have clearly put off this decision yet again, and I just think it would be a really good sign if they made up their mind and did the right thing. Perhaps they could make that decision, at least before we have regime change.

Baroness Penn (Con): My Lords, if the noble Lord is happy to consider that message received, maybe I will direct my letter just to the questions from the noble Lord, Lord Sikka, which I may be able to answer with more success.

I have a final point, which is quite crucial to why we are all here today, in answer to the noble Baroness, Lady Kramer, who asked whether we will implement the levy we are legislating for. I assure all noble Lords that we will. We expect Royal Assent to be quite swift after we finish with the Bill this evening, and the levy will come into effect not just from that point but retrospectively from 26 May.

The noble Baroness noted the separate issue of the electricity generation sector. The Government continue our work to explore whether certain parts of the energy generation sector are receiving extraordinary profits, partly due to record gas prices. We are consulting with that sector both to drive forward the energy market reforms and to evaluate the scale of any potential extraordinary profits, and we are considering the appropriate steps to take. That work is proceeding separately and more slowly, but this levy—once noble Lords have agreed to it this evening—will absolutely go ahead.

Bill read a second time. Committee negatived. Standing Order 44 having been dispensed with, the Bill was read a third time and passed.

House adjourned at 9.13 pm.

Grand Committee

Wednesday 13 July 2022

Procurement Bill [HL]

Committee (4th Day)

4.15 pm

Relevant document: 3rd Report from the Delegated Powers Committee

Debate on Amendment 45 resumed.

Baroness Hayman of Ullock (Lab): My Lords, I will just wind up the debate we had on Monday. In this group, I have Amendment 52, which is about adding the improvement of

"economic, social and environmental well-being"

to the procurement objectives. I also put my name to a similar amendment, Amendment 48 in the name of my noble friend Lord Hunt of Kings Heath. I completely support everything that he said in his introduction; it covered what I would have said in support of my amendment, so there is no point in going over all that again. In fact, we discussed a number of amendments in this group that looked at the economic, social, environmental and cultural benefit and value of the Bill and considered what we mean by "public benefit". It was a useful debate to explore those potential objectives and what the definition of "public benefit" is. It will be interesting to hear the Minister's response to those discussions.

I also supported the amendments laid by my noble friend Lady Thornton, Amendments 47A and 52A. As my noble friend said, we believe that maximising social value is something that contracting authorities should have regard to. This is in line with the social value Act and the national procurement policy strategy, so this should all be put in line together. We also know that the Government are committed to expanding the use of social value within procurement to maximise these areas. The noble Baroness, Lady Parminter, who is not in her place today—

Baroness Parminter (LD): I am in my place.

Baroness Hayman of Ullock (Lab): Oh, the noble Baroness is there; I was looking for her in the place in which she sat on Monday. She moved, just to confuse me. This is the trouble with picking things up later.

The noble Baroness rightly said that meeting net zero is a government-stated objective and we believe, as she does, that this should also be an objective within the Procurement Bill. It could make a genuine difference, should that be something that needs to be taken account of. We also support those noble Lords who said in the debate that this helps to meet the levelling-up agenda as well as achieving net zero.

We know that social value is included in the NPPS—the national procurement policy statement—so I ask the Minister: if it is in the policy statement, why is it not referenced in the Bill? It concerns me that the policy statement can be changed at any point, so not having it in the Bill and just having it in the statement means that it is not absolutely embedded within the legislation. I will briefly mention that, between 2012 and 2020, there was no statutory guidance on social value. This inhibits its development, so we need to ensure that this does not happen in future.

I express strong support for Amendments 49 and 58 in the name of the noble Baroness, Lady Worthington, which are about climate and environmental matters and the importance of having these based within the Bill. She also said that "public benefit" needs further clarity, so I must ask again: does "public benefit" include environmental outcomes? It would be helpful to have further information on this. The noble Baroness, Lady Parminter, spoke importantly about the fact that using procurement in this way is an opportunity to drive behaviour change, because we are not going to achieve the Government's net-zero objectives without behaviour change.

Amendment 45 in the name of the noble Lord, Lord Wallace of Saltaire, specifies a number of overarching requirements that a contracting authority must take due regard of when carrying out procurement. We support the main points that he made—particularly, as well as the carbon account, the ethical and human rights record of the supplier, as he said. I know that we will talk about this in a later debate, but that is important.

Amendment 53 in the name of the noble Lord, Lord Lansley, which the noble Baroness, Lady Noakes, introduced, again talked about defining "public benefit". I think that the Minister can see that this is not party political: right across the Committee there is concern about what "public benefit" means and what it is going to deliver as part of the Procurement Bill. The noble Lords, Lord Wallace of Saltaire and Lord Purvis, also tabled amendments on this issue.

I finish by briefly mentioning an interesting briefing that I had from UKCloud. I do not know if other noble Lords have received it, but it is about the importance of maximising social value through procurement in the world that UKCloud works in—the cloud providers—and how doing so would be consistent with wider net-zero policy aspirations. UKCloud feels that it is important to support businesses in this country that are providing those kinds of platforms and support and that the sector can lead in the provision of clean, green technologies, which can help to digitise and decarbonise users of its services. It also believes that, if the sector got that kind of support from government, UK businesses would have the opportunity to really innovate and become leaders in this field. I found that an interesting briefing. If the Minister has not seen it, I would be happy to share it with him, because it had some interesting thoughts in it. The briefing also said that UKCloud feels that weighting should be given to make sure that cloud providers for the UK Government are paying their taxes in full on all earned income in the UK—that is an important point—and that they should have a clear and measurable track record of investing in local jobs and skills. The briefing has some interesting points about how procurement could help its particular type of business. I finish there and I look forward to the Minister's response.

The Minister of State, Cabinet Office (Lord True) (Con): I thank the noble Baroness and all those who spoke on this group on our previous day in Committee. It was obviously unfortunate that we could not finish

[LORD TRUE]
this group then, but I am grateful to all noble Lords, including those who were here on Monday who are not able to be here today. It has been an interesting debate and I think that we will wrestle with the philosophy of this as we go forward. I have been interested in the contributions made.

I am constantly asked to define "public benefit". One of the reasons why we have different political parties in this country and why politics has evolved is that, at different times, different people define it in different ways. The search for a total, accurate, 100% agreed definition that covers every possible eventuality may be an illusion. However, I understand that noble Lords are saying that they feel that there needs to be more clarity. No doubt we will continue this conversation on other amendments to come.

I was interested in this debate. As he knows, I have very considerable affection and enormous respect for the noble Lord, Lord Hunt of Kings Heath—it is very easy to say in this House that you have very considerable affection for somebody, because we are such a nice lot; I think generally we do mean it—and his experience. He said something very interesting. Having argued for his amendment, he said that this Bill would finish with something akin to what he wanted in it and that it would do that because it was a Lords starter.

The only way to interpret that is that the noble Lord would advocate using the power of the House of Lords to force the elected Government to include something in a Bill that they did not wish to include, in their judgment and in the judgment of the House of Commons. That is a perfectly legitimate point of view, but I was interested to see that the noble Baroness from the Labour Front Bench had signed that, as she just reminded us, and expressed her support for what the noble Lord, Lord Hunt, had said. Perhaps I should take this away and tell my friends that if ever there is a Labour Government, it would be reasonable for the unelected House to hold up Labour legislation indefinitely on a Lords starter in order to force change.

Lord Hunt of Kings Heath (Lab): My Lords, he really cannot get away with that. There are huge numbers of different amendments, which all have the same intention of trying to implement the Government's policies on climate change and sustainability, which, as the Committee on Climate Change has said, are absolutely fine. The Government's problem is that they do not have the policies to implement their own strategy. All I am trying to do is to help them implement their strategy. I do not think that that is a great constitutional abrogation by your Lordships' House. This is a Lords starter, the Government chose to bring it to the House of Lords, the Parliament Act does not apply and it is quite reasonable for this Committee—of course, I cannot speak for my Front Bench; I am speaking entirely as a lowly Back-Bencher—who is seeking to encourage the Government to recognise that they will lose this in this Committee and that the leverage they have to respond is less than it might be.

Lord True (Con): My Lords, I think that was the noble Lord trying to wriggle off the hook but impaling himself back on it at the end of his remarks. We have to make this House work via the usual channels, and it is reasonable for an elected Government in another place to listen respectfully to the other House, which it should—it is our duty to ask the other House to think again on certain things—but there is a point where we do not say that it should be taken to the wire. However, if I am ever a Back-Bencher and there is something from a Labour Government that I do not like, perhaps I will take away the Hunt dictum—one of the advantages of continuing on Wednesday what you did on Monday is that you can read *Hansard*, and I read carefully what the noble Lord said—and practise what he preaches. Anyway, let us get on with the business at hand. It is an important issue on which the Front Bench opposite might wish to reflect.

Amendment 45, tabled by the noble Lord, Lord Wallace, and the noble Baroness, Lady Bennett, seeks to ensure that contracting authorities consider a number of additional requirements when carrying out procurements, including reducing net carbon budgets, supplier human rights records, data security in the platform, and transparency. In our view, as I have argued before in Committee, contracting authorities are able to deal with these matters as things stand, and in a way that is more targeted and effective than through inclusion in a broad obligation to "have regard". In a sense, that is the difference between us. Although the noble Lord, Lord Wallace, said that his were modest demands, and deliberately did not include net zero, for example, that is brought in by the analogous amendment tabled by the noble Baroness, Lady Worthington.

Contracting authorities will be able to take account of suppliers' carbon-reduction plans and other environmental objectives where they are relevant to the subject matter of the contract. It is unnecessary and potentially unhelpful to contracting authorities to attempt to impose on them all an obligation to have regard to a range of other factors, including net zero—as mentioned in the amendment tabled by the noble Baroness, Lady Worthington—in and throughout all of their procurement activities.

In particular, it places unnecessary burdens on them in relation to areas where this is of limited relevance and would open up smaller contractors unnecessarily to the risk of legal challenge. After all, these matters are also covered in another legislation. Contracting authorities will need—this is in the Bill—to consider the ethical and human rights record of the supplier, in some respects, when considering whether a supplier is eligible to participate in the procurement. We will discuss this issue later. The Bill contains effective provision on the exclusion and debarment of those who do not.

4.30 pm

Maintaining data security within a digital platform, which is another of the reasonable points that the noble Lord put forward, is a matter for the Cabinet Office team that runs the platform in accordance with the Data Protection Act. It is not something that could easily or legitimately be placed at the feet of the contracting authorities. It should be regulated and policed through the platform.

On transparency, this is an area where I agree with the noble Lord that some overarching obligation is helpful. But we submit that that can already be found

in the Bill at Clause 11(1)(c). Furthermore, because the Government place importance on this concept, it can also be found in procedural obligations at each stage of the procurement process that will provide clarity to contracting authorities on exactly what they need to publish.

I turn to Amendments 47A and 52A, tabled by the noble Baroness, Lady Thornton, and alluded to by the noble Baroness, Lady Hayman of Ullock, which seek to change the term "public benefit" to "public value" and add "maximising social value" as a procurement objective. As the noble Baroness told us on Monday, "public benefit" is already on the statute book without an accompanying definition in a number of places, including Section 4 of the Charities Act 2011, which I think she referred to. It is therefore a term that, while perhaps not in everyday use for public bodies, has a certain degree of understanding. The "public benefit" objective in Clause 11(1)(b) already means that contracting authorities need to think about how public money can achieve additional benefit in the way that the contract is delivered, which would include how to maximise social value, so we think an additional objective of "maximising social value" would be duplicative.

On Amendment 49, tabled by the noble Baroness, Lady Worthington, as we have discussed, the Government's view is that it would not be appropriate to include wider policy objectives such as she proposes in primary legislation for public procurement.

Baroness Thornton (Lab): Can the Minister please explain why the term social value is not in the Bill?

Lord True (Con): My Lords, as I have just said, we believe that the additional objective of maximising social value would be a duplicate, as it is embraced in "public benefit".

Baroness Thornton (Lab): I am sorry, but the Minister has said that there is no definition of public benefit, and that is quite right. However, there is a legal definition of social value. It exists and is on the statute book, so why are the Government not using "social value" in the Bill?

Lord True (Con): My Lords, again, I have set out the argument. The noble Baroness disagrees but I am not going to repeat a third time the reason why we think maximising social value is unnecessary and would be a duplicative addition. Each procurement is different and what is appropriate, for example, for a large-scale infrastructure project is not for smaller transactional procurements.

Furthermore, procurement policy should be aligned with wider government policy and, as such, the publication of a national procurement policy statement is based on the strategic policy priorities relevant at the time. It would not be appropriate, in our submission, to include in the Bill priorities which can and probably will change —we have heard that they will—based on an Administration's objectives. It is always important that policy priorities are included in individual procurements only where they are relevant to the subject of the contract.

On Monday, for example, noble Lords on all sides gave those of us on the Front Bench, I freely confess, a hard time in discussing the importance of minimising bureaucracy to facilitate SME participation in procurement. I took that away as a powerful call, which I have said we will discuss. As I think I have already indicated outside the Chamber, the Government are keen to meet and consider these points.

The paradox is that seeking to include extraneous requirements, which this and other amendments in the group risk, could make it harder for small businesses to bid for public contracts. One cannot talk the small business game, which noble Lords did strongly and fairly, while adding compliance requirements that make things harder for small businesses and help larger organisations to corner the market.

We think that Amendments 48 and 52 in the names of the noble Lords, Lord Hunt and Lord Coaker, and the noble Baroness, Lady Hayman, are unnecessary and potentially unhelpful to contracting authorities in attempting to impose on them an obligation to have regard to improving the economic, social, environmental and cultural well-being of the relevant area in and throughout all their procurement activities. In particular, they would place unnecessary burdens on them in relation to areas where this is of limited relevance and, again, open them up unnecessarily to the risk of legal challenge.

I wonder whether we would all agree—in fact, I do not have to wonder; I know that we would not all agree—on what carrying out procurement in a "socially responsible way" means. In a sense, that is implicit in the challenge from the noble Baroness opposite. We all might have rather different understandings of what that requires. Imposing a legal obligation of such potential breadth on contracting authorities is, we submit, exposing contracting authorities to unnecessary risk and complexity. Contracting authorities will be able to take account of measures that improve the economic, social and environmental well-being of the relevant area—this may differ from local authority to local authority, for example—where it is relevant to the subject matter of the contract. The Bill already allows this, which is absolutely in line with the Government's levelling-up agenda.

On Amendments 53 and 58 in the names of my noble friend Lord Lansley and the noble Baroness, Lady Worthington, as I said in our debate on an earlier group, the term "public benefit" is deliberately undefined; consequently, it is intended to be a flexible concept that gives contracting authorities a degree of discretion. Again, local authorities may have different views from place to place on what the most urgent benefit in their area is. Although all the proposed economic, environmental and social additions, including creating new businesses, jobs and skills, and reducing geographic disparities in the United Kingdom, might be facets of public benefit in different circumstances—I do not challenge that—we do not believe that it would be helpful to elaborate them in the Bill.

It might also be unfair to small contracting authorities to impose an obligation to consider the reduction of geographic disparities in the United Kingdom; they might be more concerned about disparities up the road. Doing so risks excluding other matters that

[LORD TRUE]
might be more valid in specific circumstances. The Government consider that contracting authorities are better placed to make that decision in the individual circumstances at hand. We want contracting authorities to think about the extent to which public money spent on their specific contracts can deliver greater benefit than it otherwise would. I think that there is agreement in the Committee on that point. As I have said, each procurement is different; for example, what is appropriate in delivering a giant infrastructure project is not appropriate for smaller procurements.

I turn to Amendments 59 and 59A from the noble Lord, Lord Wallace—

Lord Wallace of Saltaire (LD): My Lords, I have listened carefully to what the Minister said but I am still puzzled. We are trying to craft a Bill that will have quite a long shelf life over a period when we may have a change of Government or some change in government. The Minister is saying that the catch-all public benefit is the only thing that we should have in the Bill in terms of principles and objectives. I would have thought that the consensus across all our democratic parties on public benefit and social value is a little wider than that and that it would help to provide guidance if that were spelled out rather more in the Bill. Otherwise, the principles and objectives will simply swing from one side to the other when different Governments come.

Everything cannot be left to each changing Minister to define. Surely the concept of public benefit is one that we share, as is the concept of social value. We also share the view that £300 billion-worth of public procurement sets a culture, the core of which I hope that all Conservatives, Labour, Liberal Democrats and Greens share, because that is what we are attempting to get. The Minister is saying that we cannot agree on that. I am aware of some people—the Chicago school of economists and those who follow them—who deny the concept of public benefit altogether and believe that private benefit is the only thing that drives the economy, prosperity and society. I hope that we are not there and are not starting from there.

Lord True (Con): The noble Lord always slightly loses me when he rides off in his speeches. I have a vision of him lying awake, trying to get to sleep, thinking of these terrible right-wing Conservatives whom he always cites and seeing the worst in everything. I thought that the great tradition of the Liberal party and liberal values, which I was brought up with and adhere to, is to give space to variety and not uniformity; there should be flexibility, with opportunities for local judgments and for contracting authorities to make them. The concept of public benefit is wide and flexible and should be so to give contracting authorities a degree of discretion to consider whether their specific contracts can deliver greater benefits than they otherwise would.

For example, contracting authorities are already able to make it clear in their technical specifications that fair trade options can be included in the products provided to meet the requirements of the contracts, provided that they do not discriminate against other products of other suppliers. The noble Lord objected to the mention of the terrible word "money", but public procurement needs to have a focus on achieving value for money. The two things are not contradistinctions.

While I would expect contracting authorities to consider these matters where appropriate, it would not be helpful to elaborate them in the Bill, for the reasons that the Government have submitted, as they would not apply to all contracts. The course that the other side is proposing will lead to a uniformity imposed on a diversity, which is the antithesis of local values. I respectfully request that these amendments be withdrawn.

Baroness Hayman of Ullock (Lab): Just before the Minister sits down, I really do not think that that is what we are trying to achieve. It is just to try to bring in a definition of something. If you have an objective laid out, without proper understanding of what the phrase is trying to achieve or what it means, it could be quite confusing. All we are trying to get is some clarity on what is meant by "public benefit" and what the Government are trying to achieve by having it as an objective. I have no problem with there being flexibility around this—that is important in procurement—but, as the noble Lord, Lord Wallace, said, we need some sort of guidance. If the Government do not want to put a definition in the Bill, some guidance underpinning it, on what this is looking at and what the Government are trying to achieve, would be extremely helpful.

Lord True (Con): My Lords, in a sense, it depends where the straitjacket applies and where flexibility is enabled. We will come on shortly to debate the national procurement policy strategy and I gleefully anticipate that that will be another zone of contention in our Committee, to which many of your Lordships will want to add more and more things. The noble Lord, Lord Coaker, was enthusiastic about the national procurement strategy at the opening of our proceedings and it is something that an incoming Government would be able to change and mould. Maximising public benefit is an important objective of the Bill.

4.45 pm

Some of the details of how that is done—or part of how it is done, as some of the stuff is in statute and we will talk about things such as preventing modern slavery and so on—will come within the national procurement strategy, which we will discuss on a later group. That would be my response to the noble Baroness. I sense that I have not persuaded the whole Committee on this but, for all the reasons I have given, there is a danger in trying to place too much of this in primary legislation, which is why I urge that the amendment be withdrawn.

Lord Scriven (LD): I have listened very carefully and have just reread every amendment in this group. Can the Minister point to one amendment that prescribes how the principles in each amendment have to be enacted by each local authority or each purchasing authority? They are broad principles which allow the flexibility that the Minister has just described or relate to issues such as social value, which is already in Clause 11. The amendments are exactly the same

regarding social value, the environment and social aspects. Where does the Bill say what that means and where does it not allow discretion?

