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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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

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

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House of Lords

Thursday 14 July 2022

11 am

Prayers—read by the Lord Bishop of St Edmundsbury and Ipswich.

Covid-19 Lockdown: Fixed Penalty Notices

Question

11.06 am

Asked by **Lord Strathcarron**

To ask Her Majesty's Government what consideration they have given (1) to granting an amnesty to the 43 per cent of people who were issued with Fixed Penalty Notices (FPNs) during the COVID-19 lockdowns and who have not paid them, and (2) to refunding the remaining 57 per cent of people issued with FPNs who did pay them.

The Advocate-General for Scotland (Lord Stewart of Dirleton) (Con): My Lords, the Government recognise that a proportionate law enforcement response was needed to get Covid-19 under control and get lives back to normal. Parliament agreed, and the Health Protection (Coronavirus, Restrictions) Regulations 2020 passed into law. While the majority followed the rules, it is right that those who put us most at risk by ignoring the rules faced appropriate penalties.

Lord Strathcarron (Con): I thank the Minister for that reply. The police in England and Wales issued just under 119,000 Covid restriction lockdown fines. Most are well over a year old and 43% of them have not been paid and, let us face it, by now never will be paid. Part of the lockdowns' collateral damage to all sectors has been the enormous courts backlog so, in the spirit of peace and reconciliation, will the Minister consider an amnesty for those who have not paid the fines and never will, and, in all fairness, a refund for those who have?

Lord Stewart of Dirleton (Con): My Lords, I acknowledge the spirit in which my noble friend poses the Question, drawn perhaps out of his continuing interest in mediation as an alternative dispute resolution, but I make two points in response. First, consideration of an amnesty is not within the gift of the Home Office: police forces are independent of government. Secondly, funds ingathered under this scheme have already begun to be distributed among local authorities, hence the course for which he calls is not a feasible one.

The Earl of Clancarty (CB): My Lords, I agree with an amnesty, but we seem to have gone from one extreme to the other, with a TUC survey that now finds 9% of employees showing Covid symptoms being forced to go to work. Does the Minister agree that anyone who tests positive or displays Covid symptoms should not be forced to go into work, and that no one should have to work alongside colleagues who are testing positive? Employees should, at the very least, be allowed that choice for the sake of their own health and the health of others.

Lord Stewart of Dirleton (Con): My Lords, I am not sure how far it lies within the power of central government to make the orders for which the noble Earl calls. I will, if he wishes, correspond with him on just what the Government can do to prevent people being coerced into going into work against their will.

The Lord Speaker (Lord McFall of Alcluith): The noble Baroness, Lady Brinton, is making a virtual contribution.

Baroness Brinton (LD) [V]: My Lords, the data in the National Police Chiefs' Council report on fixed penalty notices issued in England and Wales shows the different approach to FPNs taken by forces. For example, Wiltshire and Gloucestershire issued less than half the number that Sussex and Norfolk issued. Will the reasons for those different rates be looked at, especially if persuasion was a more successful approach than penalties, so that lessons can be learned for the future?

Lord Stewart of Dirleton (Con): My Lords, the circumstances on which the noble Baroness founds her question seem an inevitable consequence of the independence of police forces, to which I made reference earlier. The Home Office worked closely with the National Police Chiefs' Council on the Government's enforcement approach to the health crisis, with engagement at both ministerial and official level. Police forces were guided by instruction and advice from the College of Policing.

Baroness Jones of Moulsecoomb (GP): My Lords, I have so many questions. The Minister talked about appropriate penalties, but there were people who escaped appropriate penalties—for example, at No. 10. Is there going to be any retrospective view of this? The Government gave out some very confusing messages, which may partially explain the difference in police force enforcement.

Lord Stewart of Dirleton (Con): My Lords, I repeat my previous answer: it is the foundation of policing in England and Wales that individual forces are independent of central government and not accountable to central government for decisions they take. On the specific matter to which the noble Baroness refers, in relation to events down the street in Whitehall, I think that that has been investigated thoroughly by the Metropolitan Police.

Baroness Doocey (LD): My Lords, fixed penalty notices were up to seven times more likely to be issued to black, Asian and ethnic-minority individuals, according to data produced by the *Guardian*. Will the Minister commit to ensuring that this disparity is investigated by the Covid-19 public inquiry?

Lord Stewart of Dirleton (Con): My Lords, the disparities to which the noble Baroness draws my attention are a matter of concern for the Government, as well as for all right-thinking people around this

[LORD STEWART OF DIRLETON]
House and beyond. I cannot speak for the independent inquiry that is being set up, but I assure her that the matter will be looked into by the Home Office.

Baroness Foster of Oxton (Con): My Lords, first, I echo the points made by my noble friend Lord Strathcarron and I agree with what he said. I spoke recently in the coronavirus emergency measures debate, and it was clear throughout that a blur between guidance and regulation for lockdown restrictions had clearly come to pass. As has been said, thousands of people were issued with fines in one part of the country, while others never received even a warning for a similar offence. Does the Minister agree that the law of the land must apply across the board and cannot be determined by postcode, as that makes a mockery of the judicial system in this country?

Lord Stewart of Dirleton (Con): My Lords, I regret that I cannot agree with my noble friend, for the reasons I have given. While a degree of support and advice was promulgated by the College of Policing and the Government, individual decisions were matters for individual police services across the country. That is a cornerstone of our policing in England and Wales and I think it merits support.

Lord Coaker (Lab): My Lords, we should remind ourselves that the vast majority of the public conformed to the rules in the face of a pandemic; only a small minority did not and were issued with fixed penalty notices. Are the 43% who have not paid being actively pursued? What is the Government's policy or advice to the police on that? It would be interesting to know whether all the people who have been issued with fixed penalty notices get a criminal record and what the consequences will be if people continue to refuse to pay the fines with which they have been issued.

Lord Stewart of Dirleton (Con): The noble Lord asks a series of questions. If I may, I will revert to him on a couple of them. He asked about further enforcement steps by the Government; enforcement is in the hands of another arm's-length body, the ACRO Criminal Records Office, so it is not a matter directly for the Government. He asked a very important question about whether people will receive criminal records for non-payment. Because the regulations were not marked as recordable, this will generally not be the case. In cases where people were brought on a complaint which specified an offence under these regulations and another offence which is recordable, the Covid offence may be recorded.

Baroness Altmann (Con): My Lords, does my noble friend agree that it is important to uphold the rule of law? Many colleagues across the House will know that I disagreed fundamentally with the extent of the lockdowns and the extent to which they were prolonged—I would have preferred Sweden's approach—but, given that it is the law and that we need trust in policing, the idea that someone who has broken the law at the time should suddenly be pardoned when others have paid the fine strikes me as strange. If the problem is in the courts, what other crimes will we turn a blind eye to just because the courts are overloaded?

Lord Stewart of Dirleton (Con): My Lords, I respectfully agree with my noble friend. In any event, it is not within the power of the Home Office to grant an amnesty, as I said earlier. The funds ingathered from Covid are being returned to local authorities or the Government of Wales—the areas from which they were gathered—and applied to other purposes.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, the figure of 119,000 was mentioned in relation to England and Wales. Can the Minister give us the equivalent number for Scotland? It would be interesting to compare Darlington and Cannock with Dirleton and Cumnock, to take two random places, and see whether people in one are more law-abiding than those in the other, or whether the police are more diligent in one than the other.