Lord True (Con): A considerable number of amendments mandate that contracting authorities must have regard to certain items. Others add to the objectives in Clause 11. It is a difference of interpretation. The Government are in one place. On reflection, I think that perhaps people outside government circles will think that that is not as unwise as it now seems. I again respectfully suggest that the amendment be withdrawn.

Lord Wallace of Saltaire (LD): I beg leave to withdraw the amendment.

Amendment 45 withdrawn.

Amendment 46 not moved.

Clause 11: Procurement objectives

Amendments 47 to 53 not moved.

Amendment 54

Moved by ***Lord Knight of Weymouth***

54: Clause 11, page 8, line 38, at end insert—

"(1A) In carrying out a procurement, a contracting authority must take into account the impacts or potential impacts on local good work as a consequence of awarding the procurement contract with particular regard to the evaluation of—

(a) the gains or loss of employment in the contracting authority,

(b) the terms and conditions of work available, and

(c) the quality of work available."

Lord Knight of Weymouth (Lab): My Lords, I should start by apologising for not being able to be present for Second Reading, but I hope that we can have an interesting niche debate about the importance of good work and good work in respect of government procurement. There are five amendments in my name in this group, and I am delighted that I was joined by my noble friends Lord Hendy and Lady Hayman and the noble Baroness, Lady Bennett. I am grateful to them for their support. Also in this group are some important amendments from my noble friend Lord Hendy.

There are two aspects of regulation as I see it. One is about putting some minimum standards in place, which is what my noble friend's important amendments are about, and the other is about commissioning better practice and better performance, and that is where my amendments sit.

I should also remind your Lordships that I am the co-chair of the All-Party Parliamentary Group on the Future of Work, along with David Davis in the other place. We have been working with the Institute for the Future of Work on this good work agenda and have found from the evidence around good work that the more you can increase the quantity of good work in the economy and society, the better the prospects are for people and the communities in which they live. We therefore remind the Minister and the Committee of the importance of this agenda in terms of levelling up, in particular, but also building security, prosperity and self-respect—there is a virtuous circle in play.

We are also trying to tackle particular problems that the Institute for the Future of Work, for example, uncovered in its report *The Amazonian Era*. It looks at the supply chain in the logistics sector that starts with the Amazon warehouses and the problems of algorithmic management where people are being managed by machines and are suffering in terms of their mental health, self-respect, security and prosperity as a result. The Committee may be interested to know that President Biden in the United States is currently instigating a whole swathe of work around supply chains for procurement in order to look at this very topic.

In one of the amendments, we define what good work is, but it is important to remember how good work aligns social, economic and health interests. Taking health, for example, the institute's good work monitor shows a really strong correlation between health outcomes and higher-quality work, especially regarding chronic obstructive pulmonary disease, heart disease, some cancers, liver disease, drug use and self-harm. All those can be improved by people being able to work in a better environment. This was underscored by the Deaton review for the Institute for Fiscal Studies in May 2019.

There is also a correlation between the pay and benefits that workers receive and the productivity they then generate—hence this is also good for employers. The Resolution Foundation today has published a report showing that UK households are, on average, £8,800 worse off than their equivalents in France and Germany, in large part because of low productivity. This is a British disease that we need to tackle. I suggest that tackling, and incentivising through procurement, a better quality of work is at the heart of what we might want to do. I can also tell the Committee that this is not at the expense of unemployment. There is a very useful correlation showing that good work creates good and higher levels of employment.

I will not run through the principles of good work, as they are set out in one of my amendments. However, in terms of the requirement that we want to put on those entering the process to secure government procurement, there are plenty of indicators to help them demonstrate the quality of the work that they are offering and engaged in. The amendments would essentially ensure that the impacts on access to work and the conditions and quality of work are evaluated at a prequalification stage in procurement. They would thereby deliver strong public benefits. I listened carefully to what the Minister, the noble Lord, Lord True, said in response to the last group of amendments around public benefit. The essential argument was, I think, that it applies differently to different projects, and he therefore wants to keep it loose and flexible.

I say to him that I worry, first, about the possibility of companies that are successful in procurement off-setting one social or public benefit against another. I really do not want to see anyone off-setting the quality of the work against some other social good or public benefit. Secondly, my understanding of how good, successful

[Lord Knight of Weymouth]
capitalism works is that business and employers demonstrate four types of value: value to the shareholder; value to the customer, in this case the public purse; value to society, namely public benefit; and employee benefit and value. That is the value mix we are looking to incentivise and get right. In this context and this group of amendments, we are arguing—there is really good evidence to support this—that you can deliver really strong employee benefit and in doing so deliver extremely successful social and public benefit along the way. I seek to get this written into the Bill through these amendments. I beg to move.

Lord Hendy (Lab): My Lords, I will speak to Amendments 186, 292, 297, 315, 319 and 519. I express my gratitude to the noble Baroness, Lady Bennett, and my noble friends Lord Hain and Lord Monks for adding their names. Of course, I support the amendments moved by my noble friend Lord Knight, for the reasons he advanced.

All the amendments in this group are designed to utilise the tremendous power of public procurement to improve the lot of Britain's 32 million-strong workforce. As the Minister reminded us at Second Reading, £300 billion of public contracts is involved, some 13% of GDP. Public contracts involve tens of thousands of employers and hundreds of thousands, if not millions, of workers in their execution.

At Second Reading, I tried to make the case for the Bill to restore the fair wages resolution of the House of Commons, which subsisted to protect terms and conditions from 1891 through to 1983. The response of the Minister, the noble Lord, Lord True, was:

"To impose your political objectives on a nation, you have to win an election and form a Government."—[*Official Report*, 25/5/22; col. 925.]

He made that point earlier this afternoon in different words. It was a powerful point, but we do not think it is sufficiently powerful to answer the amendments proposed.

There are two reasons for this, one ethical and the other legal. I will deal with the ethical issue first. As we know, Clause 11(1) of the Bill includes "maximising public benefit" as one of four objectives to which the contracting bodies must have regard in letting public contracts. Clearly, one way of maximising benefit is to improve or maintain the condition of the working lives of both the workers engaged on public contracts and the many more millions whose employers will be influenced by the terms and conditions set on public contracts.

The other side of that coin is the public benefit in preventing bad employers undercutting good ones in the obtaining of public contracts. Bad employers such as P&O Ferries, which deployed employment practices which the Prime Minister and other Ministers condemned as abominable, should not on any basis be the beneficiaries of public contracts, as I am sure the Minister will agree. Schedules 6 and 7 of the Bill already specify various mandatory and discretionary grounds for excluding potential bidders from public contracts, among which are various forms of abuse of workers. So the principle is established, but the exclusions do not go far enough.

Amendments 186 and 319—one is mandatory and the other discretionary, if your Lordships do not like the idea of mandatory exclusion on this basis—would provide for the possible exclusion of bidders on the basis that the bidder has been found by an employment tribunal or court to have significantly breached the rights of an employee or worker, or that it has admitted that it significantly breached those rights, or that it has made a payment to an employee or worker in respect of a significant breach of their rights. That would catch the P&O Ferries-type employer. Of course, it is necessary to include, as the previous legislation did, a mechanism for self-cleansing so that bidders that are genuinely remorseful and have changed their practice can be included.

5 pm

I have also defined rights broadly. The idea of a significant breach of rights turns on what rights are protected. Looking at it broadly, it should cover: common law; contract and tort; statutory rights, of course; and those protected by the international obligations of the UK, which are set out in Article 399 of the Brexit deal, the trade and co-operation agreement of 2020, which I will come back to later.

The Bill's existing grounds do not do anything to protect against the sort of behaviour manifested by P&O Ferries, and although they protect against child labour, modern slavery and so on, they do not protect fundamental trade union freedoms, including the right to bargain collectively. In fact, the Bill, in revoking the existing procurement legislation contained in the Public Contracts Regulations 2015 and parallel regulations, actually removes the present discretion to exclude bidders that have breached these fundamental rights, and currently does not replace that discretion. I do not understand what justification there might be for what is in effect a diminution of labour standards by the Bill, and I would be grateful to hear what the Minister has to say on that.

I will explain the current position. Regulation 57(1) of the 2015 regulations, which is the existing legislative structure, obliges contracting authorities to exclude a bidder if it has been convicted of any of various specified offences, including child labour and other forms of human trafficking. That provision, reworded, is reproduced in the Bill, but Regulation 56(2) of the 2015 regulations also permits a public authority to refuse a tender where the authority has established that the tender does not comply with the various environmental, social and labour law obligations listed in Annexe X to the relevant EU directive, Directive 2014/24, on public procurement. This is, in effect, reiterated in Regulation 57(8)(a).

I will summarise the labour law provisions listed in Annexe X: ILO convention C087, on freedom of association and the protection of the right to organise; ILO convention C098, on the right to organise and collective bargaining; and various other conventions on forced labour, minimum age, discrimination, equal remuneration and child labour. The UK of course has ratified and is bound by each of those international treaties. The specified labour standard grounds for exclusion should be added back into the Bill, preferably

by making them mandatory for public authorities, but if not, at least giving public authorities the discretion to exclude on those grounds.

So much for ethics. I come to the legal reason why the Government need the amendments that we propose. In short, this is deference to the rule of law. Of course, the first point is that the UK is bound by the ILO conventions, which are listed in Annexe X, so its legislation should be guided by them. Putting it conversely, it is not consistent with the rule of law to remove treaty obligations from the legislation governing public procurement where they previously had effect.

However, the legal issue goes further than that: the Brexit deal—the trade and co-operation agreement to which I referred—provides in Article 399.2 that, among other things,

"each Party commits to respecting, promoting and effectively implementing the internationally recognised core labour standards, as defined in the fundamental ILO Conventions, which are … freedom of association and the effective recognition of the right to collective bargaining",

and other conventions on forced labour, child labour, and discrimination.

Article 399.5 provides that

"Each Party commits to implementing all the ILO Conventions that the United Kingdom and the Member States … have respectively ratified and the different provisions of the European Social Charter that, as members of the Council of Europe, the Member States and the United Kingdom have respectively accepted."

So the conventions listed in Annexe X are among the fundamental ILO conventions and fall squarely within the internationally recognised core labour standards. The UK and the EU member states have the obligation not only to respect and promote the conventions but to effectively to implement them. The duty of implementation surely prevents the Government from removing those ratified obligations from a legislative area in which they previously applied. This should not be confused with Article 387, but in view of the time I will not deal with that now. Article 399.5, which I quoted, goes further than the ILO conventions and refers to the European Social Charter, which in Article 6 protects the freedom of trade unions to bargain collectively.

Finally, my Amendment 519 would effect the Local Government Act 1988, which is referred to in Clause 104 of the Bill. Section 17 of the Act barred local authorities from taking into account certain "non-commercial matters" in the selection of contractors, including terms and conditions of work and the legal status of workers. These inclusions do not appear to be consistent with the obligations in relation to the labour law provisions in the current Bill, and my amendment would repeal the relevant subsections.

I am conscious that the amendments are modest compared to the scope of the Welsh Government's Social Partnership and Public Procurement (Wales) Bill, which will put collective agreement, social partnership and good labour standards at the heart of public contracting in Wales. The fair wages Bill currently before the New Zealand Parliament goes further still. Collective bargaining is a model elsewhere in western Europe and is advocated by both the ILO and the OECD. I urge the Minister to take these examples to heart.

Baroness Bennett of Manor Castle (GP): My Lords, I rise very briefly and with great pleasure to follow the noble Lords, Lord Hendy and Lord Knight of Weymouth. I could not possibly repeat large amounts of what they said. I will just add a couple of points.

First, Amendment 186 in the name of the noble Lord, Lord Hendy, and signed by the noble Lords, Lord Hain and Lord Monks, looks at excluding suppliers for other improper behaviour, particularly the mistreatment of workers. This a change to the Bill that I think would be welcomed by many good employers, because it would help them to ensure that they can compete against cowboys and potential cowboys.

It raises a point that I raised in our earlier discussion about supporting small and medium-sized enterprises; there is continuing debate on this issue, which I am sure we will take to Report. In many cases, we have seen that small and medium-sized enterprises, although not all of them are angels, know their workers as individuals. They are very often better employers, whereas large multinational companies treat their employees like blocks of labour to be moved around on a chess board. I would assert that ensuring that bad labour practice is punished would be of benefit to small and medium-sized enterprises, which noble Lords all around the Committee agreed was a good idea.

Moving on to the amendments in the name of the noble Lord, Lord Knight of Weymouth, particularly Amendment 54 and the linked Amendment 535, it is really useful to put this into context, so I will refer to a UNISON report entitled *Outsourcing the Cuts: Pay and Employment Effects of Contracting Out*. It focuses on some very detailed case studies and looks at what we have seen, particularly over the past decade: an increased work intensity forced on staff, with greater job insecurity and low or non-existent increases in pay. That has happened right across the UK economy, but it has particularly been the case with outsourced contracts of the kind we are talking about here. As the report says,

"outsourced public servants are at the sharp end of this pressure."

Those are the circumstances we have been in.

I want to pick up on what the noble Lord, Lord Knight, alluded to: that the quality of life we have in the UK, and the quality of our economy, is acutely related to the nature of that work. Amendment 54 in particular says that the

"contracting authority must take into account the impacts … on local good work".

We have low productivity; extremely poor public health, both physical and mental; and communities that have truly been hollowed out by low pay, where no one has any money to support local independent businesses. This is a spiral downwards, and we have to get out of that. These amendments are working towards putting in provision to change that. I point to the Government's levelling-up agenda, which is regionally based, so I believe that they do indeed want to address this.

I will pick up on one practical point and an example of how this might be used. Let us imagine that we have two bids for a contract, one of which is from a company that is trialling—as many now are, and as many have fully implemented—a four-day working week as standard with no loss of pay. I suggest that

[Baroness Bennett of Manor Castle]
this amendment says that the impact that could have on the local community must be taken into account. Think of all the extra time people would have for volunteering or for childcare, and the impact that would have on the quality of local life. This would build in things that the Government say are part of their agenda. Perhaps it was more Cameronian, but I think the idea of communities providing local services and volunteering is probably still part of the Government's agenda. So these amendments would deliver things that the Government say they want to deliver, and I believe they would be truly impressive improvements to the Bill.

Lord Clement-Jones (LD): My Lords, I support Amendments 54, 104 and 535 and will speak to Amendments 67 and 116, which I have signed, which were all so well introduced by the noble Lord, Lord Knight. I declare an interest as vice-chair of the All-Party Parliamentary Group on the Future Of Work.

My own interests, and indeed concerns, in this area go back to the House of Lords Select Committee on AI. I chaired this ad hoc inquiry, which produced two reports: *AI in the UK: Ready, Willing and Able?* and a follow-up report via the Liaison Committee, *AI in the UK: No Room for Complacency*, which I mentioned in the debate on a previous group.

The issue of the adoption of AI and its relationship to the augmentation of human employment or substitution is key. We were very mindful of the Frey and Osborne predictions in 2013, which estimated that 47% of US jobs are at risk of automation—since watered down—relating to the sheer potential scale of automation over the next few years through the adoption of new technology. The IPPR in 2017 was equally pessimistic. Others, such as the OECD, have been more optimistic about the job-creation potential of these new technologies, but it is notable that the former chief economist of the Bank of England, Andrew Haldane, entered the prediction game not long ago with a rather pessimistic outlook.

5.15 pm

Whatever the actual outcome, we said in our report that we need to prepare for major disruption in the workplace. We emphasised that public procurement has a major role in terms of the consequences of AI adoption on jobs and that risk and impact assessments need to be embedded in the tender process.

The noble Lord, Lord Knight, mentioned the All-Party Parliamentary Group on the Future of Work, which, alongside the Institute for the Future of Work, has produced some valuable reports and recommendations in the whole area of the impact of new technology on the workplace. In their reports—the APPG's *The New Frontier* and the institute's *Mind the Gap*—they recommend that public authorities be obliged to conduct algorithmic impact assessments as a systematic approach to and framework for accountability and as a regulatory tool to enhance the accountability and transparency of algorithmic systems. I tried to introduce in the last Session a Private Member's Bill that would have obliged public authorities to complete an algorithmic impact assessment where they procure or develop an automated decision-making system, based on the Canadian directive on artificial intelligence's impact assessments and the 2022 US Algorithmic Accountability Act.

In particular, we need to consider the consequences for work and working people, as well as the impact of AI on the quality of employment. We also need to ensure that people have the opportunity to reskill and retrain so that they can adapt to the evolving labour market caused by AI. The all-party group said:

"The principles of Good Work should be recognised as fundamental values … to guide development and application of a human-centred AI Strategy. This will ensure that the AI Strategy works to serve the public interest in vision and practice, and that its remit extends to consider the automation of work."

The Institute for the Future of Work's *Good Work Charter* is a useful checklist of AI impacts for risk and impact assessments—for instance, in a workplace context, issues relating to

"access … fair pay … fair conditions … equality … dignity … autonomy … wellbeing … support"

and participation. The noble Lord, Lord Knight, and the noble Baroness, Lady Bennett, have said that these amendments would ensure that impacts on the creation of good, local jobs and other impacts in terms of access to, terms of and quality of work are taken into account in the course of undertaking public procurement.

As the Work Foundation put it in a recent report,

"In many senses, insecure work has become an accepted part of the UK's labour market over the last 20 years. Successive governments have prioritised raising employment and lowering unemployment, while paying far less attention to the quality and security of the jobs available."

The Taylor review of modern working practices, *Good Work*—an independent report commissioned by the Department for Business, Energy and Industrial Strategy that remains largely unimplemented—concluded that there is a need to provide a framework that better reflects the realities of the modern economy and the spectrum of work carried out.

The Government have failed to legislate to ensure that we do not move even further down the track towards a preponderantly gig economy. It is crucial that they use their procurement muscle to ensure, as in *Good Work*, that these measures are taken on every major public procurement involving AI and automated decision-making.

Baroness Hayman of Ullock (Lab): My Lords, this is an important group of amendments, which focus on what we believe work in this country should look like. There are a number of amendments in the name of my noble friend Lord Knight of Weymouth, to which I was pleased to add my name. He introduced them in his usual way—eloquently, knowledgably and passionately. I thank him for that.

We believe that a commitment to good work standards in procurement, in response to the new challenges faced in the labour market that noble Lords have talked about, is an extremely important and appropriate part of what we need to be looking at. We know that Scotland introduced a commitment to fair work first and my noble friend Lord Hendy talked about its introduction by the Welsh Government, so this is not new or untried. Other parts of the United Kingdom are looking at how best to achieve this and we think

that the Treasury should also be looking at it. It should be not just about procurement but much broader: how do you underpin good work?

My noble friend Lord Knight of Weymouth's amendments clearly recognise that procurement can be a powerful tool to support public policy goals and targets, beyond just ensuring value for money. We have heard about the Institute for the Future of Work and its research that shows that creating and protecting good-quality jobs provides resilience and promotes well-being and prosperity at every level. Again, that supports the Government's levelling-up agenda. My noble friend Lord Knight also mentioned how it would increase productivity in this country. Surely that is an ambition that the Government and the Minister share. We believe that promoting good work is a public good that advances national, economic, social and health interests and priorities.

The noble Baroness, Lady Bennett of Manor Castle, spoke in support of my noble friend Lord Knight's amendments. She made a couple of important points about how work intensity has increased while, at the same time, work security has decreased in this country. I agree with her on the issue of outsourced contracts. That is something that we have to look at because, as the noble Baroness rightly said, quality of work is related to quality of life, because we spend so much time at work.

The noble Lord, Lord Clement-Jones, spoke to a number of amendments and focused particularly on AI, automation, the impact of new technologies and their potential disruption to jobs. There has been some good research on this, which we need to take account of as we develop legislation. It would be interesting to hear the Minister's thoughts on how that could be managed in this Bill or perhaps through other means.

My noble friend Lord Hendy also had a number of amendments in this group and I thank him for his detailed and careful introduction. A lot of this is incredibly important. He spoke about previous and other legislation and how we need to bring it up to date in this Bill. That is incredibly important if we are to get the best legislation that we can. He was quite right when he said that we need to use procurement to improve the lot of Britain's workforce and ensure that we have high standards.

We all need to pay attention to the point that my noble friend made about P&O Ferries because, as he explained on his Amendment 186, we need some buffer or means to manage bad employers—as you could simply call them—as opposed to good employers. The Government condemned the actions of P&O Ferries, as I am sure the Minister did. If there is anything that we can do with the Procurement Bill to stop that kind of behaviour happening again, we should take clear advantage of it. The noble Baroness, Lady Bennett of Manor Castle, also supported the amendment.

I am sure that the Minister would support the fact that we are trying to improve the quality and security of the British workforce. I will be interested to hear his thoughts on the debate.

Baroness Scott of Bybrook (Con): My Lords, I am sorry to disappoint. The following amendments are concerned with placing additional requirements on contracting authorities so that their procurements create good jobs and opportunities in local areas. I will address the issues in turn.

Amendment 54, tabled by the noble Lord, Lord Knight, whom I thank for his extremely interesting opening remarks, the noble Baronesses, Lady Hayman and Lady Bennett, and the noble Lord, Lord Hendy, seeks to include a new procurement objective in Clause 11, requiring contacting authorities to have regard to the importance of local "good work" when carrying out a procurement. We believe this is unnecessary. Under the Bill, contracting authorities will already be able to give more weight to bids that create good-quality jobs and opportunities for our communities, where this is relevant to the contract being procured and is not discriminatory. This is absolutely in line with the Government's levelling-up objectives and means better value for money.

Additionally, the concept of "good work" includes a wide range of matters, such as union representation and access to facilities for career guidance and training. Including this provision would have the effect of slanting public procurement away from SMEs and VCSEs, which this Government have worked hard to champion in the Bill, and in favour of large employers with significant resources and a highly unionised workforce. That is very much the opposite direction of travel to the policy behind the Bill.

Amendment 67 was tabled by the noble Lords, Lord Knight, Lord Hendy and Lord Clement-Jones, and the noble Baroness, Lady Hayman. I thank the noble Lord, Lord Cement-Jones, for not only taking us into the future but looking at what is starting now and what has been going on for quite a few years to create a different workforce from the one we have now. He talked about something that we will have to discuss further in both Houses—both the opportunities and the challenges to the workforce that we see today. That is probably not for this Bill, but I can see much further work being done on the issue.

The amendment seeks to include in the national procurement policy statement the creation and protection of "good work". We have already set out in previous debates the rationale for not including policy priorities in the Bill and why instead the national procurement policy statement is a more appropriate vehicle for this.

Amendment 104, tabled by the noble Lords, Lord Knight and Lord Hendy, and the noble Baroness, Lady Hayman, seeks to lay out a new rule in the Bill which would allow contracting authorities to request information from a supplier submitting a tender about good work standards and practices. This amendment is not necessary: the Bill already allows contracting authorities to set the criteria against which they wish to assess tenders and it is open to them to include these matters within those criteria. Any bidder will therefore have to submit information setting out how they meet the chosen criteria. Including a specific power for contracting authorities to require such information could call into question the ability of contracting authorities to request other information relevant to the assessment of tenders.

Amendment 116, tabled by the noble Lords, Lord Knight, Lord Hendy and Lord Clement-Jones, and the noble Baroness, Lady Hayman, requires extensive

[Baroness Scott of Bybrook]
quantities of information about contracting authorities' good work policies and measures to be included in the tender notice. I have set out already the Government's objections to including significant requirements on contracting authorities in relation to this and other similar matters. Public procurement needs to be focused on achieving value for money. We do not consider that it would be appropriate to embed obligations on policy objectives such as "good work" in the tender notice or indeed elsewhere throughout primary legislation for public procurement.

Amendments 186, tabled by the noble Lords, Lord Hendy, Lord Hain and Lord Monks, and the noble Baroness, Lady Bennett, and Amendments 315 and 319, tabled by the noble Lords, Lord Hendy, Lord Hain, Lord Monks and Lord Woodley, seek to introduce new exclusion grounds in relation to breaches of labour rights. Employers who seriously violate the rights of their workforce are not fit to compete for public contracts. The Bill expands the range of serious labour violations to be considered as part of the mandatory grounds for exclusion, for example the failure to pay the national minimum wage and offences relating to employment agencies.

5.30 pm

A number of noble Lords, including the noble Lord, Lord Hendy, and the noble Baronesses, Lady Bennett and Lady Hayman, talked about P&O Ferries. The Government do not comment on specific cases, but we advise employees and employers to make use of the expertise and free conciliation and mediation services of ACAS. We continue to emphasise that we always expect employers to treat employees fairly and in a spirit of partnership. We have been very clear that using threats about firing and rehiring simply as a negotiating tactic is completely unacceptable.

The noble Lord, Lord Hendy, also mentioned the ILO. In order to provide greater clarity for contracting authorities over the grounds that apply, the grounds are framed in terms of UK offences and legislation. In respect of ILO conventions, this serves to ensure that the grounds apply where a supplier may be based in a country which is not a signatory to the convention in question. The Bill is clear that the exclusion grounds are blind as to where misconduct may have occurred with the grounds extending to equivalent overseas offences and conduct occurring overseas.

The noble Lord, Lord Hendy, also mentioned the TCA.

Lord Hendy (Lab): Why would breaches of ILO conventions not apply to bidders in this country if they apply to bidders from outside this country?

Baroness Scott of Bybrook (Con): As that is a legal question, I shall get a legal answer for the noble Lord, and I will certainly write. I thought I had answered him, but I will make sure that that is clearly written legally.

On the TCA, with respect to Articles 387 and 399 of the EU-UK Trade and Cooperation Agreement, procurement law does not grant rights to workers and, as such, the exclusion grounds are not inconsistent with the UK's obligations under those articles. The rights protected by these provisions are provided elsewhere in national laws, none of which are affected by the Bill. The exclusion grounds are not intended as a means of enforcing labour rights; rather, exclusion is a mechanism to ensure that contracting authorities do not award contracts to suppliers that pose a risk.

I am confident this will enable contracting authorities effectively to protect the rights of workers delivering public contracts, especially when combined with other changes we are making to strengthen the exclusions regime, such as the inclusion of serious labour misconduct in the absence of a conviction as a discretionary ground for exclusion; requiring assessment of whether the exclusion grounds apply to subsidiaries of the supplier; and extending the current time limit for discretionary exclusion grounds from three years to five years.

Amendments 292 and 297, tabled by the noble Lords, Lord Hendy, Lord Hain, Lord Monks and Lord Woodley, remove the requirement for contracting authorities to consider the risk of the circumstances giving rise to an exclusion ground recurring in applying the exclusions regime. Exclusion is not a punishment for past misconduct; that is for the courts to decide. Exclusion is a risk-based measure and, as such, suppliers should be encouraged to clean up their act and given the right to make the case that they have addressed the risk of the misconduct or other issues occurring again. This might be through better training, stronger compliance controls or dismissing the staff involved in any misconduct. It is for contracting authorities to decide whether the evidence they have seen is sufficient to reassure themselves that the issues in question are unlikely to occur again.

Amendment 519, tabled by the noble Lord, Lord Hendy, proposes to use Clause 104 of the Bill to omit Section 17(5)(a) and (b) from the Local Government Act 1988. It would remove the prohibition on relevant authorities, as detailed in Section 17(5)(a) and (b) of the 1988 Act, to consider in relation to public supply or works contracts the terms and conditions of a contractor's workers and the employment status of their subcontractors.

The Bill provides for a range of labour violations to be considered as part of the grounds for exclusion, which must be considered for every supplier wishing to participate in each procurement within the scope of the Bill. These matters will be subject to further debate, possibly later today, when the Committee considers the exclusions and debarment regime in the Bill. I am sure my noble friend Lord True will have more to say on that.

The purpose of Clause 104 in the Bill is, first, to ensure that authorities to which Section 17 of the Local Government Act 1988 applies are not prevented by that section from complying with their duties under this Bill; and, secondly, to enable a Minister of the Crown or the Welsh Ministers to make regulations to disapply, when required, a duty under Section 17. The clause ensures that authorities covered by the 1988 Act can take advantage of domestic procurement policies that may be implemented during the life of the Bill.

Clause 104(1), which amends Section 17(11) of the Local Government Act 1988, directly achieves this. However, it amends Section 17 only to the extent

necessary to ensure that the relevant authorities are not prevented by virtue of the section from complying with the Bill. It would not be appropriate to use the Bill as a vehicle to make further amendments to the 1988 Act, as proposed by the noble Lord, Lord Hendy.

Amendment 535, tabled by the noble Lords, Lord Knight and Lord Hendy, and the noble Baronesses, Lady Hayman and Lady Bennett, creates the concept of "good work", relied upon by the other amendments in this group. In the light of my responses on substantive amendments, there is little I can usefully add on this amendment. I therefore respectfully ask that noble Lords do not pursue these amendments.

Lord Knight of Weymouth (Lab): My Lords, I am grateful for the response and to those who took part in this relatively short debate. The arguments were well made, and I think the Minister at the Dispatch Box, the noble Baroness, Lady Scott, agrees with the basic premise. As ever with these things, I was not surprised but disappointed at the response.

My noble friend Lord Hendy made a really good case about the importance of punishing bad labour practice. Recalling P&O Ferries is important; these cases come along and it always ends up feeling like too little too late. This is an opportunity to act more proactively and actually put something into statute.

On the amendments in my name, I was grateful to hear about the UNISON report, as I was not aware of that. I was grateful to hear that the Labour Administration in Wales are getting on with something like this. It is good to hear, as ever, the insights from the noble Lord, Lord Clement-Jones, on AI and algorithmic accountability and regulation. I will need to think about that. I was really pleased to hear the Minister say that she thought more needs to be done on that.

In closing, I offer this up to the Minister: before we come to Report, is it worth having a chat? I listened carefully to what she said about the impact on SMEs from the way we frame some of this. If she is interested in having a meeting to discuss how we can achieve something on the good work agenda in this Bill, probably including David Davis, because I think he is minded to table similar amendments when it goes to the other place, we would be delighted to do that. Perhaps, with the noble Lord, Lord Clement-Jones, tagging along too, we can start to sketch out what we might be able to do on algorithmic regulation in this Bill or in future legislation. On that basis, I withdraw my amendment.

Amendment 54 withdrawn.

Amendments 54A to 59A not moved.

Clause 11 agreed.

Clause 12: The national procurement policy statement

Amendment 60

Tabled by ***Baroness Noakes***

60: Clause 12, page 9, line 2, leave out "may" and insert "must"

Baroness Noakes (Con): My Lords, with the leave of the Committee, I will move Amendment 60 in the name of my noble friend Lord Lansley and speak to Amendments 61, 63 and 64 in his name. As on our previous Committee day, at his request I am handling his amendments this week.

Amendment 60 is one of those favourite Committee amendments that changes "may" to "must". No Committee can ever get through without at least one of them; there will be some others, I think. The amendment would change "may" to "must" in Clause 12(1) so that it would require the Government to produce a national procurement policy statement. Although it is clearly the Government's intention to publish a statement, the current wording of Clause 12 leaves it open to them not to do so. That is a serious omission, especially given the introduction of covered procurement, which we will debate on Report. The NPPS will be the only way to ensure that all public procurement is conducted in accordance with the principles and objectives set out in it.

Amendments 63 and 64 would require that the consultation is based on a draft statement. The present drafting would allow a consultation without the benefit of seeing what the Government intended the statement to say. I do not think this is an acceptable or effective consultation process. It makes something of a mockery of consultation, particularly for the first NPPS. I note that Amendment 74 in the name of the noble Baroness, Lady Parminter, also includes proper consultation on a draft.

The other amendment in my noble friend's name is Amendment 61. The noble Baroness, Lady Bennett of Manor Castle, has added her name to it, and I understand that she will also speak to it. That is probably just as well, because I am not much in favour of lists such as the one here, even when they are non-inclusive. The various other amendments in this group show that noble Lords are attracted to attaching other pet causes to the list. I should say, though, that my noble friend Lord Lansley believes that we must ensure that the existing statutory obligations on the environment and social value are included in the priorities in order to reaffirm Parliament's will, and he has added innovation and competitiveness in UK industry because they are stated Treasury priorities, as set out in the Spring Statement. Lastly, he included

"the minimisation of fraud, corruption, waste or the abuse of public money",

which should be underlying values in relation to public procurement. He believes that these items should be specifically referenced in the Bill.

I beg to move.

Baroness Parminter (LD): My Lords, I have two amendments in this group. In the absence of the noble Baroness, Lady Worthington, I rise to introduce Amendments 65 and 546.

This is an important group of amendments. Although contracting authorities may never bother to read a Bill that we have debated for hours, all of them must have regard to the NPPS, so what is in that document is really important. The amendments in this group look at two particular areas. One is what is put in the Bill about the strategic priorities. The second is the process for parliamentary scrutiny to bring that into being.

[Baroness Parminter]

Amendments 65 and 546, in my name and the names of the noble Baronesses, Lady Worthington, Lady Verma and Lady Young of Old Scone, so they are cross-party amendments, are intended to tease out the strategic priorities that the Government allude to in the opening sentence of the NPPS, as stated in the Bill, because it does not put anything in the Bill.

5.45 pm

The noble Lord, Lord True, has been holding us off with the promise that he was not going to put anything in the Bill when it talks about procurement objectives, but of course we are coming on to talk about the NPPS. This is his chance to put down on the face of the Bill what some of those strategic priorities are—to actually state on it what matters the NPPS will cover. It will come as no surprise to him or to colleagues that the issues that the four of us think must be on the face of the Bill pertain to the need to meet net zero and environmental goals; the amendments clearly state that. Other noble Lords will want to flesh out other areas, but those are the issues that we feel must be in the Bill. If the Government are not prepared to do it on the objectives—it has been made quite clear that they are not—this is the place to do it.

My two amendments, Amendments 74 and 62, are about process. I am not a process person; I did not know much about it until the past six months, when we have had the Environment Act and I have had the privilege of being chair of the Select Committee on the Environment and Climate Change. The now Environment Act was the first skeleton Bill from this Government with the promise of producing an environmental principles policy statement, so in the Chamber we went through what would be the process for ensuring that it came into being. In the then Bill, the Government proposed a draft statement. If it is good enough in the Environment Act to propose a draft statement for the Government to consult on, I do not understand why they have not proposed it in this Bill. If the Minister is not prepared to propose a draft, when he sums up will he say why, given the precedent that they have created by proposing to produce a draft EPPS in the Environment Act, they will not do the same for the NPPS? It is equally significant, arguably even more so. The EPPS was about embedding environmental principles across government; this is about embedding the principles and strategic directions not only across government but across all contracting authorities—it goes wider than just departments. I find this extremely hard. The case that the noble Lord, Lord Lansley, and I have made from both sides of the Chamber about preparing a draft is a strong one.

My next point follows from one made by the noble Baroness, Lady Noakes. This is our chance to ensure adequate parliamentary scrutiny of what will be an incredibly important document. Therefore, with the help of the Public Bill Office, I have gone to the trouble of setting out a process that gives this House the opportunity for adequate scrutiny. I remind colleagues who are not familiar with the processes for a policy statement that it is not like an SI. The Government table it and then there is no guaranteed debate unless somebody determines to pick it up, so it is important that not only both Houses but Select Committees or Joint Committees get the chance to look at it. I have tried to table a process, mindful of what is in the Government's own Environment Act, that will give this House adequate scrutiny.

The only change of substance that I have made from the Environment Act is that it, like this Bill, talks about a 40-day period. The evidence from when we tried to do that process for the environmental principles policy statement was that 40 days was not enough. When you take out all the Thursdays and Fridays and try to get the Minister before you, and you want to get stakeholders so that the Select Committees can do an adequate job and inform the House to have a proper debate, you cannot do it in 40 days. I can prove that because, when we could not get it all done on the Environment Act and then have a debate in the House, the Government were good enough to say, "We will extend the period even though the legislation says 40 days. We will allow for the debate to go beyond that, because we accept that it is not sufficient time for adequate scrutiny." I have picked 60 days. I do not care what you pick, but the evidence is that 40 days was not enough when we tried it on the EPPS.

I will sit down, but this is an important group of amendments. It is about putting in the Bill the strategic priorities of the Government, so that people who read it understand what they are, and having a proper process whereby this Parliament can scrutinise it.

Baroness Boycott (CB): My Lords, I declare my interests as set out in the register. Before I speak to Amendment 66, I express my wholehearted support for the amendments so well introduced by the noble Baroness, Lady Parminter. Of course, this is a place where we see the colours of the Government, because this is how they spend their money. So, this is not about idle words—it is about hard cash and what actually happens on the ground.

Having worked in local government on a London council, I know the power of procurement—it is absolutely massive. The amendment that I am introducing—I am pleased that the noble Baroness, Lady Bennett, is supporting it—is about how we can ensure the health and sustainability of food and catering services. That priority appears to be currently missing across the NPPS. My amendment sets out in subsection (3A) a range of topics that must be covered in relation to food, including the requirement to set targets on those matters. I know that the targets are a matter for the NPPS, but I have specified a minimum target, which has come from the national food strategy.

In common with other noble Lords, I see this amendment as addressing a key strategic priority, which is both nationally and locally important: that high-priority, cross-cutting topics such as sustainability and the health of our food system must be front and centre in legislation, rather than being left to a policy statement that could be changed unilaterally when we get a change of Government. While I fully accept that you have to have flexibility and be able to change, this argument applies to the technical detail and second-order priorities. It seems reasonable to assume that it is unlikely that considerations such as local and environmentally sustainable sourcing, servings and diets,

or the management of resource inputs and waste outputs, will cease to be key national or local priorities, even in the medium to long term. Even were we to fully address them, we would wish to be watchful and continue to prioritise them to ensure that they remain addressed.

I have been pleased to see that the Government agree with me on the importance of this issue, hence the recent public commitment in the government food strategy to consult on extending the government buying standards for food and catering services across the whole of the public sector and the accompanying Defra consultation on how we are going to do it. The government food strategy also agrees that public sector food should be healthier, more sustainable and provided by a range of local suppliers, which will improve accountability and inform future policy changes. It also commits us to requiring public organisations to report on the food that they buy, where they serve it and what they waste. I think that this amendment is wholly uncontroversial. It simply captures the key topics that make up the buying standards.

My amendment sets one minimum target on the face of the Bill in relation to local and sustainable sourcing. The government food strategy has an aspirational target that 50% of food by value should be sustainable or local, but my assumption in setting a target of 30%, rising to 50%, is that the strategy's target was not intended to mean that 50% of food should be local but unsustainable, with the other 50% being wholly sustainable but from miles away. I have therefore anticipated a degree of overlap from the start, until, over time, both sides meet the 50% criteria.

I do not think that there are any sensible grounds to reject this amendment on the basis that procurement authorities are wholly on top of this agenda and that a statutory footing for food and catering standards, however flexible, is therefore unnecessary. Rather, a considerable amount more might be done to strengthen the oversight of food and catering.