Lord Stewart of Dirleton (Con): I agree with the noble Lord that that question is important and may yield interesting answers. I regret that the facts in relation to Dirleton and Cumnock do not fall within the ambit of the Home Office. He gestures to me; I will indeed write to him on the topic.

Northern Ireland: Operation Kenova

Question

11.16 am

Asked by ***Lord Hain***

To ask Her Majesty's Government what assessment Ministers have made of the Operation Kenova investigation into past paramilitary criminal offences in Northern Ireland.

The Parliamentary Under-Secretary of State, Northern Ireland Office (Lord Caine) (Con): My Lords, before I answer the noble Lord's Question directly, I am conscious that between now and the end of this month we will see the 40th anniversary of the Hyde Park bombings, the 50th anniversary of Bloody Friday and the Claudy bombings and 32 years since the murder of Ian Gow, a friend of many of us in this House. All were heinous, wicked terrorist atrocities which were totally unjustified. Our thoughts, as always, are with the survivors and victims.

Operation Kenova has conducted much commendable work since its establishment in 2016, particularly through its ability to build trust and confidence with those engaging with its investigations. The Government very much hope that the best practices established by it will be carried through into the new legacy bodies once they are established.

Lord Hain (Lab): I thank the Minister for his reply, particularly his reminder to the House about past atrocities, which we should never forget. Before the Northern Ireland legacy Bill, to which he referred, comes to this House, will Ministers agree to an amendment that I will table to adopt the Operation Kenova

investigations model? Lamentably, the Government's current amnesty provisions—that is what they are—favour perpetrators of atrocities over the needs of victims. Kenova uncovers crucial information because it is carrying out investigations to criminal justice ECHR Article 2-compliant standards, with 32 of its cases referred to the Public Prosecution Service, and so offers potential justice to victims and upholds the rule of law in a way the Bill does not. As currently drafted, the Bill does neither and is opposed by all victims' groups and Stormont parties. Surely, Ministers should think again.

Lord Caine (Con): The former Secretary of State for Northern Ireland makes a number of important points. As I said at the outset, Operation Kenova has conducted much commendable work and I pay tribute to the way in which Jon Boutcher has set about his task. The noble Lord probably asks me to go a bit too far in agreeing to amendments before we have even considered Second Reading of the Bill in your Lordships' House. As he is aware from my record in taking other legislation through this House, I am always prepared to look at any amendment on its merits and give it due consideration. I am very happy to sit down with the noble Lord and any other noble Lords across the House prior to Second Reading to discuss the contents of the Bill.

Lord Robathan (Con): My Lords, does the Minister agree that there can never be any moral equivalence between those who were sent by this Parliament to defend the rule of law—they sometimes made mistakes but they were under a huge amount of pressure—and those who went illegally, with weapons, to murder and cause mayhem?

Lord Caine (Con): My noble friend will not be in the least surprised to hear that I agree with his comments entirely. He makes very important and powerful points. There is no moral equivalence between those who set out to uphold the rule of law and defend democracy and those who sought to destroy both. His question gives me the opportunity to place on record once again the enormous debt of gratitude we all owe to the members of the Royal Ulster Constabulary, George Cross, and the members of our Armed Forces for their work in Northern Ireland. Of course mistakes were made but, overall, it is a record of which they and we can be very proud.

Lord Murphy of Torfaen (Lab): I very much agree with my noble friend Lord Hain, about learning from the processes of Operation Kenova. Since, as the Minister knows, every victims' group in Northern Ireland, the Irish Government and every single political party in Northern Ireland disagrees with the Bill, is it not time to go back to the new Secretary of State, rethink the Bill, or preferably abandon it altogether?

Lord Caine (Con): I appreciate the spirit in which the noble Lord, another distinguished former Secretary of State, makes his point. As he will know from his time in office, finding consensus around legacy and the past is incredibly difficult and has eluded successive Governments. I was intimately involved in the Stormont House negotiations in 2014, when we thought we had reached some kind of agreement. That subsequently unravelled in the following years. These are very difficult matters but, as I said in response to a previous question, I am very happy to meet victims' groups, political parties, the Irish Government and Members of your Lordships' House to see if there are ways in which the Bill can be improved.

Baroness O'Loan (CB): My Lords, I declare an interest as a member of the international steering group for Operation Kenova, on which I have served for six years. Is the Minister aware that Operation Kenova has been investigating some 200 murders over a span of 25 years, including the murders of three police officers in 1982 at the Kinnego embankment, and that Kenova has submitted some 33 investigations to the DPP since 2019, but that no prosecutorial decision has issued in respect of the murders and abductions, apparently because of a lack of resources? How does the Minister view the Northern Ireland Troubles (Legacy and Reconciliation) Bill, now before your Lordships' House, which will prevent anybody whose loved one died as a result of the Troubles terrorism, whether in England, Scotland, Wales or Northern Ireland, being able to have an inquest or bring any civil action for damages, and even from having a proper investigation which will lead to a prosecution? Can the Minister explain how this is consistent with the operation of the rule of law, of which we are so proud in the United Kingdom?

Lord Caine (Con): I thank the noble Baroness for her question and acknowledge her work on Kenova, and as a former Police Ombudsman for Northern Ireland. She makes a large number of points, which are probably worthy of a debate rather than Question Time. She highlighted the point that over 30 case files are currently with the Director of Public Prosecutions for Northern Ireland. Funding for the DPP and the Public Prosecution Service for Northern Ireland is a devolved matter for the Assembly, not for Her Majesty's Government. It highlights the fact that the cases where criminal justice outcomes have been sought take a huge amount of time. The Government are trying to focus on moving towards a more information recovery-based approach to legacy cases, which will, we hope, allow victims to access more information more quickly than would be the case with long, drawn-out prosecutions.

Baroness Suttie (LD): My Lords, as the Minister said, he knows how important it is to build consensus on this matter in Norther Ireland. However, it is clear—I hope he will acknowledge this—that there is no consensus for the legacy Bill. I am pleased the Minister has agreed to meet the victims' groups and the political parties in Stormont over the summer, but will he commit to listening to what they say and bringing forward a different Bill or, preferably, to scrapping the Bill as it stands?

Lord Caine (Con): I thank the noble Baroness for her question. As I think I have outlined in my response to previous questions, I am very happy to do that. I think she will know, from experience of dealing with me, that I am always prepared to listen.

Lord Lexden (Con): My Lords, was not my noble friend right to remind us of the anniversaries of terrible terrorist atrocities in order to keep proper perspective on these matters? I speak as one who was not far from the Oxford Street bus station in Belfast just after 3 pm on 21 July, 50 years ago, when an IRA car bomb killed six people and injured nearly 40. Is it not one of the objectives of terrorists and their sympathisers to try to rewrite history, to draw attention away from their evil deeds? Is it not the duty of all of us to ensure that they do not succeed?

Lord Caine (Con): I agree entirely with my noble friend. It is worth remembering that, on the day in question, some 20 bombs were exploded in the space of about 80 minutes in the centre of Belfast, killing nine people and injuring 130—it was utterly horrific. My noble friend is correct to highlight the attempt by some to rewrite history. We have seen over recent years, I am afraid, a pernicious counternarrative of the Troubles, which tries to place the state at the heart of every atrocity, denigrates the contribution of the police and our Armed Forces, and seeks to legitimise terrorism. We should strongly resist that.

Baroness Ritchie of Downpatrick (Lab): My Lords, the noble Baroness, Lady O'Loan, referred to Kenova and its lack of resources. Would the Minister and colleagues talk immediately to the Justice Minister to ensure that both financial and staff resources are provided to a legacy investigation unit within the Public Prosecution Service, so that it can carry out the prosecutions that will flow from the Kenova inquiry, rather than pursuing this legacy Bill, which has been rejected by everybody in Northern Ireland?

Lord Caine (Con): I thank the noble Baroness for her question. As I made clear in my response to the noble Baroness, Lady O'Loan, funding for the Public Prosecution Service in Northern Ireland is a devolved matter for the Department of Justice.

American War of Independence: Semiquincentennial Commemorations

Question

11.27 am

Asked by ***Lord Faulkner of Worcester***

To ask Her Majesty's Government what discussions they have had with the government of the United States of America about the participation of the United Kingdom in the semiquincentennial commemorations of the American War of Independence being planned in that country to start in 2025.

Lord Sharpe of Epsom (Con): My Lords, US planning for the 250th anniversary of independence is at the early stages so it is premature for HMG to start working on specific events. The closeness of our relationship today is testament to the work of generations of Americans and Britons over a quarter of a millennium. We have come a long way since 1776 and the American war of independence, and we look forward to marking and celebrating the success of the modern UK-US partnership in 2026.

Lord Faulkner of Worcester (Lab): My Lords, in 1976 there was a state visit by Her Majesty the Queen and Prince Philip to celebrate the 200th anniversary of the Declaration of Independence. During this, they presented a bicentennial bell cast in the same Whitechapel foundry as the Liberty Bell of 1751. They also loaned to the people of the US an original copy of the Magna Carta. Would the Minister like to put on his thinking cap and come up with some equally imaginative suggestions for 2026, which might include, for example, a project run in collaboration with the American Battlefield Trust, to identify and rededicate the graves of British soldiers who rest on revolutionary war battlefields and elsewhere in the United States?

Lord Sharpe of Epsom (Con): I thank the noble Lord for his question, and also for a rare opportunity to use the word "semiquincentennial" in conversation. US planning for the 250th anniversary of independence in 2026 is still in its early stages, so plans are not yet fully formed. He makes some very good suggestions which I will happily take back, because I particularly like the battlefield idea. There are no immediate plans for a state visit, but I am sure that is something that will be considered. I should declare an interest as I lived in the US for five years, both my children are dual nationals and I am member of the Pilgrim Society.

Lord Purvis of Tweed (LD): My Lords, the magisterial biography of the Border reivers by George MacDonald Fraser starts with the inauguration of President Nixon taking over from President Johnson, with Billy Graham giving the eulogy. The Minister references the Pilgrim Society. There was an outward emigration group of Border reiver families after the pilgrims, of less strong character perhaps, from whom so many in America are descended. The story of the Borders, and the story of Scotland, and America is so linked, including Trump's mother being Scottish—which we overlook. In response to the noble Lord, Lord Faulkner, the Minister could perhaps think about an aged bottle of whisky, which I know the Minister and I both enjoy, but it is also an opportunity for America to withdraw its ban on haggis. The story of Scotland and America is very strong, so can the Minister make sure it is linked to any of the preparations?

Lord Sharpe of Epsom (Con): My Lords, I have read *The Steel Bonnets*, which is a very fine book, and I agree with his strong character remarks, which he phrased very artfully. I will certainly take the haggis suggestion back, although I am not sure that I can make any promises.

Lord Flight (Con): My Lords, what form of commemoration might the Government consider if we remember that this was a war of independence against the UK?

Lord Sharpe of Epsom (Con): I thank my noble friend for his question—I think. I am not entirely sure how to answer that. I think we have all moved on over the last 250 years—or, I should say, over the last semiquincentenary.

Lord Morgan (Lab): My Lords, was not one of the important consequences of the American war of independence that it stimulated political and constitutional reform in this country? Perhaps we could commemorate the event in that way.

Lord Sharpe of Epsom (Con): I think the noble Lord for that good point; I shall take it back as well.

Lord Collins of Highbury (Lab): My Lords, it is not in my nature to adopt a serious note when we have heard some quite interesting comments. However, the US is our most important ally, and these celebrations are only three years away. It is important that we work to ensure that we have a positive diplomatic programme to celebrate, not just within the FCDO but with other departments, including the MoD and DCMS, so that we put on a proper show of solidarity with our American friends.

Lord Sharpe of Epsom (Con): I completely agree with the noble Lord. That gives me an opportunity to restate the fact that the US and the UK relationship is one of being top allies in defending freedom and democracy around the world through our unrivalled defence, intelligence, security and, indeed, trade ties. Regardless of who is in power, whether on trade, security or defence, the US is always our closest partner, and we do more together than any other two countries. Last year on 10 June 2021, the PM and President Biden signed a new Atlantic Charter and joint statement, setting an ambitious agenda for US-UK co-operation across a wide range of areas.

Lord Cormack (Con): My Lords, bearing in mind that this is close upon us—it is three or four years away—could we not refer this to the British-American Parliamentary Group, and could not Members in all parts of the House submit ideas? I will submit one now: would it not be a marvellous thing to have two tea parties, in Boston, USA, and in the wonderful city of Boston, Lincolnshire, with the American President attending the latter and Prince Charles attending the former?

Lord Sharpe of Epsom (Con): I thank my noble friend for his suggestion. I was wondering whether he would manage to get Boston, Lincolnshire, into this Question, and he succeeded. Again, I shall take that suggestion back.

Baroness Butler-Sloss (CB): My Lords, I cannot resist saying that the Temple Church held a service last Sunday commemorating the close relationship between the United States and the United Kingdom, and we had the president-elect of the American Bar Association to give the address. Might the Minister encourage other organisations, not necessarily churches, to take part so that it is not just a parliamentary or government matter?

Lord Sharpe of Epsom (Con): The noble and learned Baroness makes an extremely important point. Of course, the American Bar Association has been a proud supporter of things such as the Runnymede Trust for many years, and I commend it for its efforts. Absolutely—this should be widely spread. The ties are not just governmental but are between people as well, and we should celebrate that fact too.

Lord Wallace of Saltaire (LD): My Lords, in our commemoration of the centenary of World War I, we put a great deal of effort into the reconciliation between ourselves and our enemy Germany. As we look at commemorating the 250th anniversary of the American war of independence, could we put the same amount of effort into what was our other main enemy in that war, which was of course France? The battles of Chesapeake Bay and of Yorktown were basically Franco-British as much as a war of independence with the United States. If I were American, I would certainly want to mark the role of France as a key ally in America's war of independence. May I suggest that some discreet conversations with Paris about how we approach this sesquiquincentennial might be appropriate?

Lord Sharpe of Epsom (Con): To help the noble Lord, it is semiquincentennial—I have said it quite a lot over the last few days.

I do not know—I like the idea, which is a good one. Perhaps we could offer to paint the Statue of Liberty, for example, as an act of reconciliation. I cannot speculate as to what conversations will be held with France, but of course we should be celebrating all our alliances.