The Environment, Food and Rural Affairs Committee highlighted a number of issues in its report last year. Monitoring appeared to be almost absent, no penalties were ever applied where standards were visibly not adhered to and an independent survey covered in the Select Committee report found that 60% of secondary schools were not even following the school food standards. Another report found that half of hospitals were not complying with the government buying standards—you can see why that happens when they get paid by Coca-Cola to keep a machine in their lobby, which then becomes part of a hospital's budget.

Its conclusion was that we do not have a clear picture of how frequently and effectively buying standards are being followed by the public bodies that are mandated to follow the standards. It means that food supply chains cannot normalise around one set of baseline standards. If we put a framework for the food aspects of the NPPS on a statutory footing, it will flow down through all areas of the contracts.

Before leaving this subsection, I draw noble Lords' attention to what has happened in one particular place in the UK—Preston. Between 2010 and 2016, the council estimated that it lost roughly 60p in every £1 from central government payments. Preston City Council identified the biggest organisations in the city—council, university, police and housing associations—and worked out that they had a combined annual spend of £750 million. In 2012-13, only £1 of every £20 stayed in the local economy. It was reworked so that, by 2017, the six local public bodies spent £38 million in Preston itself and £292 million in the area. It used the social value Act, a 2013 law that requires people who commission public services to think about how they can ensure wider social, economic and environmental gain. Local food obviously creates local jobs in horticulture, which is also set out in the Government's response to the *National Food Strategy*. A target on local spend will only help to make this really work.

Proposed new subsection (3B) takes the recommendation of an updated reference diet for the nation, in line with our health and sustainability goals. As Henry Dimbleby explained in the food strategy, this diet, which he recommended to be published by the FSA working with the Office for Health Improvement and Disparities, Defra and a range of other consultees, would create a single reference point and a consistent approach across government policies. The NFS observed that

"Dietary guidance in the UK is based on evidence of the health effects of individual nutrients and foods rather than overall diet".

Therefore, it is not consistent. It continues:

"Our current Eatwell guide, the closest we have to a reference diet, does not take sustainability into account"—

at all. The absence of mandatory dietary guidance for public procurement has been widely cited as one of the reasons—in fact, probably the main reason—for the poor quality of food on offer in public settings. Creating a legal obligation for food procured by the public sector will not only avoid inconsistencies—as in an "eat as I say, not as I do" approach—but allow the Government to lead by example.

The point of all this is that it empowers local communities and farmers, creates jobs and makes children more interested in food. All the way through, it will help to change the health of our nation and put us on a much better footing. If this diet is created in the future, the Minister of the Crown who produces the NPPS would be obliged to have regard to it, which does not tie the Government's hands or force them to carry out work they do not want to. It merely provides for joined-up governance.

With those remarks, I reiterate my belief that this amendment is completely uncontroversial and ought to meet the Government's support. I commend it to the Minister and look forward to hearing their views.

Baroness Verma (Con): My Lords, it is a great pleasure to follow the noble Baroness, Lady Boycott. I have already spoken to the positive case for the inclusion of climate and nature in the Bill. Amendments 65 and 546, to which I have added my name, would offer the particular benefit of providing additional stability or, if noble Lords wish, discouraging repeated tinkering through the frequent updates of the national procurement policy statement by putting the essentials of the NPPS in the Bill.

I make one other point, which relates to the contrast between the Green Paper and the language on the national procurement policy statement. The Green Paper said, strongly and correctly, that

[Baroness Verma]

"money spent through public procurement will be used to deliver government priorities through projects and programmes that generate economic growth, help our communities recover from the COVID-19 pandemic and tackle climate change."

These have all been mentioned already by noble Lords. Elsewhere,

"government spending must be leveraged to play its part in the UK's economic recovery, opening up public contracts to more small businesses and social enterprises to innovate in public service delivery, and meeting our net-zero carbon target by 2050."

The eventual text of the current non-statutory NPPS is perhaps a little more modest in its application: it only requires contracting authorities to have regard to considering contributing to the UK's climate target—but not to its interim carbon budgets or climate adaptation—and to considering identifying opportunities to enhance biodiversity. There are no specific environmental targets. With such a large annual spend on public procurement, this may be a missed opportunity for the Government to strengthen these provisions by instead requiring contracting authorities to have regard to actively contributing to specific climate and nature targets, rather than just considering contributing to them.

6 pm

The text in the amendments will also provide more consistency with the Health and Care Act, without at any time tying the hands of contracting authorities in the scope of the Bill. Tackling climate change is a global issue, but the UK can show leadership and improve competitiveness by explicitly driving change across supply chains through sustainable public procurement, while simultaneously supporting domestic priorities such as levelling up.

I believe totally in social justice and in our small and medium-sized enterprises. I will continue to fight from these Benches for the interests of those businesses, because they have suffered so badly, particularly during the last two or three years. It is also an opportunity for us to be able to put them in a much firmer position. The Minister, during the debate on the previous group of amendments, was very kind enough to agree to meeting the noble Lord, Lord Knight. I hope that the same opportunity to meet with the Minister will also be given to me and the noble Baronesses, Lady Worthington, Lady Parminter and Lady Young of Old Scone.

Baroness Thornton (Lab): My Lords, I will speak very briefly to Amendment 75A in my name. I thank the noble Baroness, Lady Bennett, my noble friend Lady Hayman and the noble Earl, Lord Devon, for putting their names to this amendment.

This amendment is consistent with the remarks I have already made in Committee: that there should be specific reference to "social value" as being part of public benefit in order to provide clarity to public bodies, companies and social enterprises; and that social value should be embedded in the procurement process through the appropriate guidance and reporting requirements for public bodies, which this amendment concerns.

This new clause would be added to the Bill mandating the Government to provide "guidance" to the public sector about "how to implement social value". The Committee is aware that this is of great concern, given that the public policy—the legislative framework—is there for social value, and yet there is no mention of it in the Bill and no mention of how it might be implemented or how it might work with the procurement regime. I hope that we can resolve this matter between now and Report.

Lord Aberdare (CB): My Lords, I have Amendment 71 in this group, which is a simple probing amendment seeking to understand why the Bill exempts contracting authorities from having regard to the national procurement policy statement for contracts involving frameworks or dynamic markets. I can find no explanation, in the Bill's Explanatory Notes or elsewhere, why such arrangements should not be covered by the terms of the national policy statement, but perhaps the Minister will be able to give a simple answer.

A large number of construction-related public projects will be procured through frameworks and dynamic market contracts. A framework is an agreement with suppliers to establish terms governing contracts that may be awarded during the life of the agreement. The Government themselves acknowledge in the Cabinet Office's *Construction Playbook* that framework agreements, as a means of longer-term strategic collaboration in construction, can provide the best medium through which procurement and contracting can deliver transformational improvements.

Last December, the Cabinet Office also published *Constructing the Gold Standard: An Independent Review of Public Sector Construction Frameworks*, based on an independent and objective review commissioned from Professor David Mosey of King's College London. To quote the then Cabinet Office Minister:

"This review recognises the potential of frameworks as a powerful engine-room for implementing *Construction Playbook* policies that include strategic planning, integrated teams, continuous improvement and the delivery of better, safer, faster and greener project outcomes."

The review states that the Civil Engineering Contractors Association

"identifies over 1,660 public sector construction frameworks procured between 2015 and 2019 with an aggregate value of up to £220 billion."

Given that the national procurement policy statement will seek to define strategic priorities and set the parameters for better public procurement in line, I hope, with the gold standard prescribed by the review, why should contracting authorities be exempt from having regard to it in agreeing the terms of frameworks?

A similar question arises in relation to dynamic markets. At Second Reading, the Minister stated:

"The new concept of dynamic markets … is intended to provide greater opportunity for SMEs to join and win work in the course of a contracting period."—[*Official Report*, 25/5/22; col. 929.]

Again, it is not clear to me why the terms of the national procurement policy statement should not also apply to dynamic markets—although I am quite prepared to believe that I may be missing something.

Lord Hunt of Kings Heath (Lab): My Lords, I have several amendments in this group: Amendments 69, 70, 76 and 79. It was interesting to hear the comments from the noble Baroness, Lady Boycott, about hospital food. She may not know that I am president of the

Hospital Caterers Association. I must come to its rescue: it does a fantastic job, given the budget it is given. What she may not know is that in the Health and Care Act there is a section which mandates Ministers to set standards for hospital food, following the hospital food review. The issue will be whether there is enough resource with which to fund the standards that Ministers will set. As part of this Bill, the noble Baroness might like to look at amending the Health and Care Act to ensure that there is consistency of approach, because she has made a very important point indeed.

We are continuing this debate about the relationship between the Bill and sustainability and environmental outcomes, and the Minister has been responding. His first response was at Second Reading, when he accepted that the Bill does not include any specific provisions on the target to achieve net-zero carbon emissions by 2050, but he went on to say that contracting authorities will be required to have regard to national and local priorities, as set out in the national procurement policy statement.

The problem is that the existing national procurement policy statement, published in June last year, is full of ambiguity. If I were a procurement director, I would find it very difficult to find my way through all these objectives, some of which are in a tension with each other. I think the Minister's response will be, "Ah, but that's the flexibility we want to give to public bodies to make their decisions themselves". The problem is that in translating that you still come back to the point that the Government are not, at the end of the day, prepared to use procurement sufficiently to ensure the implementation of their sustainability and environmental policies.

Paragraph 10 of the national procurement policy statement sets out:

"Contracting authorities should have regard to the following national priorities in exercising their functions relating to procurement. The national priorities relate to social value; commercial and procurement delivery; and skills and capability for procurement."

Additionally:

"All contracting authorities should consider the following national priority outcomes alongside any additional local priorities in their procurement activities: creating new businesses, new jobs and new skills; tackling climate change and reducing waste, and improving supplier diversity, innovation and resilience."

Paragraph 11states:

"Achieving value for money in public procurement remains focused on securing from contractors the best mix of quality and effectiveness to deliver the requirements of the contract, for the least outlay over the period of use of the goods or services bought. But the Government wants to send a clear message that commercial and procurement teams across the public sector do not have to select the lowest price bid, and that in setting the procurement strategy, drafting the contract terms and evaluating tenders they can and should take a broad view of value or money that includes the improvement of social welfare or wellbeing, referred to in HM Treasury's Green Book as social value."

Paragraph 12 states that the award criteria can be incorporated

"for comparing final bids and scoring their relative quality, to encourage ways of working and operational delivery that achieve social, economic and environmental benefits".

This includes tackling climate change and reducing waste; contributing to the UK Government's legally binding target to reduce greenhouse gas emissions to net zero by 2050; reducing waste, improving resource efficiency and contributing to the move towards a circular economy; and identifying and prioritising opportunities in sustainable procurement to deliver additional environmental benefits, for example enhanced biodiversity, through the delivery of the contract.

Paragraph 13 makes it clear:

"Public procurement should be leveraged to support priority national and local outcomes for the public benefit. This Statement sets out the national priorities that all contracting authorities should have regard to in their procurement where it is relevant to the subject matter of the contract and it is proportionate to do so".

But here is the rub. Paragraph 15 states:

"Taking additional social value benefits into account effectively is a balance with delivery of the core purpose of the contract. Contracting authorities should ensure that they do not 'gold-plate' contracts with additional requirements which could be met more easily and for better value outside of the contract compliance process, particularly where legislation has already determined that such provisions do not apply, for example by imposing requirements in the Equality Act 2010 on the private sector that are only meant to apply to the public sector".

Paragraph 14 says:

"There should be a clear link from the development of strategies and business cases for programmes and projects through to procurement specifications and the assessment of quality when awarding contracts. This is in line with Green Book guidance which makes it clear that the procurement specification should come from the strategic and economic dimensions of a project's business case, and that commercial experts should be involved in the development of the business case from the start".

The question I would ask is this: if you were a finance director or a procurement director in the public sector, what would you make of it? One has to see this in the context of having been through a decade—in fact, longer than a decade—of austerity where short-term fixes are much more common than longer-term sustainability investments.

I turn to the NHS, where I have some experience, and where I could certainly point to some really good examples of sustainability policies. In theory the intent in the Bill, as I see it, is to place greater emphasis on wider value than lowest price. But what this ignores, certainly in the NHS context, is the financial and economic reality that exists on a day-by-day basis. In an environment where savings are demanded in-year and budgets set annually, the overpowering financial incentive is to achieve cost improvement programmes. These savings filter down through the NHS financial system and become a target for finance directors and procurement directors who generally report to the finance director. While I am sure that if we had some finance directors in front of us, they would say that they strive to focus on long-term value, this requires a less tangible and measurable saving than the fact that product A costs less than product B.

In an NHS environment that is financially driven, targeted and appraised for striving to deliver savings targets in-year, and where the most measurable saving is lowest price, it is clearly going to be challenging to move away from that. This experience is probably reflected across much of the public sector; indeed, other parts of the public sector would probably say that the NHS has had it easier. Those of us in the NHS would of course say, "That's because we need

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more money", but the fact is that if the NHS is finding it difficult, other sectors are going to find it very difficult indeed.

My amendments are simply aimed at seeing sustainable development principles incorporated within the national procurement policy statement and the Wales procurement policy statement. At the end of the day, there really is an issue here, is there not? Whatever procurement policy is set out, public authorities will have challenging decisions to make. My own view is that, because of the way in which this has been put together, and potential future national procurement policy statements, public bodies are going to be left with very ambiguous statements where they do not quite know what they are expected to do. The Minister says, "Ah, but that's flexibility". I say that it undermines the wider goals towards which our procurement policy should be driven.

6.15 pm

The Earl of Devon (CB): My Lords, I apologise; this is my first appearance on this Bill as I missed Second Reading. I rise to support the noble Baroness, Lady Thornton. I have put my name to her Amendment 75A; I equally put my name to her Amendments 47A and 52A, which also go to the issues of social value and social enterprise.

I should note that I am a member of the APPG for Social Enterprise. Last year, I chaired an inquiry into the performance of social enterprise during the pandemic; we reported at Christmas last year. The outcome of that was to highlight the remarkable performance of social enterprise during the chronic conditions of the pandemic. However, it also highlighted how little understanding of social enterprise there was in government, particularly in Westminster but also in local government. We discovered that this was not as common Wales or Scotland, because social enterprise and social value are built into the fabric of their public procurement, which is so much better than what we have in England. I just wanted to make that point briefly. Amendment 75A is a means of addressing this issue and ensuring that local government is familiar with the role of social value and the purpose of social enterprise.

Before I sit down, I will just endorse and support Amendment 66 from the noble Baroness, Lady Boycott. I do a lot of work with the South West Food Hub on the absolutely critical need for the procurement of good, healthy, locally sourced food, so I give this amendment my solid support.

Lord Wallace of Saltaire (LD): My Lords, public and parliamentary debate on the national procurement policy statement is a very important aspect of this Bill. So is the relationship between Clauses 11 and 12. The Minister will have noted the consensus view across this Committee that clear principles and objectives should be included in the Bill—that is, primarily in Clause 11. We still hope that we will return on Report with appropriate language to enshrine

"in law the principles of public procurement";

I have taken that from paragraph 27 of the Government's response to the *Transforming Public Procurement* consultation, which they now seem to have forgotten. That document also states that 92% of those consulted were in favour of the proposed legal principles; it is therefore unacceptable that they have disappeared from the Bill as presented to this House. I cannot understand why the Government have abandoned their response, having undertaken an extensive consultation of that nature.

At present, the Bill leaves articulation of the principles of public procurement almost entirely to the Minister in post at the time, with the completed document to be laid before Parliament and subject to the negative procedure if time is found within the 40-day period to debate it. That is clearly inadequate. It stems from a resistance to parliamentary scrutiny and accountability that has been characteristic of the Johnson Government and, in particular, of Jacob Rees-Mogg in his various ministerial roles. However, it is not compatible with the principles of parliamentary sovereignty or the conventions of our unwritten constitution. I will do the Minister the compliment of assuming that he has always been unhappy with this approach to executive sovereignty and will be happier if the next Prime Minister returns to proper constitutional practice.

I have Amendment 75 in this large group, which seeks to ensure that a review of compliance with the national procurement policy statement takes place within three years, noting in particular how far it has in practice protected and promoted the interests of small suppliers, social enterprises and voluntary organisations in that period—a matter that concerns noble Lords across all parties in this Committee. I support the intentions of many of the other amendments in this group, from the insistence of the noble Lord, Lord Lansley, that such a policy statement must be published on a regular basis to those that insist that it should cover a specific range of issues including social objectives, concern for the environment and measures to combat climate change.

Many of us would consider including climate change and sustainable development concerns as particularly important when some candidates for the leadership of the Conservative Party are playing to climate change deniers on their party's right. The Minister's dogged resistance to putting any closer definition of the principles and objectives in the Bill makes the quality and regularity of this statement all the more important.

Good government requires a degree of continuity, not rapid switches of emphasis and guidance every time Ministers or Prime Ministers change. I remind the Minister that under our single-party Conservative Government since 2015 we are now about to embark on the fourth Prime Minister—four Prime Ministers in seven years under the same party. Some major departments of state are now on their eighth or ninth Minister. That is not continuity. Continuity and a degree of consensus are what contractors to government want, and that is more likely to emerge from cross-party debate in Parliament informed by wider public attention and contributions from stakeholders in the sector. That would promote greater stability and continuity both when Governments are in power for extended periods and when Governments change. Stability and a degree of continuity are what contractors want to see in their relations with government.

Baroness Worthington (CB): My Lords, I apologise for my late arrival. I will be brief. Amendment 65 in my name and the consequential Amendment 546 seek to put more detail in the Bill in relation to the national procurement policy statement. I shall not rehearse all the arguments that have been made but simply say that the issues highlighted by Amendment 65 are enduring and long-term goals of government. There is a need to see that they are continuously integrated into government policy-making, as the noble Lord who spoke before me just highlighted. We need to have clarity if we are going to make transitions happen in our economy that make it fit for the future. It is entirely appropriate that the Bill should set out specific guidance for the policy statement on these long-term, transitional issues. All procuring parties need to have clarity of purpose set out for them with no doubt. I agree that the continued resistance to this signals something that we should be very concerned about, because it indicates a degree of deviation from accepted policy in other parts of the Government and across all parties. We would like to see something in the Bill and would very much welcome discussions with the Minister on this topic as there is a strong degree of consensus on this issue.

I also strongly support the amendment in the name of the noble Lord, Lord Lansley, which would make it a requirement that the statement be published rather than there being merely a power. It seems entirely correct that that should be changed to make it a duty. I am also in favour of Amendment 66 in the name of the noble Baroness, Lady Boycott. Part of the reason I was late is that I was at a meeting discussing a response to the Government's food strategy. There are some very important things in that strategy. We need levers with which they can be delivered. You cannot simply make policy statements and expect things to happen. If the Government are seeking greater reliance on British-grown, healthy, nutritious food, the procurement process is the way to do that, and we must see more clarity on that in the Bill. I fully support that amendment.

I also support the amendments in the name of the noble Baroness, Lady Parminter. We as a Parliament should be more included in the process through which the policy statement is derived, and I fully support her amendment that seek to improve the process by which we scrutinise and agree the statement.

Lord Wigley (PC): My Lords, I have waited until the latter stages of this debate before intervening, for the simple reason that my Amendment 78A deals with totally different subjects from everything else that has been debated. I overwhelmingly agree with the comments made in the general debate, but I will not follow them through at this point.

I will speak briefly to my Amendment 78A, which is included in this rather diverse group. It relates to what I might call the "Welsh clause"—Clause 13. I was glad to hear the comments of the noble Earl a moment ago on the way that policy is being unfolded in Wales. That point has arisen on a number of occasions, in various debates.