Lord West of Spithead (Lab): My Lords, I declare an interest as a member of the Pilgrims. I have to say that I share the views of the noble Lord, Lord Collins, about the importance of the relationship. It is extraordinary how over the last two centuries the English-speaking peoples have assured a certain security and peace in the globe, and that absolutely needs celebration. There will inevitably be a huge fleet review for Fleet Week, because they always do that in New York. Can the noble Lord say whether we are likely to have a ship available to go and take part in that big American celebration in three years' time?

Lord Sharpe of Epsom (Con): I would certainly hope so.

Lord Lexden (Con): Will the Government encourage the organisers of these commemorations to include a lecture by Professor Andrew Roberts, whose recent award-winning biography of King George III shows that the last monarch to reign over the American colonies was no tyrant but a man who kept strictly within his constitutional position?

Lord Sharpe of Epsom (Con): I have no doubt at all that the historian Andrew Roberts to whom my noble friend refers will be involved in these celebrations, not least of course because of his work on Winston Churchill, who also had American roots. I am sure that he will take an active part.

Lord Boswell of Aynho (Non-Afl): My Lords, as a patron of the Battlefields Trust, may I very much associate myself with the tenor of this discussion and the Minister's clear enthusiasm for a response? Will not the key to this be a degree of joint working, both between various organs of government and of course

[LORD BOSWELL OF AYNHO]
various private sector organisations and other enthusiasts? Will not the main themes be: first, to look at the military side, including the fact that many of our own regiments have an important history in that war; secondly, the wider issues of educating younger people into the reality of that situation, which was very nuanced, as many of us know; and, finally, the wider diplomatic opportunities to commemorate the very happy subsequent association of our two countries, which is what primarily this is geared towards? However, I also bring in the comment of the noble Lord, Lord Wallace, that the French were there also, and today happens to be 14 July.

Lord Sharpe of Epsom (Con): I agree with all the comments of the noble Lord. I particularly respect his comments as regards the antecedents of some of our current regiments; that point is worth making and it is worth reminding the British Army of it.

Energy: Prices and Supply
Question

11.38 am

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

To ask Her Majesty's Government what steps they are taking (1) to address rising energy prices, and (2) to ensure the security of the United Kingdom's energy supply for the coming winter.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the Government understand the pressures people are facing with high global energy prices and are providing support for the cost of living totalling £37 billion this year. Great Britain has secure and diverse supplies of energy but we have acted to boost electricity security, including by temporarily extending the operations of certain coal-generation units to provide back-up capacity if needed.

Baroness Ritchie of Downpatrick (Lab): My Lords, it is acknowledged that the UK is not directly dependent on Russia for the supply of natural gas. However, do the Government recognise that the Russian situation could cause gas supply shortages in mainland Europe, which could have a domino effect that could impact the UK, including Northern Ireland, particularly at a time of high energy prices? What measures are in place to address this issue?

Lord Callanan (Con): The noble Baroness is of course right, and the answer to the question is yes, we recognise this maybe unlikely risk, which is nevertheless a risk. That is why I indicated in the Answer that we have acted to secure additional back-up capacity if needed for this winter.

Lord Howell of Guildford (Con): My Lords, there is a good deal more we can do internationally with our like-minded friends to curb the appalling increase in energy prices which is about to hit households in this country yet again, and even more ferociously. However, does my noble friend accept that in fact, indirect taxes on energy add to the headline consumer prices index, and that if one could bring that down, it would also vastly reduce the Government spend on having to update their outlays on index-linked causes, including benefits? Does he accept that if you take down one, you will take down the other? I do not think that is widely understood by the social experts and commentators in the press, and I wonder whether it is understood by the Treasury. However, it is a way forward.

Lord Callanan (Con): My noble friend is tempting me to say what is understood and is not understood by the Treasury, which is perhaps a road I should not go down. Of course, the point is right. The contribution of energy to the consumer prices index is particularly important, and my noble friend is also correct about the proportion of indirect taxes on energy bills.

Lord Teverson (LD): My Lords, the Conservative manifesto of 2019 stated:

> "We will help lower energy bills by investing £9.2 billion in the energy efficiency of homes, schools and hospitals."

Now that we are over half way through this parliamentary term, exactly how much money has been spent—not planned to be spent—on the energy efficiency of homes and other buildings?

Lord Callanan (Con): Certainly, we are well on the way to that commitment, and this spending review period allocated about £6.6 billion towards those targets. For example, we have spent £471 million to date on the social housing decarbonisation fund and £350 million on the sustainable warmth programme, and we are going out to bids later this year for another £800 million of spending under the social housing decarbonisation fund, so we are making considerable progress.

Baroness Blackstone (Ind Lab): My Lords, does the Minister agree that it would make more sense to incentivise investment in the skills and technologies of the future, rather than in oil and gas companies, which are soon to become technologies of the past? Is there not a danger that investment in oil and gas could lead to stranded assets and stranded jobs?

Lord Callanan (Con): The noble Baroness is partly correct. Of course, we need to invest in the technologies of the future, which is why we are developing our green finance policies and a green taxonomy to help direct investment in those technologies. However, we will also need oil and gas as transition fuels, so it makes sense to continue to exploit our own resources.

Lord Bridges of Headley (Con): My Lords, picking up on the noble Baroness's original Question, it was reported in the *Financial Times* about 10 days ago that under the UK's emergency gas plan, if our gas supplies fall short the United Kingdom will cut the supply of gas to Europe via the so-called interconnectors. Can my noble friend tell us whether that is the case?

Lord Callanan (Con): My noble friend will understand that I am not going to get into discussing emergency situations. Anything as drastic as that is extremely

unlikely. All parts of Europe benefit from interconnected supplies of electricity and gas. It helps to secure both our energy supplies and resilience for our future, and that of other European countries.

Baroness Blake of Leeds (Lab): My Lords, I declare an interest as vice-president of the Local Government Association.

The Government's failures in energy policy go back over a decade, including on energy efficiency. Homes are still being built that do not meet minimum standards of efficiency and will require significant retrofitting in the near future to meet legal standards. As mentioned in the recent Climate Change Committee report to Parliament, the promised future homes standard and changes to the planning system have not yet been delivered. Can the Minister inform us, either now or in writing, how many homes not meeting minimum standards of efficiency have been built since the close of consultation in January 2021? Also, how many planning permissions are in place to allow the building of such substandard homes before June 2023? How many housing units does that amount to?

Lord Callanan (Con): The noble Baroness is asking for some detailed statistics which I do not have to hand, but I will certainly write to her about that. There is a considerable uplift in the building regulations coming next year. The future homes standard is coming in 2025 and when it is introduced, the carbon efficiency of homes will be increased by about 75%.

Viscount Waverley (CB): The Minister will be aware that President Biden is on an energy-related play to Saudi Arabia. Was there a positive upshot of our Prime Minister's visit to Saudi Arabia with the noble Lord, Lord Grimstone, on related matters? If so, what benefits were accrued?

Lord Callanan (Con): The noble Viscount makes a good point. The Prime Minister and my noble friend Lord Grimstone visited the UAE and Saudi Arabia on 15 and 16 March. They met leaders of both countries and had some extremely productive discussions about collaboration and the importance of maintaining energy security and working together to help the green transition.

Baroness McIntosh of Pickering (Con): My Lords, I declare my interests in respect of National Energy Action.

I welcome Ofgem's ruling that overpayments of grossly inflated direct debits will be rectified. However, does my noble friend not question why the standing charge on each household bill has increased by up to 50%, given that this goes to distributors whose costs have not increased to the same extent as those of electricity suppliers? Should this not be urgently investigated?

Lord Callanan (Con): Ofgem does look very closely at connection cost standard charges and direct fuel costs. Funding the transition from a big node-type power supply to lots of more diverse, renewable sources of energy requires considerable investment in our transmission system. In order to expand the use of electric cars, heat pumps et cetera, we must reinforce the electricity supply system, which of course needs to be paid for.

Lord Sikka (Lab): My Lords, currently the Government tax people heavily, especially the poorest. They then hand back a few pounds to the people, helping with energy bills—and it is promptly handed over to the energy companies. In this circuit, there is no check whatsoever on curbing inflation, energy prices or corporate profiteering. Why are the Government neglecting these three things?

Lord Callanan (Con): I am afraid that I simply do not agree with the noble Lord. A number of aspects of his question were wrong. The Government are not handing money over to energy companies: the money is going directly to consumers—more than £37 billion of expenditure. The noble Lord might think that that is a few pounds, but I think it is a considerable sum of money. Clearly, energy prices are likely to go up again in the autumn, and that is something we will need to return to.

Lord Houghton of Richmond (CB): Can the Minister reassure the House regarding when energy security last appeared on the agenda of, and was discussed by, the Joint Committee on the National Security Strategy?

Lord Callanan (Con): I am not a member of that committee, so I am afraid that I cannot answer that question.

Lord West of Spithead (Lab): My Lords, nuclear is crucial to our future energy supply. Will there be an announcement before the House rises next Thursday about Sizewell C and all of the decisions that have been delayed?

Lord Callanan (Con): The noble Lord makes an important point and I completely agree about the importance of nuclear and Sizewell C. Negotiations are continuing; I think it unlikely that there will be an announcement before the House rises.

Baroness Altmann (Con): My Lords, commendably, the Government are trying to shield households from these excessive rises in energy costs. However, will my noble friend consider carefully the excellent point made by our noble friend Lord Howell: that cutting fuel duties could indeed set up a virtuous circle? Given the extent of the rise in fuel costs, households surely need time to transition to this higher-cost environment. A tax cut, as long as it is passed on to bill payers, could assist in that transition.

Lord Callanan (Con): This has of course been a source of considerable debate in the current leadership contest. I am sure that the new Prime Minister and the new or existing Chancellor will want to consider these matters very carefully. As I said, we have already supported households to a massive extent, but given the inevitable rises that are coming down the line later in the year, I am sure the Chancellor will want to look at these matters again.

Leasehold Reform (Disclosure and Insurance Commissions) Bill [HL]

First Reading

11.49 am

A Bill to amend the Landlord and Tenant Act 1985 to prevent landlords recovering service charges where they have failed to comply with their disclosure obligations under that Act; to commence section 21A of the Landlord and Tenant Act 1985 in so far as is it not already in force; to require landlords to disclose commissions earned on insurance policies; and for connected purposes.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I declare my interest as a leaseholder.

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

Afghanistan: British Special Forces

Commons Urgent Question

11.49 am

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, with the leave of the House, I shall repeat the Answer to the Urgent Question provided by my honourable friend Mr James Heappey, Minister for Armed Forces, in the other place earlier today. The response is as follows:

"Mr Speaker, on 12 July, the BBC broadcast an episode of 'Panorama' claiming evidence of criminality allegedly committed by Special Forces in Afghanistan. The Ministry of Defence is currently defending two judicial reviews relating to allegations of unlawful killings during operations in Afghanistan in 2011 and 2012. While I accept that in order to allow today's Urgent Question you have waived the convention not to discuss matters that are sub judice, advice from MoD lawyers is that any discussion of specific details would be prejudicial to the ongoing litigation and that I am afraid I simply cannot enter into detail about specific allegations made on specific operations relating to specific people.

We recognise very much the severity of these allegations and where there is reason to believe that personnel may have fallen short of expectations, it is absolutely right that they be held to account. Nobody in our organisation, however special, is above the law and the service police have already carried out extensive investigations into allegations about the conduct of UK Forces in Afghanistan, including allegations of ill-treatment and unlawful killing.

No charges were brought under Operation Northmoor, which investigated historical allegations relating to instances in Afghanistan between 2005 and 2013. The service police concluded there was insufficient evidence to bring cases to the independent Service Prosecuting Authority. I should stress that both these organisations have full authority and independence to take investigative decisions outside of the MoD's chain of command.

A separate allegation from October 2012 was investigated by the Royal Military Police under Operation Cestro, which resulted in the referral of three soldiers to the Service Prosecuting Authority. In 2014, after careful consideration, the Director of Service Prosecutions took the decision not to prosecute any of the three soldiers referred.

It is my understanding that all of the allegedly criminal events referred to in the 'Panorama' programme have already been fully investigated by the service police. However, we remain fully committed to any further reviews or investigations, where any new evidence or reason to do so is presented.

A decision to investigate allegations of criminality is for the service police. They provide an independent and impartial investigative capability, free from improper interference. Earlier this week, the Royal Military Police wrote to the production team of 'Panorama' to request any new evidence be provided to it. I am placing a copy of the RMP's letter in the Library of the House. I understand that the BBC has responded to question the legal basis on which the RMP is requesting that new evidence, which makes little sense to me. But the RMP and the BBC are in discussions.

As I have said, if there is any new evidence presented to the Royal Military Police, it will be investigated. I am aware that the programme alleges the involvement of units for which it is MoD policy to neither confirm nor deny their involvement in any operational event. As such, I must refer in generalities to the Armed Forces in response to the questions I know colleagues will want to ask. I cannot refer to any specific service personnel who may or may not have served in these units. We should continue to recognise the overwhelming majority of our Armed Forces serve with courage and professionalism. We hold them to the highest standards. They are our nation's bravest and best and allegations like this tarnish the reputation of an organisation. We all want to see allegations like these investigated so that the fine reputation of the British Armed Forces can be untarnished and remain as high as it should be."

11.54 am

Lord Coaker (Lab): I thank the noble Baroness for her Answer and the tone in which she gave it. I think that will be welcomed by all of us. I welcome the point she made in her remarks about nobody being above the law and join with her in saluting the bravery of our Special Forces.

It is essential that we maintain the confidence that we all have in our Special Forces. I welcome again the statement by the Minister that, unless I have misunderstood—and this is very important—the Government have asked "Panorama" for any new evidence to be given to the Royal Military Police. Can the Minister confirm that any such new evidence, if handed over to the Royal Military Police, will be fully investigated in an independent way, maybe in a similar way to which the Australian inquiry took place? Is it actively pursuing again and again with the BBC for this new evidence to be given to it? When new evidence is given, the Royal Military Police can look at it and then we can move forward in ensuring that these very serious allegations of dropped weapons and suspicious deaths can be looked into and it can be determined by a proper independent inquiry whether anything further needs to be done.

Baroness Goldie (Con): I thank the noble Lord for the tenor of his remarks. Yes, it is the case that the RMP has asked the BBC, the "Panorama" production team, to produce this evidence on which it founded the programme. If that evidence is produced and it is new evidence it will fully investigated and it will initially be the task of the Royal Military Police to do that. The police are independent of the chain of command and have the power to pursue these matters objectively and independently and in the best interests of serving justice.