We have already heard from the Minister that there has been close co-operation between the Welsh and UK Governments in reaching an agreed approach and wording, reflected in this Bill. That being so, it is surely of fundamental importance that this clause is not distorted or undermined by later legislative steps taken by this or any future UK Government. This amendment, if passed, would require agreement by Senedd Cymru to any proposed changes to this section. That is not an unreasonable proposition, given that the clause relates solely to Wales and is itself predicated on an approach of good will and co-operation. All that is needed by this amendment is a straight majority of Senedd Members present and voting.

In the spirit of co-operation in which Senedd Cymru, the Labour Government and Plaid Cymru have approached this matter, I invite the Minister to accept this amendment.

Baroness Bennett of Manor Castle (GP): My Lords, it is a pleasure to follow the noble Lord, Lord Wigley. I agree with him, but I will take us back to the issues that have mostly been covered in this group. There are six amendments to which I have attached my name and I am sure the Committee will be relieved to know that I am not going to speak to them all.

I will speak chiefly to Amendment 61 from the noble Lord, Lord Lansley, to which I have attached my name. It was very kindly introduced by the noble Baroness, Lady Noakes, although it was not backed by her. I will now attempt to present the argument in its favour. I stress that the intellectual work on this has been done very much by the noble Lord, Lord Lansley, but, when I saw the amendment, I thought it was so important that it needed to be picked up.

The purpose of this amendment is linked to the description of the national procurement policy statement in Clause 12, which is

"setting out the Government's strategic priorities in relation to procurement."

Wrestling with all the government amendments and the complexity of this Bill has been challenging for the small Green group, but I understand that there are no government amendments to change "procurement" in Clause 12(1) to the technical term "covered procurement". It is the Government's intention that their strategic priorities should apply to all public procurement, including below-threshold procurement, light-touch procurement, international agreement procurement, and defence and security contracts.

As noble Lords have been talking about a lot in this group, the first part of this clause is the achievement of targets set out in the Climate Change Act 2008 and the Environment Act 2021. I posit that there are good reasons to put statutory obligations such as these in a list of strategic priorities; if they are not included, they are effectively deprioritised, which would be potentially damaging to the achievement of targets that have been mandated by Parliament, with very strong cross-party support. To pick up the points made by the noble Lord, Lord Wallace, these are things that have been agreed but need to be delivered on.

On that point about delivery, I refer to the report two weeks ago from the Committee on Climate Change. In what has to be called the strongest of language, it spoke about "major policy failures" and "scant evidence of delivery". Through this procurement, we need to see this urgent delivery.

[Baroness Bennett of Manor Castle]

In introducing this group, the noble Baroness, Lady Noakes, suggested that this was a list of pet clauses, but the first elements here, on the climate targets and the Environment Act, are clearly not pet clauses. We have covered proposed new paragraph (b) about the Public Services (Social Value) Act 2012 at length, so I will not go back to that territory. I admit that proposed new paragraph (c) on innovation and competitiveness is not the wording I would have chosen and might perhaps fit in that category, but there is an important fourth point here with proposed new paragraph (d) on

"the minimisation of fraud, corruption, waste or the abuse of public money".

6.30 pm

Noting the broad if not completely broad support for this from the noble Lord, Lord Lansley, and myself, I will draw in some more political breadth. I doubt we will see the noble Lord, Lord Agnew, participating in this Committee, but it is entirely appropriate to refer to his resignation speech as a very powerful argument for the need for proposed new paragraph (d). I also make the point that Amendment 61 does not prevent Ministers adding their own priorities to this list. I have done my best to present that argument.

I am delighted to see how many members of the Committee have expressed support for Amendment 66 on food, tabled by the noble Baroness, Lady Boycott. Having signed it, I want to stress how much movement we have seen in this area. I am very aware of this, because some of the first Written Questions I asked in your Lordships' House were about the procurement of locally sourced, healthy and organic food for schools, hospitals and prisons. The Answer I got back in relation to all three was, "We don't know". Yet we have now seen, through the Government's food strategy, an acknowledgement—although I would say it is inadequate—that public procurement has to address these issues.

The Government often talk about being world leading. These targets, which, as the noble Baroness, Lady Boycott, set out, have been established through very careful consideration and development of the national food strategy, are still extraordinarily modest by international standards. I know of many cities where targets for food in schools, hospitals and prisons are very close to 100%, with very demonstrable positive effects. I agree with the noble Baroness, Lady Boycott—and the comments in the Committee have supported this—that this is an uncontroversial amendment which the Government can surely accept.

Lord Scriven (LD): My Lords, this has become a fascinating discussion, particularly when linked to the previous group on Clause 11, as my noble friend Lord Wallace of Saltaire said. I rise to support what I think is the most important amendment in this group: Amendment 60, tabled by the noble Lord, Lord Lansley. If the wording is "may" rather than "must", all the subsequent amendments are irrelevant, because the Government do not have to produce a national procurement policy statement.

We need to press the Government further on the framework, beyond the four issues in Clause 11, that needs to be laid down in this statement because very few people, if any—particularly not the Minister—have discussed this from the perspective of business and those who will be making significant investments in contracts to try to ensure that public value is delivered. They take signals over the medium to long term about where to invest. These signals are really important in terms of business planning and those businesses being able to make long-term commitments to the public sector.

Both Ministers keep coming back to saying that things are in different parts of different legislation in different parts of government. We have been told that the whole purpose of this Bill is to make public procurement simple, particularly for small to medium-sized enterprises. I do not know many small to medium-sized enterprises that have a department that can wade through different public sector Bills to work out what the signals are and what the company needs to do to make secure, good bids for public sector procurement. If the Government are minded not to amend Clause 11, they have to write a very detailed outframe of the national procurement policy statement to make those signals so business can make the right decisions—

Lord Hunt of Kings Heath (Lab): Does the noble Lord accept that you need to do that as much for procurement directors as for the businesses? With his experience of the NHS, how does he analyse what the current procurement statement actually means? I think it is very confusing.

Lord Scriven (LD): I particularly did not use the prism of public sector procurement professions, because I thought that the noble Lord, Lord Hunt, had already made the case for the NHS, and others had made it for different government departments and professionals. I was trying to point out that there is a different aspect to this. This is about helping business by making it simpler for it to get involved in procurement, particularly small to medium-sized enterprises. That is the Government's desired aim. A lack of detail in Clause 11, along with the fact that the national procurement strategy statement may not be done, makes that really difficult for business.

I come back to the view that everything here helps not just procurement professionals and government but businesses, particularly small to medium-sized enterprises, to be successful. It is really important that the Bill contains a co-ordinated and codified approach to the Government's strategy on public sector procurement, and that it is not left to myriad different policies and Bills, for the sake of business being able to negotiate and navigate what is at the moment the very complicated field of public sector procurement. If the Government do not take up many of the amendments about the environment, food and social value, I assure the Committee that their aim to simplify public sector procurement, particularly for small and medium-sized enterprises, will not happen.

Baroness Boycott (CB): I just wanted to add something to my amendment; I thank Members of the Committee for their support. I have very little time for Brexit, as probably everybody knows, but when the French

attempted to do this, they were stopped under EU rules as it was to do with restrictive trading. Now that we are out of the EU, we have a chance to produce a fantastic procurement Bill that favours small and medium-sized enterprises, local procurement, local health and local sustainability. If we do not take that chance, frankly we will have missed one of the great opportunities that Brexit gave us.

Lord Coaker (Lab): My Lords, I wish the noble Lord, Lord True, well. I hope that he feels better than he did. I will speak to Amendment 68 in my name and that of my noble friend Lady Hayman, and Amendment 80 in our names and that of the noble Baroness, Lady Bennett. I recognise that there has been a plethora of really good amendments that we support; it would be impossible to go through everybody's amendments, but I am particularly pleased to see those in the names of my noble friends Lady Thornton and Lord Hunt.

I praise the noble Baroness, Lady Noakes, again for the brilliance of her "may"s to "must"s and "must"s to "may"s. I feel for her, because I do that sort of thing all the time. The change of one word is astonishingly important. I recognise how difficult it was for her to move the amendment tabled by the noble Lord, Lord Lansley, which changes "may" to "must", when all of her amendments to later parts of the Bill change "must" to "may". I can see the split in the Conservatives between those who wish to see greater market involvement, the Minister in the middle with his socialist bent, and the others seeking to restrict the role of the state.

Our amendments, particularly Amendment 68, which builds on Amendment 74 tabled by the noble Baroness, Lady Parminter, are about the process, which is particularly important. But first, to pick up the point from the noble Lord, Lord Scriven, Amendment 60 from the noble Lord, Lord Lansley, is crucial, as otherwise the rest of the amendments are pointless. We will have the most brilliant national procurement policy statement that is not published and is not mandatory. I agree with all the points and comments that have been made about environmental principles, the very important points raised by the noble Baroness, Lady Boycott, about food, what the noble Lord, Lord Wigley, said about Wales, and all the different things that everyone has mentioned, but the Government are not required to publish the statement.

The first question the Minister needs to answer is: what has happened since June 2021, when the Government published the national procurement policy statement that can be found on their website and the accompanying note that says they will legislate to ensure that when people procure, they must have regard to the statement? The Government stated that they would provide a legislative vehicle that would ensure that the national procurement policy statement was adhered to by business, or whoever the contracting authorities are. Yet, in the Bill, there is a legislative vehicle of sorts, but it is nowhere near what was envisaged in June 2021. Why has BEIS or the Cabinet Office changed its mind between what was going to be required in June 2021 and what is now in this legislation? I am pleased that there is a legislative vehicle, but the changing of "may" to "must" by the noble Lord, Lord Lansley, is absolutely fundamental and crucial, because it will require all these other things that we have discussed over the past hour—so ably and with great effect, I think—to be in the Bill.

I just say this, because I know that the noble Lord, Lord True, will say that it is a mixture of Lord Coaker the socialist, other liberals, Greens and goodness knows who else—some wet people on his own side and so on. He will say it is completely and utterly ridiculous and dismiss it. However, I am a bit of an anorak and I look at what the Government publish and what you can find if you look on the internet and google things. The Government very helpfully provide all sorts of information. The letter of 7 June that the noble Lord, Lord True, had from the Constitution Committee was published; helpfully, so was his response of 27 June. The serious point that I make is that all the points that have been made in Committee about changing "may" to "must" and the mandatory requirement that many of us think is essential are supported by the Constitution Committee. The Minister will know that, because he was written to on 7 June by its chair, my noble friend Lady Drake.

I will not read the whole of the letter, just the final paragraph:

> "The Committee would be grateful for clarification as to why the statement of priorities is not mandatory, given that it is considered important enough to require consultation and Parliamentary approval. Further information you can provide as to the justification for this approach would be welcome."

In other words, the cross-party Select Committee is saying to the Government that they have got it wrong. In Clause 12(1), it should not be

> "A Minister of the Crown may publish a statement";

it should be that a Minister of the Crown "must" publish a statement. The Select Committee agrees with the amendment that has been tabled, and so I think do a large number of this Committee. The Minister, however, has already made his mind up because, on 27 June, he wrote back to say that the Government do not agree. For the benefit of the Committee, it is important for us to understand why the Minister thinks that the movers of these amendments, such as the noble Lord, Lord Lansley, and those of us who support them are wrong and why he wrote the letter back on 27 June to the Select Committee chair, my noble friend Lady Drake, explaining why she was wrong. I think that is really important.

6.45 pm

I emphasise this again for those who read our proceedings: unless it is compulsory for the national policy procurement statement to be published, the real power and driving force will go. If the Minister were a business or a contracting authority who saw all these various priorities put into the statement one year, and then it disappeared, why would he think that it was important to the Government for him to conform to it if it is not mandatory? Presumably, if it is not mandatory, there is no requirement for businesses to conform to it. If the statement is not published, where does that leave us?

This takes us to the amendment tabled in my name and that of my noble friend Lady Hayman and the process amendment put forward by the noble Baroness,

[Lord Coaker]
Lady Parminter. These are crucial because they are saying that we cannot just have a negative process where it withers on the vine and disappears. There needs to be a process by which the national policy procurement statement is written and is followed by a debate on what should and should not be included in it, which would take place through the consultation. That will then be looked at and agreed to, or not, by the Government, things will be put in or left out, and then an affirmative resolution will be put before both Houses and that process will go through. Surely, that is the proper way of doing it. With the consultation suggested by the noble Baroness, Lady Parminter, and the affirmative proposal in our Amendment 68, all the other amendments can be discussed so that we can include social value, the social and environmental policies that others have mentioned, food standards in schools and all the various things that we think are important.

I believe that the Minister himself thinks that much of this is important; no one is for the degradation of the environment. We are all trying to say to the Government that they need to go further to ensure that the agreed procurement strategy will achieve the effect that the Government want. The Government have a net-zero by 2050 policy, so the procurement policy is an essential way for the Government to deliver their own policy. Why would it be controversial for the procurement policy statement to require businesses, contractors and contracting authorities to adhere to that policy, thereby enabling the Government to achieve their own objective? That is the question many of us want answered: why is it not mandatory? Why is it not subject to an affirmative process so that all the other amendments before us become relevant for inclusion in what would be a progressive statement that would excite and inspire people and help the Government deliver something that we all want them to achieve?

Lord True (Con): I agree with the noble Lord, Lord Coaker. This has been an extremely interesting and thought-provoking debate, and I thank noble Lords for it.

There have been various strands in this debate, one of which is the last one alluded to by the noble Lord. There appears to be a suspicion in some minds about whether this lies in the may/must thing and whether there will be a national procurement policy statement. We have published a draft statement, which I will come back to later in my speech. I will not read any of it out, because the noble Lord, Lord Hunt of Kings Heath, was kind enough to read out some of it—although I do not think that he quoted this specific bit—about

"contributing to the UK Government's legally-binding target to reduce greenhouse gas emissions to net zero by 2050".

I know that noble Lords are saying, "Oh well, yes, but, et cetera"—

Lord Davies of Brixton (Lab): The Minister referred to that document as a "draft statement". My understanding is that it is a non-statutory document, which is something slightly different. Is it a draft of what we are going to get later this year?

Lord True (Con): This document was produced at one stage of the process of working towards this procurement legislation to illustrate what the national policy statement might look like. I will come on to the question of consultation because that was a second theme and ask in the debate. It was clear in the speech by the noble Baroness, Lady Parminter, about how Parliament will be involved in the process and the hope that Parliament will be able to influence the process in an effective way. I have heard that call and will reflect on it.

The third strand takes us back to where we were before. Noble Lords are seeking to put in primary legislation constraints on what a procurement strategy might and should contain. Having been taken to task by the noble Lord, Lord Scriven, in the debate on the previous group about being diffident about amendments that say "must have regard to", all the amendments in this group, bar those that are applying the thing, are "must" amendments. They are a tighter straitjacket on the potential procurement statement than what we had before in terms of what is proposed to go into primary legislation, so I am instinctively less likely to be attracted to them.

For the reasons that we have debated at length—that there is a difference between insight and knowledge, that some people want to tie a lot down in primary legislation and that the Government are arguing for flexibility—we sadly cannot accept any of the amendments in this group. Amendment 60, tabled by my noble friend Lord Lansley—the may/must amendment—would require the Government to publish a national policy procurement strategy. We have shown, in earnest, what we might move towards, and we have drafted Clause 12.

However, any procurement policy should be aligned with wider government objectives and, as such, the publication of an NPPS is a decision based on the strategic policy priorities relevant to the Government at that time. Our feeling is that we should not seek to bind a future Government—that may be of a very different complexion to ours—to publish a specific document. Therefore, we think that changing the drafting of Clause 12 from "may" to "must" and mandating the statement in this manner would not be appropriate. However, I have listened carefully to what has been said, and it goes into the box of satisfying Parliament that it will have an opportunity to have influence because we are a parliamentary democracy, and Parliament should have influence. That is a fundamental faith that I hope is shared by all of us who have the honour of being Members of Parliament.

The noble Lord, Lord Davies, raised a point about statutory versus non-statutory. I believe that I said—but somebody behind me said that perhaps I did not—that it was not necessarily statutory but the paving, if you like, was included in statute. The current NPPS is non-statutory. If I gave the opposite impression, that was not my intention, but obviously we are talking about the future here. It is there to show what a statutory NPPS might look like in the eyes of the Government. I hope that I have clarified that.

Similarly, Amendment 546, tabled by the noble Baronesses, Lady Worthington, Lady Young and Lady Parminter, and my noble friend Lady Verma,

provides for Clause 12 to be brought into force immediately upon the Act being passed. Again, this amendment seeks to ensure that, in one sense, the things that people want to happen will happen quickly. I hear strongly what my noble friend says about small businesses and the need to reach out and help innovators and the creatives and, on the other hand, to get an NPPS before the public and into operation.

As my noble friend Lady Verma and others will know, it is currently envisaged that there should be a period of six months after the Act is passed before it comes into force, which will allow for consideration and discussion, and for training and learning about implementation. In that light, there are certain difficulties in the proposal to bring the NPPS in on the very first day. I can assure her that the contracting authorities will be required to have regard to the NPPS and embed it in their own organisations. If it is mandated to be on the day the Act is passed, the process may not work as we currently envisage it, but I have heard what has been said in the Committee about the concerns people have on the process and will take that away to colleagues. At the passing of the Act—the point mandated in this amendment—the new regime would be yet to be fully implemented, and we are allowing this period for familiarisation.

The other strand in the debate, as I have alluded to, goes back to our previous group on setting specified strategic priorities in primary legislation. The range of topics we have heard has been very wide—the Government profoundly agree on many of them—and some were very detailed. I know of the passion of the noble Baroness, Lady Boycott, on food matters and am frankly horrified to hear that Coca-Cola is paying for its product. You would have to pay me to have a tin of Coca-Cola, I can tell you. However, the set of details in the proposal could potentially be quite onerous, and the noble Baroness's objectives are secured or sought in other legislation and activities. I will come back to this later in my remarks.

The range of amendments in this group shows that there are many different priorities. It is precisely for that reason that we believe the contracting authorities should have a range of flexibility and that some of these matters are potentially better detailed in the NPPS than in primary legislation. But I understand why, through these amendments, noble Lords are trying to express their concern on the matters that they wish to have put in. For example, Amendments 61, 65, 69, 70, 70A and 79, in the names of a number of noble Lords, refer to the climate change proposals and net zero. As I have said, these are in the current non-statutory document. While I recognise the importance of this, it is absolutely correct in our view that public procurement needs to be focused on achieving value for money.

The noble Lord, Lord Hunt, read out parts of the current draft and said that there is a dichotomy and a balance here. Yes, we admit that there is a dichotomy and a balance to be reached but we maintain that it would not be appropriate to include wider policy objectives in primary legislation. Each procurement is different and, as I have said before, what is appropriate for a large one is not necessarily appropriate for a small one. It is always important that policy priorities are included in individual procurements only where they are relevant to the subject of the contract, in our submission. That is to avoid making procurements unduly complex and difficult, particularly for smaller or new entrants and innovators, to comply with.

7 pm

Amendment 76 requests the same inclusion in primary legislation of objectives for the Wales procurement policy statement. My previous comments relating to ensuring that priorities are flexible applies to this amendment as well. I will come back to the specific amendment from the noble Lord, Lord Wigley, on devolved competence later. We will continue to work closely with Wales on this Bill. As I said at an earlier stage and earlier in this Committee, the Bill makes provision for the Welsh Government to set their own strategic priorities—we have heard that they are doing so—and Welsh contracting authorities will be able to take into account individual priorities within the parameters of the Wales procurement policy statement, which also might change over time. We therefore do not believe that we should set those specific strategic priorities in this primary legislation.