Lord Purvis of Tweed (LD): My Lords, I also pay tribute very strongly to our Armed Forces personnel but, as the Minister said, these are grave allegations, especially in the context where, as we see with Ukraine, the moral leadership and professionalism of our Armed Forces and the reputation that we hold is very strong as far as the UK is concerned. Can the Minister be a bit more specific on the independent status of the Royal Military Police in how it will approach the new allegations? Would the Minister agree that there is a case for, and an opportunity for, a parallel, external, independent review of how these allegations are held? Ultimately the Royal Military Police Force is, as the Minister said, beyond the chain of command, but it is still an internal investigative authority.

Baroness Goldie (Con): The noble Lord will be aware that the Royal Military Police is indeed an independent investigatory authority that has been regarded as professional and effective. It engages regularly with its civilian counterparts to ensure that it is adopting best practice and pursuing the best approach for investigations. Initially, if new evidence is produced, it would be for the Royal Military Police to investigate that.

As to broader issues, the Secretary of State has been very clear that nothing is ruled out. Really, the starting point has to be whether there is new evidence. If so, it needs to be produced.

Lord Lancaster of Kimbolton (Con): My Lords, I declare my interests as a serving member of the Army, somebody who served in Afghanistan and, perhaps most relevant, served as the Minister for the Armed Forces from 2017 to 2019.

I would like simply to reassure your Lordships' House, as somebody who is as concerned as anybody about these allegations. When they first emerged, I was deeply impressed with the thoroughness of the investigation by the Royal Military Police, both within the United Kingdom and, crucially, within Afghanistan, perhaps learning the lessons of the past where such investigations were not thorough in Northern Ireland and elsewhere. It is of course in the Ministry of Defence's own interests that these allegations are thoroughly investigated because, often, new allegations are not new at all but simply a rehash or second-hand views of allegations that have been made already.

Does my noble friend the Minister agree that the Royal Military Police is uniquely placed? With its knowledge of service matters, its ability to investigate historically within Afghanistan at the time and its own service personnel, it has the right people to continue this investigation.

Baroness Goldie (Con): I thank my noble friend. I am sure the House will have paid close attention to his authority in relation to these matters.

I reassure the House that the RMP is a professional, competent and well-trained investigative authority, and it has proven itself in that effectiveness on numerous occasions. As I said to the noble Lord, Lord Purvis, it engages with the civilian police force to make sure that it is absolutely abreast of all the procedures and processes of modern technology.

My noble friend is quite right: if there is anything wrong, if anything criminal has happened and the evidence can be produced to substantiate that, of course it is in the interests of the MoD and the great majority of law-abiding, upstanding and honourable members of the military that these matters be investigated. I reassure him again that if we are made aware of any new evidence that supports the assertions made in the programme then, yes, they will be investigated.

Lord Browne of Ladyton (Lab): My Lords, the SAS has an international reputation as the bravest and best. All I can say from my time as Secretary of State for Defence is that that is a well-earned reputation. The allegations are very grave. I do not intend to draw the Minister into any comments about specific allegations, but at the heart of the response from the MoD is the information, which is impressive, that extensive independent investigations have taken place and no charges were brought because there was no evidence to justify that.

My problem is that at the heart of the programme is an allegation that investigators told the police—this is apparently supported by some video evidence—that they were obstructed by the British military in their efforts to gather evidence. That is a fundamental and important allegation, which, separately from anything else, needs to be investigated.

Baroness Goldie (Con): I say to the noble Lord that, as he will understand from his own background, we need evidence. That is why the RMP has asked the BBC for the evidence. Where is the substance of the information on which it based this programme? That is what we are waiting to see. As I remarked in the Statement, the BBC wants to seek the RMP's legal authority for seeking this information, which seems to be the most perverse way of approaching everyone's interests in trying to find the truth and establish justice. Still, there is engagement between the RMP and the BBC and the noble Lord is correct: if there is evidence to support these very serious allegations, and it is new evidence, it will be investigated.

Lord Campbell of Pittenweem (LD): My Lords, is it not the case that if the investigators feel they are in need of advice, they can seek such advice from the Attorney-General?

Baroness Goldie (Con): My understanding is that the Royal Military Police are free to seek advice. As I said earlier, they may seek advice from the civilian police force. If confronted with legal issues, they may want to seek legal authority, and the Attorney-General may well be the appropriate destination to seek that advice from.

Lord Cormack (Con): My Lords, does my noble friend not share my deep sense of unease that the BBC should choose to broadcast this programme before laying the evidence that it had before the appropriate authorities?

Baroness Goldie (Con): I think we all understand that journalism has a role in a democratic society, and journalists have a job to do and documentary producers seek to discharge that role. What I think is reprehensible is—in discharging that role without producing substantive evidence or explaining why that evidence has never been investigated before—to proceed to traduce reputations and, as I say, tarnish an honourable military force of which we are extremely proud, the British Army, in which the overwhelming majority of soldiers are upstanding, competent and professional individuals who abide by the law.

Lord Stirrup (CB): My Lords, does the Minister accept that there are two issues involved here, legal and reputational? In law, people are innocent until they are proved guilty, but reputations can be besmirched by programmes such as "Panorama" even if there is insufficient evidence to bring a legal case. If there is evidence then quite clearly it needs to be pursued vigorously, but, if there is not, does the Minister accept that it would be insufficient for the MoD simply to say, "There is insufficient evidence to bring a criminal case"? It will have to adopt a more proactive approach to demonstrate to the British public that their confidence in the Special Forces is not misplaced and that proper procedures were followed.

Baroness Goldie (Con): I think we all understand the noble and gallant Lord's interests in this with great sympathy. He will understand why I have to be generic in my references. We are actively seeking that new evidence. If it can be produced, action will be taken. There may then be the broader issue, if no new evidence can be produced, of what constitutes responsible journalism and what are the unacceptable consequences of irresponsible journalism.

Lord Selkirk of Douglas (Con): My Lords—

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, I am afraid that the time for the Question is up.

Women and Girls: Economic Well-being, Welfare, Safety and Opportunities

Motion to Take Note

12.05 pm

Moved by ***Baroness Gale***

That this House takes note of the status of women and girls in the United Kingdom since 2010 with regards to their economic wellbeing, welfare, safety and opportunities.

Baroness Gale (Lab): My Lords, today, as we look at the status of women since 2010, we see a cost of living crisis that affects most people but especially mothers bringing up their children on their own. We see many women fearing that they will be attacked as they walk the streets at night on their own. There have been a number of tragic cases where women have been murdered when all they were doing was walking home alone. We see that the number of women who are victims of domestic abuse continues to be high. We see women wanting to enter political life facing many barriers: abuse, discrimination, and misogyny. These are some of the matters we will be debating today.

Eradicating child poverty by 2020 was a key commitment of the last Labour Government. Unfortunately, progress has been reversed under the Conservatives amid the austerity drive that the coalition Government embarked on in 2010. Figures from the Child Poverty Action Group charity show there were 3.9 million children living in poverty in the UK last year—more than one-quarter of all children. According to the Institute for Fiscal Studies, the rise in poverty for children living in lone-parent households reflects reductions in the real value of state benefits from 2011 to 2019. I quote from a newspaper report:

> "Among the cuts in support that have most affected single mothers are the benefit cap, the four-year freeze in benefits between 2016 and 2020, the two-child limit and a lowering of the age of the youngest child when single parents must start looking for work."

Previously, lone parents were able to claim income support until their youngest child reached 16, or 19 if in full-time education. Now single parents are expected to prepare for work when their youngest reaches the age of one, and then be in a job from when their child is three. Experts say that the benefits cap, first imposed in 2013, and the four-year freeze on benefits were among the biggest drivers of financial damage for single mothers. They were launched by former Chancellor George Osborne as a crackdown on those who he claimed were "living a life" on public assistance—that is no life. Alison Garnham, chief executive of the Child Poverty Action Group, said:

> "This alarming research is a wake-up call showing the need for additional support for families with children in response to the cost of living crisis. It is no surprise to see child poverty rates rising fast for lone-parent families after the harsh effects of years of benefit cuts and freezes, and with no shock absorbers left to deal with inescapable soaring living costs."

With the rise in poverty, many use food banks to have enough food to feed their children. Stories of mothers eating only one meal a day to ensure that their children are fed should make the Government ashamed. For single mothers raising children today, life is difficult and, with the cost of living crisis, it looks as though things are going to get worse. That is a bleak prospect that looks set to continue, although I have no doubt that the Minister will mention the support that the Government are giving, which starts today. That will be of some help to some people, but long-term policies are needed to deal with the high inflation rate and energy costs.

How safe is it for women in today's society? We are all aware of these issues. Why is it that women have to worry about their safety if they are out late at night? Even in the day, women out for a walk will get men shouting sexist remarks at them. We are all aware of the tragedies of women walking home unaccompanied getting attacked and murdered. Women who are raped

have little chance of seeing the perpetrator convicted. With the conviction rate so low, most rapists get away with it.

Domestic abuse of older people is often hidden away. There are no figures available for the number of people over the age of 74. I believe the ONS has said it will start collecting figures this year, but it will be some time before the statistics are known. Many of us are mourning the loss of our dear friend Baroness Sally Greengross, who died recently. She founded Hourglass, the charity which works for older people who suffer domestic abuse. Sally continued her campaign right up until the end. She wrote to the Prime Minister only days before she passed away:

"Prime Minister, I beg of you to do the right thing by older people in this country by ensuring that the Hourglass helpline receives the funding that it so desperately needs to do its important work".

What a great tribute it would be if one of his last acts as Prime Minister was to acknowledge the work of Hourglass and ensure its funding.

If we look at women in politics, we see that there has been an increase in the number of women in the House of Commons, with 225 women there today. Women are still underrepresented in political life, although in the devolved parliaments they fare much better. We do not have a diverse Parliament in Westminster—one that reflects the electorate. One measure the Government could take would be to enact Section 106 of the Equality Act 2010. This Act was passed by a Labour Government just before the 2010 general election. The enactment of Section 106 could change the look of political representation, as it would require all parties to publish diversity data on candidates standing for elections to the House of Commons, Scottish Parliament and Welsh Senedd. An organisation called the Centenary Action Group is running a campaign called Enact 106. It comes to something when there is a campaign to get the Government to enact a piece of legislation that became an Act of Parliament in 2010.

The Minister will be aware that over the years I have asked Oral and Written Questions on this, the last one being in January this year. The Minister's reply was:

"The Government keeps section 106 of the Equality Act 2010 under review but remains of the view that political parties should lead the way in increasing diverse electoral representation through their own approaches to the selection of candidates."

That is just not good enough. At the last general election, most political parties gave a commitment in their manifesto to implement Section 106, but not of course the Conservatives. What is it that the Government do not like about Section 106? It would give all political parties the opportunity to see how they are doing in getting a diverse range of candidates. It will give them the data necessary to look at how they can improve the diversity of their candidates.

The Sex Discrimination (Election Candidates) Act 2002 allowed political parties to use all-women shortlists to address the underrepresentation of women holding political office. The Labour Party has used this extensively and as a result has more women MPs that all the other parties. This Act has a sunset clause which has been extended from 2015 to 2030. Are the Government planning to extend it further? We are only just under eight years away from 2030 now.

In July 2019, the Government announced the publication of their policy paper *Gender Equality at Every Stage: A Roadmap for Change*. This paper detailed eight issues around gender inequality that the Government have pledged to tackle, including limited attitudes to gender and the gender pay gap. The policy paper noted:

"Commitments in this roadmap will be absorbed into departments' 2020/21 single departmental plans as necessary".

In addition, the Government stated that they would

"provide an annual progress report to Parliament, alongside annual reporting against the Gender Equality Monitor".

Announcing the launch of the road map, the then Minister for Women and Equalities, Penny Mordaunt, stated:

"I want everyone in our country to be able to thrive in life. That means being able to be in control of the choices you make and have the opportunities you have to seize. We must be honest that many women do not have those choices or opportunities, and as a consequence are not able to be as financially resilient or independent. This inequality is faced at every stage of a woman's life—from how she is treated in the classroom, to the caring roles she often takes on, and the lack of savings or pension she accumulates."

I have read the document and it struck me that it is full of things that the Government say that they will do. It said they would

"provide an annual progress report to Parliament, alongside annual reporting against the Gender Equality Monitor, to ensure we continue to respond to emerging issues, level up, and create true gender equality."

That sounds great. Unfortunately, as of this month in 2022, there has not been any progress report published. That was three years ago, and we have not heard a word about it since. Perhaps the Minister can say what has happened to all the good intentions of that report. Do the Government have any plans to ensure that all the things they said they would do in the report will someday be carried out? If they carried out the aims of that report, it would go a long way to improving the lives of women.

The status of women has improved in several areas, but we have had setbacks along the way. There is still much work to do and, with government action, it could happen. However, we may have to wait to see a Labour Government before we see the change that is needed.

I acknowledge that the Government have acted in some areas such as domestic abuse legislation. There have been some really good initiatives such as the publication of the policy paper *Gender Equality at Every Stage: A Roadmap for Change*, which I mentioned earlier, and the ratification of the Istanbul convention. That has to take place, according to the Government, by 31 July—this month—but a lot of us were disappointed that there were reservations attached to the ratification. Can the Minister tell us the date of the ratification today? There are only about two weeks left and I hope it will be announced before the Summer Recess.

We need action on a number of fronts to enable women to achieve equality and I am hoping this debate might help us along the road to equality. I look forward to the Minister's response and the contributions of all noble Peers today.

12.19 pm

Baroness Jenkin of Kennington (Con): My Lords, I am very grateful to the noble Baroness, Lady Gale, for facilitating this debate, for the breadth of the title of the debate, and that she has laid the foundation for the remarks I want to make today, which focus on the status of women in Parliament, how to get more of them, how to engage more girls in politics and encourage them to consider a political career.

Political activism is important but not enough; to change things, you have to join a political party and get stuck in. Noble Lords will appreciate that my focus is inevitably on Conservative women because, although Labour certainly has some problems with women, the Parliamentary Labour Party currently consists—as the noble Baroness has said—of 51% women, and frankly they are not my concern.

Theresa May and I founded Women2Win in 2005 at the very beginning of David Cameron's leadership. At that stage there were 17 Conservative women MPs, just 9% of the parliamentary party—or, to put it another way, 91% of our MPs were men. Our journey to the 87 women MPs elected in 2019 started with the 2010 general election, which produced the first leap forward to 16%, and consistent, if slow, progress to the 25% women MPs we have in the Conservative Party today. It is better, but not good enough.