Amendment 66 is in relation to food. I am sorry for the disobliging comments about the directors of Coca-Cola, wherever they are. The Government have introduced policies for below-threshold procurement which allow contracting authorities to identify local suppliers who can deliver. This will be of use for schools and perhaps individual hospitals for purchasing food below a certain threshold. In addition, Defra plans to consult separately on the food-buying standard which will encourage engagement with small businesses during public sector food procurement. I hope that will go some way towards meeting the noble Baroness's objectives.

As I said at the outset, many amendments relate to the process for publishing and scrutinising a national procurement policy statement. I must say with all humility that I understand the legitimate questions that your Lordships are asking in this area, and I will very carefully read the comments made in *Hansard*. Amendments 62, 63, 64, 68 and 74 request a change to the process by generally requiring publication of a draft statement and providing longer timescales. I assure noble Lords that the Government are committed to ensuring that any NPPS is published with the approval of Parliament. The Procurement Bill provides the process to safeguard this. The noble Baroness, Lady Parminter, criticised this. It is correct that a Minister of the Crown has accountability for the establishment of procurement policy priorities. This will be done in a process of consultation with all stakeholders. We will aim to share the draft with relevant stakeholders prior to publication. We already do this with most procurement policy notes and obviously we will go through the usual processes of consultation. The usual legal rules on consultation will apply. Ultimately, if Parliament does not agree with the statement as published, it has available to it the mechanism set out in Clause 12 to stop it, although it has been put to me that it is insufficient.

Lord Wallace of Saltaire (LD): I have just one more question. It is about periodicity. From the point of view of a contractor, it would be unwelcome to have

[Lord Wallace of Saltaire]
too frequent changes in the public policy statement or too long periods in which the statement is not revisited. If I were a contractor, I would want to know when a new statement might be coming.

We have a relatively strong convention that strategic reviews of foreign policy and defence take place every two to four years or at the beginning of each Parliament. Would the Minister consider whether there needs to be something in the Bill to prevent new Ministers, when they come into their department, nine months after their predecessor took office, having their statement instead, which would be quite chaotic; or a Minister who had been there for seven years deciding that he did not want to have anything to do with it? Some encouragement for a regular period of ministerial statements might be a positive aspect for the Bill.

Lord True (Con): As so often, the noble Lord makes an important point. I was charmed by one aspect of his arguments on continuity, when he complained that the Conservative Party kept changing Prime Ministers. I thought he was one of the main cheerleaders for a change in Prime Minister, so he cannot, in the immortal phrase, have his cake and eat it.

There is a duty in the Bill as drafted for a Minister of the Crown to keep the national procurement policy statement under review. It is not in the Bill—noble Lords have not been particularly receptive to the argument I put forward, although the noble Lord, Lord Coaker, has shown his eagerness to get his hands on the levers of power and use them—but the Government's intention, with great generosity, is that it should be possible for a review of the NPPS to be undertaken in each Parliament. If one made a period of eight years or whatever statutory, then a new or different Government coming in would have to task primary legislation to make that change. That is the kind of structure we have been trying to operate in. Part of the reason the Bill has been framed in the way it has is to leave flexibilities, some of which your Lordships do not like and some of which at least one of your Lordships does.

I turn to Amendment—

Lord Hunt of Kings Heath (Lab): The Government have put some objectives into legislation, such as the climate change targets. What we are saying is, for goodness' sake, where that happens, link this Bill to the other pieces of legislation. Surely it all fits together then.

Baroness Worthington (CB): I remember well when we were debating the then Climate Change Bill how important it was to include a list of conditions that needed to be taken into account when setting the climate change budgets, including economic competitiveness and all sorts of other things. All we are asking for here is to have a reciprocating set of policies to ensure that the same things happen the other way around. I do not mean to be provocative, but there is a purpose for having a Government, and it sometimes feels as if the people in government do not really want to be there. If you are in government, you have levers, so use them.

Lord Davies of Brixton (Lab): On a serious note, I add the example of pension schemes. The Government have laid a series of responsibilities on pension schemes to have regard to matters such as climate targets. The Government have accepted the principle of doing it this way and the Minister seems to be ignoring that.

Lord True (Con): In the real world, we are dealing with a Bill which relates to contracting authorities. The counterparties to contracting authorities are would-be suppliers. The more one lays a duty on contracting authorities to do something, the more a small business which is seeking to enter the procurement process will have to come forward with pages and pages of compliance documents. Noble Lords may think that is not the case. On a personal note, my wife, who is far greater than me, runs a small business. When she started, the compliance requirements were about an inch thick, but now they are much thicker. The danger is always that, in the desire to do good, one ends up creating barriers to entry.

Baroness Bennett of Manor Castle (GP): Is it not the case that small and medium-sized enterprises are facing these requirements from other quarters? I am thinking of a meeting I attended of the northern Country Land and Business Association where we heard from the banking sector that no farmer would be able to apply for a loan unless they could show their carbon budget. We have talked about food, as one area. This is going to be the reality of doing business. These will be pre-existing things, so this would simply ensure they are taken into account.

Lord True (Con): I hear that but I must say this: it is sometimes quite extraordinary to listen to noble Lords. You would not think that it was this Government who amended the Climate Change Act 2008 in 2019 to introduce the target of a reduction of at least 100% in the net UK carbon account by 2050. The other parties had every chance to do that but did absolutely nothing. I am then lectured in this way about the Government not putting in the small print of this particular piece of legislation a target for which, to be fair, this Government legislated and, frankly, this Prime Minister pushed strongly. *Procurement Policy Note 06/21* already sets out how to take account of suppliers' net-zero carbon reduction plans in the procurement of major government contracts. Included as a selection criterion is a requirement for bidding suppliers to provide a carbon reduction confirming their commitment to achieving net zero in the UK by 2050. It is there in that procurement policy note.

Amendment 71 tabled by the noble Lord, Lord Aberdare, would require contracting authorities to have regard to the NPPS in respect of contracts awarded from the framework and/or a dynamic market on every occasion. The NPPS applies to both the setting up of a dynamic market and the awarding of a framework agreement. Contracting authorities will therefore need to apply it when establishing conditions of membership that suppliers need to satisfy in order to participate in a dynamic market; when undertaking a competitive tendering procedure to award a framework; and in setting the contract terms and conditions that apply to the framework. We believe that this is sufficient for the purposes of ensuring that the policy priorities are fully reflected in government contracts, but I will look carefully at the noble Lord's remarks.

Lord Aberdare (CB): I thank the Minister for that answer and for getting to it at the third time of asking, by which point I was almost bursting with excitement as to what he was going to say. I am not entirely clear why the Bill seems to take frameworks and dynamic markets out altogether but I will study what the Minister has said and endeavour to understand. I thank him for getting there in the end.

Lord True (Con): Well, I did try to get there but I had an intervention, then another intervention. It would be discourteous not to respond to—or be provoked by, as some may feel—the odd intervention. Is that not the give and take of debate, which is what our blessed Parliament is all about? If I have given the noble Lord incorrect advice, I will correct it, but what I have read out is the legal advice that I have been given.

Amendment 78A tabled by the noble Lord, Lord Wigley, provides that a Minister of the Crown may not introduce a Bill in either House of Parliament to amend or omit Clause 13, which relates to the Wales procurement policy statement, unless, as the noble Lord explained, Senedd Cymru has resolved by a majority of those present in voting to approve it. This is an uncongenial part for the noble Lord: the effect of this amendment would be to fetter the power of this and any future Parliament. The Government therefore cannot accept this amendment. However, as I mentioned earlier—he was kind enough to allude to this—we respect the devolution settlement and the competence of Wales on this matter. I have placed that and the degree of co-operation we have with the Welsh Government on the record in *Hansard*. That due respect for the devolution settlement is something that the Government aspire to see continue in this case, but we cannot accept the lock that he requests in the amendment.

Lord Wigley (PC): I am grateful for and accept the integrity with which the Minister is putting that forward and the spirit in which he stated the difficulty that there would be with my amendment. None the less, he will be well aware that there are other forms of amendments that could be put forward, possibly on Report, to ensure that there is the necessary consultation and discussion before any changes in legislation take place. That form of words has appeared in other legislation. Could I invite him to consider that between now and Report? I think that that would be a good indication for those in Cardiff.

7.15 pm

Lord True (Con): My Lords, obviously my right honourable friend will consider everything in his engagement with the Welsh Government. If the noble Lord wishes to bring forward an amendment, I will also consider and respond to it. By the way, I was not waving at my officials or my absolutely brilliant colleague; one of those wretched moths was just about to fly into my ear and prevent me hearing the noble Lord's charming and persuasive words.

Further amendments cover compliance, reporting requirements and review. I know that this is an area that the Committee is interested in and will probe as the Bill goes forward. Amendment 75, tabled by the noble Lord, Lord Wallace, provides for a compliance review within three years, with a particular focus on small businesses and social enterprises. I fully understand the importance of social enterprise. The noble Lord is not in his place any more but I myself created social enterprises when I was the leader of a local authority; I think that their contribution to our national life is immense.

I assure noble Lords that the Government are committed to breaking down barriers for small businesses and new entrants in supply chains. We had a good debate on that on Monday; my noble friend, among others, made very strong points. Our position is that, although we agree that compliance in this respect is important, it would not be appropriate to legislate and place additional burdens on contracting authorities for this. Small businesses and other suppliers will continue to have access to the Public Procurement Review Service, which will form part of the procurement review unit, to raise any concerns that they have in respect of contracting authorities' compliance with the Bill, including the duty to have regard to the NPPS. The Bill also provides the Minister with the power to investigate these cases. I am sure that this will provide small businesses with good recourse to challenge non-compliance with the NPPS but we have undertaken to give further consideration to and engagement on the interests of that group in relation to small businesses; I will add the noble Lord's suggestion to that engagement.

Finally, we return to the question of social value, which was addressed in the previous group. Amendment 75A would require the Secretary of State to provide guidance to contracting authorities on how to implement social value in line with the NPPS. Again, the noble Lord, Lord Hunt, was kind enough to read out the current draft document, where social value is fully represented. As I argued in the debate on the previous group, we believe that this amendment is not necessary. The Government and the Government for Wales will publish procurement policy statements containing their priorities, which all contracting authorities must have regard to when carrying out a procurement or exercising functions related to it. As these priorities may change from one NPPS to another, we do not believe that it would be appropriate to specify on the face of the Bill that guidance on a given issue must always be produced.

Amendment 80, tabled by the noble Baronesses, Lady Hayman of Ullock and Lady Bennett, and the noble Lord, Lord Coaker, concerns the inclusion of a new clause for requiring carbon reduction plans from suppliers for contracts above £5 million. I have already referred to a procurement note but, as I have mentioned, we do not see this type of criterion being suitable for inclusion in the Bill. While central government has policies for this on complex procurements, the amendment would be a burdensome addition to the workloads of contracting authorities across the UK and could potentially inhibit new entrants.

Lord Coaker (Lab): Excuse me for interrupting the Minister but I do not understand what he just said. Amendment 80 would make mandatory what the Government have already said procurement is required to do. *Procurement Policy Note 06/21*, which the Government have published on their website, is titled:

"Taking account of Carbon Reduction Plans in the procurement of major government contracts".

[Lord Coaker]
All the amendment does is clarify the legal status of 06/21, which is the Government's own policy. Given the line the Minister has taken, I would be parading 06/21 as a good example of what the Government are doing. That is all this amendment seeks to change in the Procurement Bill. The Minister may need a note on this—I appreciate that—but that was the purpose of this amendment. I wonder whether the Minister could clarify what he has just said in reference to *Procurement Policy Note 06/21*, which we have included in the explanatory statement as the purpose of Amendment 80.

Lord True (Con): I deliberately referred to *Procurement Policy Note 06/21*. It is something that the Government have done; however, the line I am taking and the position of the Government is that we do not wish to encrust the Bill with statutory requirements. I am glad that the noble Lord opposite follows the policy—I reminded him of it as I was going through my speech—but, if I yield one, I will yield 125. It was kind of the noble Lord to say that he was pleased that the Government published *Procurement Policy Note 06/21* but I wish he would be satisfied.

I recognise that Amendment 80 replicates the £5-million threshold but we think that taking this policy forward would potentially be a burdensome addition for SMEs, which are required to produce and maintain such documents—not only if they are small SMEs but if they want to be part of a consortium for a larger government procurement project. Despite what the noble Lord said, I do not believe that this changes the overall position of the Government that we should not add to the Bill, to primary legislation, the encrustations that he requests.

Lord Coaker (Lab): I am sorry to pursue this. *Procurement Policy Note 06/21* helpfully has some frequently asked questions at the end. One asks when it should be applied. It says that the note
"applies to all Central Government Departments".
What does that mean? Does it apply or not? Is the Minister saying that it applies to them but the Government do not really mean it and departments can choose whether to do it? What is its status? Is it worth the Government putting in their own documents that it
"applies to all Central Government Departments"?
They might as well just say, "Do it if you want". What is the purpose of publishing it if it is very loose and can apply only if the departments want? I do not know.

Lord True (Con): That is the point. Currently, 06/21 refers to "Central Government", as the noble Lord said, but his amendment applies to "all contracting authorities", as I read it. If that is not the case, I will stand corrected and we will write a letter to explain that it applies to everybody, as he proposes. I am advised that his amendment goes further than the current procurement arrangements but, if that is incorrect, I will write a note.

Lord Coaker (Lab): I thank the Minister for that. It is helpful. If I get a letter back saying that the amendment goes further than 06/21, with that information, I can change the amendment before Report or be satisfied and not need to. It would be very helpful of the Minister to clarify that in a letter; I wonder whether he might think of sharing that with other Members of the Committee.

Lord True (Con): Yes, I hope that letters that are sent out are shared with other Members of the Committee and, if not, I will make sure that they are. I would not want to encourage the noble Lord too much in the hope, because the Government's position is that we do not think it is advantageous to encrust the primary legislation with the range of aspirations that we have heard from many sides in this Committee. The noble Lord can have another try, but I cannot promise that it will be different. But I will write to him and circulate the letter anyway.

I respectfully request that these amendments be withdrawn or not moved.

Baroness Noakes (Con): My Lords, we have had a very wide-ranging, and rather long, debate on this group of amendments. I will start with my noble friend Lord Lansley's Amendment 61, on the list of strategic priorities. As I predicted, the Minister heard various lists of different kinds of things that noble Lords wanted in the Bill. Let me say that I was wholly convinced by my noble friend's explanation of why they should be encrusted—as he put it—in the Bill, but I suspect that I am not representative of the Committee in that regard.

In respect of Amendments 63 and 64, my noble friend helpfully said that the Government would share the draft of a national policy statement as part of the consultation process, which I think clarifies that aspect.

I turn to the lead amendment in this group, Amendment 60—the may/must amendment. My noble friend the Minister argued for flexibility for the longer term; other Governments may not want to issue such statements, and I completely accept that. What I did not hear from my noble friend was that this Government commit to publishing a statement under this clause. I would have hoped that, at least from the Dispatch Box, the Minister would commit to publishing the statement, having included Clause 12 in the Bill. He talked about the timetable for the introduction of the Bill and the six months of learning process, but I did not hear what happens to the policy statement. I hope that he might reflect and perhaps give clarity on that in writing or at a later stage.

With that, I beg leave to withdraw.

Amendment 60 withdrawn.

Amendments 61 to 73 not moved.

Clause 12 agreed.

Amendments 74 to 75B not moved.

Clause 13: The Wales procurement policy statement

Amendments 76 to 78A not moved.

Clause 13 agreed.

Amendments 79 and 80 not moved.

Amendment 81 not moved.

Clause 14: Planned procurement notices

Amendment 82 not moved.

Clause 14 agreed.

7.30 pm

Clause 15: Preliminary market engagement

Amendment 83
Moved by ***Lord True***

83: Clause 15, page 11, line 9, leave out "specifications" and insert "requirements"

Lord True (Con): My Lords, the Government have the lead amendment in this group, and I look forward to hearing the comments of fellow members of the Committee. Although there is a large number of government amendments in this group, most of them are consequential, so there are actually seven points in the government amendments, which I will express as briefly as I can.

Amendment 83 to Clause 15 is a consequence of Amendment 93. It clarifies in Clause 18 that the authority's requirements and award criteria are two separate concepts. The amendments make it clear that, to be awarded a contract, the supplier's tender must satisfy the contracting authority's requirements and be the most advantageous in terms of award criteria.

Amendment 94 to Clause 18 is technically a consequence of Amendment 126. Amendment 126 amends Clause 22 to make it clear that the contracting authority may set a number of award criteria against which it will evaluate tenders or may set only one criterion. That has led to consequential Amendment 113 to Clause 19.

Amendments 111 and 114 clarify the drafting to confirm that Clause 19(6) is talking about exclusion by reference to intermediate assessment of tenders in Clause 19(5)(b) and that the timing of assessment may vary.

Amendment 134 confirms that Clause 24 applies to the process to become a member of a dynamic market and a process for the award of a contract under a framework, as well as competitive tendering procedures under Clause 19. This has meant moving the clause to later in the Bill, and it will be under Chapter 6, "General Provision about Award and Procedures". Amendments 137, 140 and 145A are all consequential.

Amendment 135 simply amends the term "terms of a procurement" to "procurement documents". I know that noble Lords are rightly concerned about definitions. This is to ensure the clause operates effectively for the award of contracts under frameworks and for applications for membership of a dynamic market. Amendments 136, 138, 139, 142 and 143 are all consequential.

Amendment 145 expands the definition of "procurement documents" in this clause to cover documents used for frameworks and dynamic markets. I beg to move.

The Deputy Speaker (Baroness Newlove) (Con): My Lords, I now call the noble Baroness, Lady Brinton, to speak remotely.

Baroness Brinton (LD) [V]: My Lords, I start with my usual apology that the rules for remote contributors mean that I will be commenting on amendments that have not yet been spoken to by their authors. I have one amendment in this group, Amendment 528C, which has been signed by my noble friend Lord Scriven, to which I will return.

I support Amendments 101A, 528A and 528B which set out the arrangements for procurement, taking into consideration low-income countries and ask that particularly during a public health emergency, not only a pandemic, they should meet certain criteria that are higher than usual.

The World Health Organization's report, *The COVID-19 Pandemic: Lessons Learned for the WHO European Region*, recommends as its fifth area for action:

> "Strengthening procurement systems, supply chains, operational support and logistics".

The reason why that it is one of the key recommendations is, I am afraid, the chaos that happened in the early months of the pandemic and the frankly shameful behaviour of some of the wealthy countries which disregarded the fact that Covid was a worldwide virus and that all countries needed access to key goods and services to deal with it—whether PPE, kit for testing, or vaccines as they came on stream.

This Committee is not the place to go into the detail of that; I suspect that most Members of your Lordships' House will have it fresh in their memories from the last two years. However, I hope that the UK pandemic inquiry will look at our Government's behaviour, including the taking of vaccines from the vaccine fund COVAX, which was designed specifically to support countries that could not afford either the development or the cost of vaccines in those early days, and, in particular, the blocking of a TRIPS waiver for intellectual property, which prevented low-income countries manufacturing their own vaccines. These amendments would ensure that any future Government must reflect carefully on their role in helping low-income countries have fair access to the tools that they need to manage any major future health emergency.

Amendment 528C is a probing amendment that seeks to remove the provisions in Sections 79 and 80 of the Health and Care Act for NHS England to have its procurement rules set by the Secretary of State for Health and Social Care using a statutory instrument. On earlier occasions in Committee, I asked Ministers a series of questions to which I really hope we will receive answers today. Prior to this, each response from the Dispatch Box, in essence, laid out the differences between the arrangements under the Bill and those in Sections 79 and 80 of the Health and Care Act, which we know already. I will not repeat the details of the likely problems that this will cause in the complex interface of what is and is not covered by the Health and Care Act; it certainly is not as clear-cut as the sections would imply. Much more fundamentally, the reason I have tabled this amendment is to try to elicit answers to the two following questions.

First, why should a body such as NHS England, which procures contracts for £70 billion a year of taxpayers' money, have procurement rules that are not

[Baroness Brinton]
consulted on widely or taken through the same scrutiny available under the legislation process that this Bill—for all its failings and problems—must continue to go through? During the passage of the Health and Care Bill, no Minister seemed to be able to explain why, and the same is true for this Bill. The £70 billion was specifically for NHS England. The total NHS departmental spend on health in 2019-20 was in excess of £160 billion, so I suspect that the real clinical and associated spending is significantly higher than the £70 billion I quoted. It is the Government's largest budget after social protection—that is, benefits and pensions—yet the Health and Care Act sets out a procurement regime that is much less visible and accountable than that proposed by the Government in this Bill.

Secondly, is it appropriate that procurement arrangement processes for such a large amount of taxpayers' money should be determined by a Secretary of State using Henry VIII powers? Not only is this process much less transparent, and it cannot hold Ministers to account, but the capacity is there for a future Secretary of State to change the procurement process much more quickly than under the processes of this Bill. It was helpful during the passage of the Health and Care Bill that the Government bowed to the strong report of the Delegated Powers and Regulatory Reform Committee, which said that at the very least it must be upgraded to be subject to an affirmative procedure. But frankly, Members' suspicions were aroused by the original proposals that it should be subject to a negative procedure.

During the passage of the Health and Care Bill, the noble Earl, Lord Howe, said:

"We are grateful for the input of the Delegated Powers and Regulatory Reform Committee in advising us on this. In summary, these regulations will allow the NHS to procure healthcare services in a way that reflects the reality of those services without unnecessary bureaucracy and with the ultimate goal of providing value for patients, taxpayers and the population in the vital health services they need."—[*Official Report*, 3/3/22; col.1028.]

For the last three and a half days, we have been debating in detail unnecessary bureaucracy and the ultimate goal of providing value for taxpayers, clients and the population in the vital public services they need. I am still struggling to understand why the second-largest public spender in this country is able to use this unaccountable and untransparent procedure. I hope that the Minister will specifically explain to the Grand Committee why this route was chosen for the NHS. If the Minister cannot answer this, will he meet those of us who are interested— I have already asked him twice for meetings—so that we can discuss this prior to Report?

Lord Aberdare (CB): My Lords, I have Amendments 120 and 129A in this group. I will also speak to Amendment 119 in the name of the noble Lord, Lord Mendelsohn, and my noble friend Lord Best's Amendment 131. Perhaps Amendments 119 and 120 should have come up on Monday, when we were discussing SMEs.

Amendment 120 seeks to address the barriers faced by smaller providers and charities through specifications that disqualify or discourage them from bidding. These typically stem from process taking precedent over purpose, or from narrow or mistaken interpretations of procurement rules. Lloyds Bank Foundation research has found numerous examples of disproportionate thresholds being imposed—some of which we heard about on Monday—including requiring suppliers to demonstrate income unrelated to the size of the contract being tendered for, requiring evidence of having previously delivered contracts much larger than the one tendered for, or unreasonable insurance requirements.

Excessive requirements at the pre-qualification questionnaire—PQQ—and invitation to tender—ITT—stages can also act as significant barriers. To cite one example: a youth association applying to be added to a framework of suppliers linked to the troubled families initiative had to complete a 49-page PQQ and 99-page full tender. Greater clarity is needed about what a proportionate approach looks like.

My Amendment 120, which the noble Lord, Lord Mendelsohn, has also signed, seeks to add a requirement for contracting authorities to include consideration of the impact of conditions on the ability of a broad range of suppliers, including smaller businesses and charities, to access public contracts as part of their assessment of proportionality. Without this, there is a danger that smaller providers will continue to be disqualified on technicalities or by arbitrary barriers, even where they are well placed to deliver the service or are already doing so.

I have also added my name to Amendment 119 from the noble Lord, Lord Mendelsohn, which would allow for conditions requiring suppliers who seek to participate in a contract to be

"signatories of good standing on the Prompt Payment Code".

All too often, we hear from small businesses of the Prompt Payment Code being honoured more in the breach than the observance, even by businesses that have signed up to it. Making adherence to the code allowable as a condition of participation seems an eminently sensible way of giving it stronger teeth and I hope that the Minister, who has been so responsive in his willingness to look seriously at many of the good ideas proposed by members of this Committee, will look at this one as well.

Amendment 129A to Clause 22, which is in my name, seeks to ensure that the advantages of flexibility in setting award criteria are not undermined by post-award negotiations or other price and cost uncertainties which could affect, or even invalidate, value-for-money considerations used in awarding contracts. To avoid this, the amendment requires the contract to include

"an objective mechanism for determining price and cost after contract award and before the goods, services or works are supplied."

Only through such a mechanism for confirming value for money being put in place at the time of a contract's award is it possible to secure maximum supplier contributions to improving value and reducing risks, including through the early appointment of specialists. This is an aspect of early supply chain involvement and having an objective post-award process to achieve the benefits associated with it.

To give an example, those benefits were illustrated by the innovations, cost savings, reduced carbon emissions and local business opportunities agreed by the Ministry

of Justice with the supplier and specialists engaged on its Five Wells prison construction project after their appointment and before commencement of work on site; this project featured as a case study in the *Construction Playbook*. So I hope that the Minister will consider this amendment carefully as a way of ensuring that value for money commitments are met in the procurement of any goods, services or works.

7.45 pm

With the leave of the Committee, I should also like to speak to Amendment 131 in the name of my noble friend Lord Best, who sends his apologies; he is speaking in the restoration and renewal debate as the Lords spokesperson on the R&R board. This amendment suggests a rather different approach to ensuring that the outcome of the procurement process will be public contracts that achieve quality and long-term value, rather than simply being cheaper than competing bids. I hope that the Committee will forgive me for explaining this in a little detail.

Each year, the UK housing sector spends more than £18 billion on procuring outsourced works, goods and services. Councils and public authority housing providers have discretion in their choice of a model for determining which tender to accept; it is of considerable significance which evaluation model they select. In her report following the Grenfell Tower fire, Dame Judith Hackitt recognised that procurement sets the tone and direction of the relationship between the client, the designer, the contractor and their subcontractors; a focus on low cost at this stage can make it difficult and most likely more expensive to produce a safe building.

Amendment 131 attempts to stop the continued awarding of public contracts on a basis that gives priority to lowest price, not quality and long-term value. The relative price evaluation model, which has been chosen by many public authorities and was used for the Grenfell Tower renewal, downplays the importance of quality, not least in respect of safety. Adopting this model encourages poor behaviour by those bidding, asking them to provide a price that they guess will be low enough to win the contract rather than a price that is realistic for the contract to be performed. This amendment would prohibit the use of such models.

Their unfortunate consequences are particularly significant for industries such as construction, where margins are low and competition is fierce. Because of the lack of "fat" in the prices bid, successful bidders often need to make up the money they have forgone to win the contract by either cutting corners or submitting multiple variations and claims. This in turn means that cost overruns and public contracts frequently turn out much more expensive than originally envisaged. Because the relationship has been established on a fictional price, the result of the procurement process is mistrust and frustration between the parties. This can lead to substitution of materials specified for ones of lesser quality, as was the case with Grenfell Tower, with resulting disastrous safety outcomes. Other results of this race to the bottom include poor payment practices down the supply chain, numerous disputes and claims, and lack of investment in employee well-being, training and safety provision, as seen in the case of Carillion.

Amendment 131 would mean that, in future, the other factors that generate value in a bid would receive a balanced evaluation, with the price being related directly to the quality of the individual bid. This would create the situation already envisaged in the Government's playbooks and bid evaluation guidance but currently mostly ignored; it would be interesting to hear from the Minister how he expects that guidance and those playbooks to be better followed. By banning the use of relative price evaluation models, the amendment would transform the currently broken system that so unhelpfully leads to a bidding war based on price, not value. As the old adage goes, "Buy cheap, buy twice". I hope that the Minister will take serious note of my noble friend's amendment.

Baroness Thornton (Lab): I have three sentences on my very tiny Amendment 122A. It asks the Minister to explain to the Committee why, on this important clause on award criteria, there is nothing to commit the Government to create additional public value, in line with their specific priorities—whether on P&O or school meals. It genuinely asks the Minister to explain that to the Committee.

Baroness Noakes (Con): My Lords, my noble friend Lord Lansley has three amendments in this rather diverse group. The first is Amendment 118, which adds another requirement for tender notices under Clause 20. It would require the tender notice to provide a period during which potential suppliers can ask questions and get answers, which would then be shared with all potential suppliers. This procedure is often used in practice and it has advantages for both contracting authorities and potential tenderers, in clearing up any misunderstandings. For potential suppliers, it can clarify whether it is worth the time and effort of tendering. It allows suppliers that are not already familiar with a contracting authority to get up to speed. This would be particularly helpful for SMEs, as it would provide a relatively low-cost way to establish whether bidding for a contract is right for their business.

I have a slight concern that the amendment's requirement to share answers with "all potential suppliers" might be onerous, but this is a probing amendment and I hope that the Minister responds positively to the idea behind it.

My noble friend's second amendment is Amendment 123, which amends the provisions of award criteria in Clause 22. Under this amendment, the award criteria must enable innovative solutions to be offered in meeting the purposes of the tender. This returns us to one of my noble friend's themes for this Bill—namely, that public procurement must foster innovation. It is much easier for a public procurement to specify the detail of what is to be delivered than the objectives or purpose of a contract, but good procurement would positively encourage innovative solutions, because innovation is the key to unlocking value for money for the public sector. I hope the Minister agrees with the aims of this amendment, as well.

Lastly, my noble friend Lord Lansley's Amendment 149 seeks to amend Clause 26 by creating another reason for excluding suppliers, where no good reason is offered for a low tender price. The "most advantageous tender"

[Baroness Noakes]
rule in Clause 18 does not require the acceptance of the lowest-priced tender, but that will often be the outcome. This amendment is designed to provide encouragement to contracting authorities to understand why a tender price is abnormally low and to eliminate those that are lowballing on the basis that they gain a contract and then, later, find some way to negotiate up the price. This unfortunately happens in real life, sometimes.

Baroness Worthington (CB): My Lords, I rise to speak to two amendments in my name. I am grateful for the support of the noble Baronesses, Lady Verma, Lady Boycott and Lady Parminter. At this stage in Committee, we have had the debate about why we feel this Bill is lacking specificity, does not provide sufficient guidance and is a missed opportunity, so I do not propose to rehearse those arguments. I think that, if the Bill were different, we would not be seeking to amend Clause 22 on award criteria in this way. It is evident that we are trying to convey our concern that we need more guidance on these important long-term targets that need to be embedded in the procurement process.

I ask the Minister whether, under his interpretation of
"the subject-matter of the contract"
in Clause 22(2)(a), a contracting authority can set criteria that specifically relate to the public good that derives from environmental benefits that relate to the things we have put into our amendment. If that is the case, we have a workable solution. If it is not, we need something else in the Bill. To be clear, my question is: in setting award criteria under Clause 22, can a contracting authority put in specific, measurable criteria that relate to the wider public, environmental and social good?

Lord Wigley (PC): My Lords, I will speak to Amendment 124A, which stands in the name of the noble Baroness, Lady McIntosh, who is involved in other parliamentary duties at this point. She asked whether I would speak to it on her behalf, and I am pleased to do so.

The amendment specifically relates to the need for all contracting authorities to be required to ensure that the award criteria include environmental impact considerations. This, of course, is a provision which stands in its own right in the general context but also specifically relating to Scotland. It is worth noting that the genesis of this amendment comes from the Law Society of Scotland and, as such, we should take very good note of it. The society emphasises that for Scotland, procurement legislation is devolved, as we know, and that the regulations applicable to Scotland—those which have been transferred into Scots law from EU directives—include the Public Contracts (Scotland) Regulations 2015, the Utilities Contracts (Scotland) Regulations 2016 and the Concessions Contracts (Scotland) Regulations 2016.

In fact, the Scottish devolution settlement specifies that all procurement matters that are not specifically reserved under Schedule 5 to the Scotland Act 1998 are devolved unless, as always, the UK Parliament tries to modify them, subject to the Sewel convention. As we all know, use of the Sewel powers can be extremely controversial at times. The Scottish Government have flagged up their opposition to such intervention by the UK Government in the context of the Bill.

As noble Lords will be aware, the Green Party is a partner in the Scottish Government, procurement regulations in Scotland have a number of environmental considerations built into them and the EU principles largely remain in force. It is not the case that UK contracting authorities with reserved functions will be subject to UK rules. For example, the Defence and Security Public Contracts Regulations 2011 are UK-wide, as I understand it, and that has a significance in this context.

This amendment seeks to make it a statutory responsibility for contracting authorities, in setting award criteria, to
"take account of the environmental impact of the award".
This would place a parallel emphasis on environmental impact in the context of English or UK contracts, as is the case in Scotland. As the Law Society of Scotland has stated:

"It is important that the Bill does not lead to confusion in the UK for parties, given that different rules will apply in the UK market".

Inevitably, given the devolution settlement, there will be occasions when legislation in Scotland and England differs for a variety of reasons relating to different values, circumstances or aspirations, but where there is largely agreement on public policy, as there surely is on the environmental impacts to be taken into account, common sense would dictate that words along the lines of Amendment 124A should be built into the Bill.

Baroness Boycott (CB): My Lords, I support Amendments 124 and 127 in the name of the my noble friend Lady Worthington. As always, I return to the issue of food: the Committee on Climate Change reported last week that the public sector serves 1.9 billion meals a year. That is an unbelievably big responsibility and impacts on the environment, our health, how people co-operate socially, what we grow and agriculture. If we cannot have principles about the environment, public good and public health within this public procurement then it is really not fit for purpose because this is, I think, a massive area of concern to everyone in this Room.

8 pm

Lord Scriven (LD): My Lords, I have added my name to Amendment 528C, which my noble friend Lady Brinton has already spoken to. Like her, I am a little perplexed about the Government's view, according to the Minister, that public sector procurement should be based on value for money and that there should be a co-ordinated approach to public sector procurement so that businesses understand the rules in which they are working but also have flexibility, yet the health service seems to be excluded from that.

For the convenience and understanding of the Committee, we need to look particularly at Section 79 of the Health and Care Act 2022, which says:

"Regulations may make provision in relation to the processes to be followed and objectives to be pursued by relevant authorities in the procurement of"

services. Relevant authorities in this legislation are: NHS England; NHS England foundation trusts; an NHS trust established under Section 25; interestingly, a combined authority, which is a combination of local authorities; and a local authority in England. A relevant authority is not just an NHS body; it is a relevant authority if it is purchasing or procuring

"(a) health care services for the purposes of the health service in England, and (b) other goods or services that are procured together with those health care services."

Ministers have said previously from the Dispatch Box that all that the provision applies to is the provision of healthcare services in England. They have not spelt out that it also applies to other goods or services that are procured together with those for healthcare services. If, for example, a care village was being procured where there was predominantly a capital spend on housing and where services for healthcare were to be procured at the same time, which set of procurement rules would apply? Would it be the rules within this Bill, those within the Health and Care Act, or a combination of both?

It is important that Section 79 of the Health and Care Act says that

"Regulations under subsection (1) must, in relation to the procurement of all health care services to which they apply, make provision"

for the following:

"(a) ensuring transparency; (b) ensuring fairness; (c) ensuring that compliance can be verified; (d) managing conflicts of interest."

There is nothing about value for money, yet the Minister has said repeatedly at the Dispatch Box in this Committee that the Government's view is that public procurement should be based on value for money. If that is the view of the Government—not of the Cabinet Office, but of the Government—why is value for money not in the Health and Care Act as a factor for public procurement of healthcare provision in England and other goods or services that are procured together?

There is a gaping hole which is not clear. It is so deep that I do not think the Minister can explain the contradiction between this Bill and the Health and Care Act in terms of procurement provision. So, particularly on joint procurement in something like a care village, which provision would apply? If the Minister cannot answer that very clearly from the Dispatch Box, I feel that this is going to come back on Report. Clearly, there is confusion not just in terms of legislation but for those businesses which wish to be part of a contract for a joint provision between health and other services.

My final question is this: why is it that combined authorities in a local authority in England are in the Health and Care Act but it says here that local authorities will be driven by the provisions in this Bill? Which one would a local authority have to adhere to in terms of the confusion that is around it?

Lord Davies of Brixton (Lab): My Lords, I want to make a point about proportionality. It arises under the amendment in the name of the noble Lord, Lord Aberdare, and runs through much of the Bill. In a sense, I am asking a general question but hanging it on the hook of Amendment 120. It is a point of some concern to small organisations; we are talking here about small charities and local voluntary organisations. In much of the debate, people have referred to businesses and enterprises, but this will also apply to local voluntary organisations and charities, which clearly do not have the resources or staffing to deal with the scale in the way that an organisation such as Oxfam, for example, could. They have their local job to do; to a certain extent, spending a lot of time drawing up a bid to provide a service will be a diversion from their work. Proportionality must have a role in assessing a contract. I am intrigued and ask the Minister to give some indication of an overall perspective on proportionality as it affects local organisations, charities and voluntary organisations.

Lord Wallace of Saltaire (LD): My Lords, with apologies for missing some of this debate, I will speak briefly to my Amendment 129, which relates to Clause 22 and the incompatibility of subsections (2) and (5). Clause 22(2) states:

"In setting award criteria, a contracting authority must be satisfied that they … are sufficiently clear, measurable and specific".

Clause 22(5) then sets out those "clear, measurable and specific" elements. In paragraphs (a), (b) and (c), it is indeed specific: they deal with

"the qualifications, experience, ability, management or organisation of staff"

et cetera. However, over the page, Clause 22(5)(d) sounds as if the drafter was late, tired, exhausted and gave up. It refers to

"price, other costs or value for money in all the circumstances."

I am sorry that the noble and learned Lord, Lord Hope, is not here to tell us how one might legally interpret "in all the circumstances".

What we have drafted as an amendment is one that is as specific as paragraphs (a), (b) and (c) on what those circumstances might be. It sets out the standard phrases that have been used in the Government's previous documents and draft statement. I merely suggest to the Minister and those behind him that paragraph (d) simply is not fit for purpose as it stands. The phrase "in all the circumstances" should not be in a Bill of this sort. It either needs to be cut or to be expanded to the sort of specificity that (a), (b) and (c) include. My amendment suggests what that might be.

Baroness Hayman of Ullock (Lab): My Lords—oh, I have just thrown all my papers on the ground. Actually, I do not need them. I am holding my list of government amendments, which I used to follow the Minister carefully as he went through them all so that I did not miss anything he said.

I sincerely thank the officials, who have spent a long time bearing with me and my noble friend Lord Coaker, going through the government amendments carefully so that we properly understood the implications and which ones were tied together, if you like. Many of the amendments provide helpful clarification, so I put on record my sincere thanks for the officials' time and patience. It has been very important.

[Baroness Hayman of Ullock]

I have a few amendments in this group. The first, Amendment 101A, looks to ensure that contracting authorities consider potential health contractors' records of ensuring

"affordable access to their products in low and middle-income countries and to the NHS".

Of course, this is in the light of the pandemic, because it covers consideration being taken in public health emergencies of the international concern around this and the impact on countries that are less well off than us. With these amendments, we want to increase access to vaccines, medicines and diagnostics by attaching conditions to health products and research and development contracts in order to facilitate global manufacturing, because that was clearly a problem recently during the Covid pandemic.

It is also about having assurances that taxpayers' money is being spent according to socially responsible principles in circumstances like that. If you can attach conditions to public spending on health procurement and R&D to have greater access to health technologies globally, this can help to bring the health crisis to an end sooner. We know that many of the Covid variants came about in countries that have very low vaccination rates. So it is about looking out and upwards for the future.

There is already some precedent for attaching conditions to pandemic tools to improve access. Paragraph 84 of the Government's *100 Days Mission* report says:

"We recommend that governments should build in conditions into their DTV funding arrangements to ensure … access to DTVs at not for profit and scale, which is to be enacted if a PHEIC is declared."

So we can do this if we want to. The pricing and timing of delivery are important for gaining more equitable distribution.

Many low-income and middle-income countries have been calling for more meaningful control over their pandemic responses. Of course, they cannot really do that if they do not have access and are not then able to manufacture their own vaccines, which is what many of them were calling for. Again, if you remove intellectual property barriers, you can do this, but we need to look carefully at how we would manage that. Perhaps the Procurement Bill is not the right place for this, but it is certainly the right place to have a discussion and debate about it and to look at how we can move things forward.

My other amendments are Amendments 528A and 528B. I am slightly confused about why we are debating these and Amendment 528C of the noble Baroness, Lady Brinton, at this stage, when the government Amendment 528, to which they relate, does not come up for debate until group 14. It strikes me that we are likely to end up having exactly the same debate all over again. The Minister may not have an explanation for that, but I apologise in advance that we will revisit this.

I will be brief because we will come back to this. As I say, Amendment 528A is again about affordable access for middle-income and low-income countries, and Amendment 528B is about requiring contracting authorities to consider a potential health contractor's record of ensuring affordable access to its products. I thank the noble Baroness, Lady Brinton, and the noble Lord, Lord Scriven, for supporting our amendments. We support Amendment 528C of the noble Baroness, Lady Brinton, but I am sure that we will have another debate on group 14, as I said.

8.15 pm

Briefly, on the other amendments, I support my noble friend Lady Thornton on her Amendment 122A. She suggested that there needs to be an explanation around what her amendment is trying to achieve; I will be interested to hear the Minister's thoughts on that. The noble Baroness, Lady Worthington, was supported by the noble Baroness, Lady Boycott, on the absolute importance of environment and net-zero targets and how they must be interwoven in the Procurement Bill. I am sure that the Minister has got the message that many people in the Committee think that this is pretty important and must be engaged with.

The noble Lord, Lord Wigley, spoke to Amendment 124A, tabled by the noble Baroness, Lady McIntosh. It is important because it refers to the devolved settlement and the implications on that. I thank the Law Society of Scotland for its briefing on this, which was extremely helpful. The noble Lord made the points absolutely crystal clear so I will not go into any further detail.

I thank the noble Baroness, Lady Noakes, for her sterling work in introducing all the amendments tabled by the noble Lord, Lord Lansley. I am sure that he will be extremely pleased when he reads *Hansard*, though perhaps not about one of the amendments in the former group.

The noble Lord, Lord Aberdare, made some really important points when talking to his amendments about the need to support small suppliers and the issues that many have with prompt payment. I know that the Bill is looking hard at doing something around late payment and prompt payment; I hope that we can achieve this positively through what we are doing today. I fully support the noble Lord in his efforts to improve this situation.

Lord True (Con): My Lords, I thank noble Lords for another interesting debate that I have enjoyed listening to. Some thoughtful points have been made. I must say at the outset that Ministers are responsible for many things but we are not responsible for groupings. We just get told what we must do. It would have been quite possible, through the usual channels, to agree to de-group those amendments and put them separately but, as we say, "Them's the breaks".

Notwithstanding the illogicality that has been pointed out, I will address what is before us. By the way, I thank the noble Baroness, Lady Hayman of Ullock, for what she said about the official Bill team, who support us all in Committee on the Bill. I fully endorse what she said. Many of them are here to hear it; if they are doing their job, they will probably notice it in *Hansard* but, none the less, I will make sure that they do.

Amendment 101A, 528A and 528B, tabled by the noble Baroness, Lady Hayman of Ullock, and the noble Lord, Lord Coaker, and Amendment 528C, tabled by the noble Baroness, Lady Brinton, and the

noble Lord, Lord Scriven, cover health and procurement, as we just discussed. I candidly acknowledge that, sometimes in life, there are minor frustrations. I know that the Committee is understandably wrestling with the issue. My noble friend Lady Scott—I am sorry, I always call her Jane—tried to answer the question asked by the noble Baroness on two occasions but I will come on to say what we have tried to do about this; indeed, I will now read out the answer that I have been given.

These amendments would significantly extend the rules in Clause 18 by imposing additional requirements on authorities to have regard to a range of health sector-specific issues when awarding contracts for the research, development or supply of health services or health products. As we have already touched on at various points in the debate, contracting authorities need to make procurement decisions on a case-by-case basis. It would not be appropriate to include wider policy objectives, such as those suggested, in primary legislation. This could jeopardise the achievement of value for money and make it harder for small businesses to bid for these health services and health products contracts.

Amendment 528C would override the healthcare procurement regulation-making powers set out in the Health and Care Act and make the Bill apply instead to all healthcare purchasing—the challenge set out by the noble Baroness, Lady Brinton. The position is that the Department of Health and Social Care is currently preparing regulations, following public consultation, which will implement a new provider selection regime specifically designed for the procurement of healthcare services delivered to individual patients and service users. Obviously, noble Lords will have the proper opportunity to scrutinise and debate the implementation of these powers when they are laid in Parliament, through the affirmative procedure.

On the question raised by the noble Lord, Lord Scriven, the recent DHSC consultation on proposals for its new provider selection regime acknowledges the need for integrated procurement for health and social care services. Existing procurement legislation recognises and provides for mixed procurement approaches, and relevant details will be included in the DHSC's forthcoming regulations and guidance. Parliament will have the opportunity to scrutinise these under the affirmative procedure.

I know that noble Lords have said that they not entirely satisfied with this. It is the situation that clinical services for individual patients are with the health service. My noble friend highlighted—as I said on day three in Committee—that we would write to the noble Baroness, Lady Brinton, on how the interface between the Procurement Bill and the health Act will work in practice, I reassure noble Lords that that is being prepared. We will seek to pick up many of the questions that noble Lords have asked on each day of the debate so far, in this area. That will be put before your Lordships before we get to group 14—I hope it is not group 13—or whenever we get to it. It is being done, but I have heard what noble Lords have said. I can tell the Committee that I am also writing personally to the Secretary of State for Health to seek further clarity on when the regulations will be available for scrutiny. I have heard the requests from your Lordships in this area.

I turn now to Amendment 118 tabled by my noble friend Lord Lansley, whose appearance varies today—I will not hurt him by saying it is improved today. This amendment would modify Clause 20 to require the tender notice to provide a period during which "suppliers may ask questions" and have the answer provided "to all potential suppliers". Under the Bill regime, there is nothing preventing potential bidders asking for further information or clarification of matters within the tender notice or associated tender notice documents; in fact, this is standard practice in procurement procedures. There is a risk that including a specific provision to this effect might suggest that questions cannot be asked outside that window. We would not want to suggest that there comes a point at which interested suppliers can no longer ask questions of contracting authorities. With that in mind, I hope I have reassured my noble friend—when he comes to read this section—that the Bill already allows for the circumstances he wishes to see.

Amendment 119 and others relate to the Prompt Payment Code. Amendment 119 seeks to require being a signatory to the Prompt Payment Code to be used as a condition of participation in the award of a public contract. We are committed to ensuring prompt payment to suppliers. However, requiring that every potential bidder becomes a signatory to the Prompt Payment Code to participate in the procurement would be too onerous a requirement. Therefore, while we encourage suppliers to sign up to a Prompt Payment Code, we do not consider it proportionate for us to legislate for it in this Bill.

Amendment 120, tabled by the noble Lord, Lord Aberdare, would extend the consideration of whether conditions are proportionate for the purposes of subsection (1) to include the accessibility of the contract to as broad a range of suppliers as possible. This is an abiding theme in your Lordships' Committee. The primary purpose of Clause 21 is to ensure that the suppliers that participate in the procurement are capable of delivering the contract, but also that these conditions are restricted to only those which are needed to deliver the contract.

The noble Lord asked what we are doing to stop unreasonable requirements of SMEs and others, and I include in this broad range social enterprises and charities. As I say, the intention of Clause 21 on conditions of participation is to prohibit disproportionate or unreasonable requirements being put on contracts that would end up excluding SMEs. The authority must be satisfied that conditions of participation consider only the legal and financial capacity and technical ability of the supplier to perform the contract in question, and that there are proportionate means of doing so. We will look carefully at the noble Lord's words. That is the intention behind Clause 21, but we will bear in mind what he said.

On the previous day of Committee, we discussed the importance of creating opportunity for SMEs and others. There was a broad ask from your Lordships. We think the clause as drafted helps with that, as conditions are pared back to focus on delivery. I have

[LORD TRUE]
already committed to holding an engagement during the Recess about what more we can do to support SMEs. In the meantime, we consider that this amendment is not required, but we will give it some reflection. Is "reflection" a parliamentary word? It sounds like a word that one of the right reverend Prelates might use.

Lord Davies of Brixton (Lab): Will the Minister make it clear: when he says SMEs, does that embrace small charities and voluntary organisations, which I know are anxious about their situation under the process?

Lord True (Con): Yes, my Lords, I believe I did say that. In parliamentary terms, I am reiterating what I said. SMEs cover, for the purpose of this, voluntary organisations, social enterprises and charities. I think I have made clear my profound personal belief that these are part of the vital warp and woof of our society.

Amendment 121, proposed by noble Lord, Lord Wallace of Saltaire, aims to ensure contracting authorities take reasonable steps to verify that the supplier and any subcontractors are able to deliver the contract. Although we absolutely agree that contracting authorities need to do this in practice, we do not think it is necessary to add this provision into legislation, as the very operation of procurement is geared to this—the setting of conditions of participation, award criteria and evaluation processes, to name a few. While, as part of the Bill, we are improving supply chain visibility, we do not want to overengineer—noble Lords must have heard me say this too many times—legislative requirements for contracting authorities to investigate these matters in every procurement process as a box-ticking exercise.

Amendment 122A, which was proposed by the noble Baronesses, Lady Thornton and Lady Bennett of Manor Castle, and supported by others, would give the Minister the ability to exempt contracting authorities from the tests that must be satisfied when setting award criteria in order to allow policy priorities to take precedence to create additional public value. The Delegated Powers and Regulatory Reform Committee might have something to say about such an amendment if it were put forward by a Minister. It sounds very much as if certain rules need not apply in this particular place or contract. It certainly has a whiff of the dispensing power that the Glorious Revolution was designed to do away with, although I know noble Lords will say there is too much Henry VIII in too much legislation. So, in a technical sense it would be a difficult thing to do, but we think it would be undesirable.

We want all award criteria to be clear, measurable, relevant, non-discriminatory and proportionate to avoid unnecessary burdens on suppliers. We believe that this, together with our plans to publish a national procurement policy statement, which we debated earlier, and the requirement for authorities to maximise public benefit, will be sufficient. I have heard scepticism, but we believe that is the case.

8.30 pm

Amendment 123 from my noble friend Lord Lansley would require that when contracting authorities are setting award criteria for the purposes of awarding a public contract, they always ensure that those criteria allow for innovative solutions. Amen to that; we want innovation. That is another thing that we have been asking for on all sides of your Lordships' Committee. In the Bill we want to give contracting authorities the maximum flexibility to select the most appropriate award criteria needed given the nature of the procurement, as long, as I have just explained, as they meet the requirements of Clause 22—for example, they are relevant to the subject of the contract, non-discriminatory and proportionate. The Bill already allows award criteria to be selected in respect of innovative solutions where they meet these tests, and we are already taking a number of major steps to drive innovation in the Bill. For example, the new competitive flexible procedure, which we will debate in another group, gives contracting authorities the ability to design and run a procedure that suits the market in which they are operating.

On Amendments 124, 127 and 124A from the noble Baroness, Lady Worthington, and my noble friend Lady McIntosh of Pickering, Amendments 124 and 124A would make it mandatory that award criteria always align with a very specific list of matters relating to environmental and climate change objectives. Amendment 127 would ensure that the social and environmental impact of a contract can always be considered to be relevant to its subject matter. Amendment 125 from the noble Baroness, Lady Hayman, is similar and would require all award criteria to have regard to social value.

The noble Baroness, Lady Worthington, was kind—or cynical—enough to recognise that we had debated this and imagined what my answer might be. We are resistant to adding further conditions. We believe that delivering value for taxpayers should be a key driver behind any decision to award contracts, and as I have said in previous debates, we do not think it is appropriate to include wider policy objectives, such as those suggested, in primary legislation. Policy priorities should be included in award criteria only where they are demonstrably relevant to the subject matter of the contract. It is essential for value for money reasons that that is done. It avoids procurements becoming unduly complex through the inclusion of extraneous and unnecessary requirements. Perhaps we have a disagreement on that, but that is the Government's position. We do not want to increase costs and make it harder for small businesses to bid for public contracts.

I cannot specifically answer the question from the Law Society of Scotland—I had divined that it might be the originator of the questions that were asked. As the noble Lord knows, the Scottish Government have chosen not to participate in this procurement process, and in those circumstances I am disinclined to have them say what should go in legislation for England, Wales and Northern Ireland, which are co-operating together so well. However, I will look at the specific point raised by the amendment.

Amendment 129, proposed by the noble Lord, Lord Wallace, would include a list of very specific factors to be considered in determining value for money. It is an important question. However, this amendment would place limits on what can be taken into account when assessing the subject matter of the contract, rather than allowing authorities to consider "all the circumstances",

as currently provided in the Bill—perhaps by, as the noble Lord suggested, a sleepy draftsman or draftswoman. We believe that if we made it too precise, we would force contracting authorities to design their procurements around, in some cases, irrelevant factors and potentially not allow them to consider other, relevant factors, all of which could increase cost. I will take advice on "all the circumstances", given the challenge that the noble Lord put to your Lordships' Committee.

Lord Wallace of Saltaire (LD): Perhaps he would care to consider whether paragraph (c) should be reduced in length, because if my suggestion would be too specific, then paragraph (c) is already much too specific, and we had better cut it down.

Baroness Worthington (CB): Sorry to interrupt, but just to clarify, it seems to me that the reference to "maximising public benefit" in the Bill is completely and utterly superfluous and has no meaning. The Minister's response has further confirmed that the only criteria that can really be taken into account are value for money and cost. We will need to return to this at Report, because it now seems very clear that this is not an accident or some kind of desire for flexibility; it is really saying that there is only one thing that counts, and that is cost—and in the short term.

Lord True (Con): I respectfully disagree with the noble Baroness. It is acknowledged from the other side that value for money is an extremely important criterion. It is one of the things in Clause 11. We have discussed mechanisms and we have had discussions about the national procurement policy statement, wherein, in the draft on the table, lie large numbers of things which the noble Baroness is seeking. It is frankly not the case to say that there is nothing in here other than value for money—that is not the Government's submission to your Lordships. The Bill takes forward the change from the use of the term "most economically advantageous tender", MEAT, to "most advantageous tender", MAT. That is to reinforce the precise message that procurers can take a broader view of value for money than simply lowest price. We believe that the amendment tabled by the noble Baroness is not necessary.

Amendment 129A, in the name of the noble Lord, Lord Aberdare, would make it explicit in the Bill that contracting authorities must always include an objective mechanism for determining price or cost after contract award where and to the extent that value for money, but not price or cost, is evaluated when assessing which tender is the most advantageous. We believe that commercial practice and other provisions in the Bill mean that this amendment is unnecessary. It would be highly unusual for contracting authorities not to include an evaluation of price or cost when assessing value for money in their procurements. This is good commercial sense.

Further, contracting authorities are not free to act unbounded. The procurement objectives, including those in Clause 11, will apply. I do not think it is necessary to expressly legislate for it. We will, however, publish guidance to contracting authorities on evaluation. The noble Lord may well ask me when the guidance is to be published. He also asked how we can be sure that that guidance will bite further. It may be that I can come forward with further information after Committee.

I am sorry, I have been given a long speech—

Baroness Noakes (Con): We would not mind if my noble friend made it shorter.

Lord True (Con): I would be happy to. There were a lot of amendments. I do not want to break down and not continue, but I have about four more minutes to go. With the Committee's permission, would my noble friend—

Baroness Scott of Bybrook (Con): Would my noble friend like me to take over his speech, as he is coughing?

Lord True (Con): Yes please.

Baroness Scott of Bybrook (Con): My Lords, Amendment 131, tabled by the noble Lord, Lord Best, would prohibit contracting authorities applying relative assessment methodologies for price, costs or value-for-money award criteria, with the aim of preventing "race to the bottom" behaviour by suppliers and helping contracting authorities achieve safe, quality and value-for-money outcomes.

The objective of the Bill is to make public procurement more flexible for contracting authorities and suppliers, not less. In deciding how to assess tenders, contracting authorities must be able to determine what is important to them and the best means of assessing this. In some cases, price may be more important than others and, in particular, price assessment methodologies may be more appropriate in certain circumstances. I must also stress that contracting authorities will be very aware of the need for safe outcomes and that those cannot be compromised. To reiterate, we will publish guidance on assessment to help contracting authorities decide how best to assess tenders.

Amendment 147, tabled by the noble Lord, Lord Hunt, would require a Minister, within three years of the Bill being enacted, to undertake a review of the impact of the rules on how contracts subject to a competitive procedure must be awarded. In particular, the review must assess the impact of the change from "most economically advantageous tender", commonly referred to as MEAT, to "most advantageous tender", commonly referred to as MAT. On the delivery of social value, and whether the needs of service recipients have been met under contracts, the change from MEAT to MAT sends a much clearer message to contract authorities that the contracts do not have to be awarded on the basis of the lowest price. I can assure the noble Lord that the matters he refers to are within the scope of MAT, where they are relevant to the contract being procured.

Amendment 149, tabled by my noble friend Lord Lansley, would make explicit that contracting authorities may exclude a supplier where it has failed to explain satisfactorily why the price or cost proposed in its tender appear to be abnormally low. We discussed this point during a recent SI debate, and I welcome his

[Baroness Scott of Bybrook]
contribution. I appreciate that tenders may appear abnormally low for a variety of reasons, some of which ought to concern contracting authorities. The Bill's silence on this point is not intended to discourage authorities seeking to understand the proposed price and cost or interrogating suppliers where they appear to be abnormally low. Authorities are already under an overarching duty to award contracts to the most advantageous tender. This should be sufficient to allow for questions to be asked of suppliers about proposed price and costs, and authorities can structure their evaluation to ensure that tenders can be rejected where the authority has reason to believe a tender is abnormally low.

In summary, this Bill aims to deliver a simpler regulatory framework. It therefore does not include every possible action a contracting authority might wish to take in assessing the validity of tenders or awarding contracts. This approach is better than the existing EU approach, as it offers increased flexibility to design efficient, commercial and market-focused competitions, while reducing burdens for smaller firms. Therefore, I respectfully request that these amendments are not moved.

Lord True: My Lords, I thank your Lordships for your indulgence in letting my noble friend complete the speech. I am most appreciative. Thank you.

Amendment 83 agreed.

Amendments 84 and 85 not moved.

Baroness Scott of Bybrook (Con): My Lords, I think this is a convenient point for the Grand Committee to adjourn on the Bill.

Committee adjourned at 8.44 pm.