Recent weeks, with the allegations of sleaze and impropriety, have focused minds once more on the behaviour of some parliamentarians, all of whom have one thing in common I am afraid: they are men. I am not saying that women are saints—their behaviour can of course be unedifying—but I believe that the toxic mix of stress, booze, testosterone, power and opportunity drives behaviours that are unacceptable. It is crucial that all the contenders for the leadership of my party commit to prioritising efforts to improve our standards in public life.

However, when it comes to encouraging more women to stand up and put themselves forward, I am seeing some, angered by what is going on, finally filling in their form to start their journey into public life. I am particularly proud that, as of this morning, and despite women MPs making up only a quarter of the Conservative Parliamentary Party, four of the six remaining leadership candidates are women, and very diverse at that. I am delighted with the wide range of those who have put themselves forward to be our next leader, showing ambition and no sign of imposter syndrome. I hope that their confidence will act as a spur to others watching. What amazing role models they are for girls in this country.

As a Conservative, I am obviously proud that we have had two women Prime Ministers, with a possibility of another to come in the next few weeks, but Parliament and public discourse must change in order for women parliamentarians to thrive. The abuse experienced by all MPs, and women in particular, across all parties, is unacceptable, but we do need more women with resilience and commitment to start that journey into public life.

I have a final word to our future Prime Minister. Our current Prime Minister said this only a couple of years ago:

> "There is one 'first' that is still long overdue and that is the moment when—for the first time—we finally achieve 50:50 … in our Parliament."

Very welcome words, but I am afraid that is all they are. In the only place where he has the power and opportunity to make this happen—here in your Lordships' House—he has so far appointed seven women and 29 men to the Conservative Benches. It is not too late to put this right and I very much hope that he will take the opportunity to do so.

I welcome the progress from 49 Conservative women MPs in 2010 to 87 today, with two-thirds of our leadership candidates women, but there is no room for complacency and I hope that everyone involved understands this.

12.23 pm

Lord Addington (LD): My Lords, before I move on to the main thrust of what I want to say today, I say that political parties can survive with the majority of their MPs being female, because the Liberal Democrats have done it. Our nerves are, I feel, matched when I meet some of these new and enthusiastic parliamentarians in my own party. Having said that, I accept that as a hereditary Peer I probably represent the historical block of male privilege.

I draw noble Lords' attention to one part of our lives that probably comes under the "opportunities" mentioned in the Motion's title and where there has been a sea change for the good: the growth of women's sport and how seriously it is taken. At the moment, we are in the middle of a major celebration of a female sporting tournament on its own terms: the Women's Euro 2022 football. It has not arrived as an afterthought; it has been built up and the nation has been told to "go and celebrate". This is a major change, as it is not happening as an add-on, nor on the sideline. It is not just for those who are interested and do not mind digging around to look for it; it is a major event at a major time that the nation as a whole should watch.

Sport was a bastion of male privilege X number of years ago. For some major team games, female involvement was not exactly frowned upon, but it was seen as an optional extra. The way it has been covered in the media has changed, but it requires space and time to make change happen. It is not enough to change things and say, "By the way, here come the ladies and the girls". It has to be a celebration, and on its own terms.

It is a fact that men tend to be bigger and stronger. If women's competitions are placed at the same time, the attention on them goes down. The criticism, when it is not seen as a contest in its own right, is that it is seen as something lesser. I think this is something we have proven. So, the way that we are doing things at the moment is the way forward. We must encourage skilled tournaments, on even terms, for that half of the population—or slightly more—that is taking part.

The history of broadcasting in this area has, unsurprisingly, been driven by the free-to-air broadcasters. The BBC must take most of the credit here. I hope that in the Government's response it will be accepted that this is one thing that only a free-to-air, nationally funded organisation can do. Broadcasters driven by income from advertising will always have to ask if

something has become big enough that enough people are interested in watching in order to justify taking it on. Those that rely on subscriptions and advertising will always lag behind. It needs a broadcaster with a public service remit to go on, or something that has already done enough to change things. I cannot see anyone other than the BBC taking this forward, and it has been something that has been good. We have proved that what is needed for this, is to make sure that people know it is coming and it is seen in its own particular position.

Rugby union has also taken a step forward with the Six Nations tournament—the oldest and most celebrated of all the national tournaments. The women's competition was fitted in around the edges and around the sides. Even a rugby nerd such as me cannot watch three full games, highlights and something else over a weekend. We need to be able to concentrate on the Women's Six Nations. Let us face it, old players such as me, do not feel quite so intimidated watching it. Having its own timeslot meant that people took time out to go and watch and it status went up. The way it was advertised on social media, with Tik-Tok being a major sponsor, has also helped. We know, when advertising sport, you have to hit the target audience. That often means, specifically, advertising in the right media and the right place.

I do not know if this is covered in the Minister's brief, which will be a very wide one, but perhaps she could convey to her colleagues the importance of finding the right slot and support in social structures to make sure that women's sport is taken seriously. Can she also convey to members of her own party that, unless those broadcasters that have the opportunity to cover this without damaging their economic model are supported, they will have great difficulty expanding this coverage in future?

12.28 pm

Baroness Nicholson of Winterbourne (Con): My Lords, I thank the noble Baroness, Lady Gale, very much indeed for giving us this opportunity to discuss a wide range of women's and girl's rights. I will touch on the welfare and safety of women. I am aware that the Minister will not be able to answer my rather detailed questions, and so I seek a meeting with her, and perhaps with other noble Baronesses, to discuss the topics that I raise.

My concern is that, on welfare and safety, we have gone backwards for the most vulnerable people. To refer to a statement made yesterday by Safe Schools Alliance, the introduction of graphic or extreme sexual material in sex education lessons reinforces the porn culture that is damaging our children in such a devastating way. That came from the Children's Commissioner. I would add to that that it is extremely damaging to have, for example, a mentally handicapped boy in school being asked to understand and to agree that the man in front of him is in fact a woman.

All that rests on a misapprehension that you can change your sex. As the noble Lord, Lord Winston, declared only yesterday on the Piers Morgan show, as reported in today's *Daily Mail*,

"you can't change your sex".

And as Kellie-Jay Keen, another woman activist of great eminence, remarked, that is the "perfect headline". Indeed, I suggest to the right reverend Prelate that that is rather useful for the Church of England, as it will be able to define a woman today, whereas it could not the day before. I will ask the Church to do so as soon as possible.

When we look at health boards, we see that the rights of women and children have gone back again. The approach to single-sex wards makes meaningless that name when one invites transgender people who are men who declare as women to take spaces in female-sex wards and then defines them in the records as women, it is no wonder that one cannot find the evidence of sexual assaults that I have mentioned in this Chamber before. I have that evidence, but the hospitals concerned have been informed by their trusts that if a man says he is a woman, he is woman and he goes down on that record, so it is not unlikely that the ministry cannot find those references. I am very sad to say that denial of sexual assaults goes as far as declaring "Remove the complainant from the hospital ward". This is completely unacceptable; it is a wrong identity, and it degrades the woman disgracefully. As the noble Lord, Lord Winston, says, you cannot change your sex.

This is affecting speech-impaired and paralysed patients. As Transgender Trend has remarked, sex-based rights are effectively under threat; I would say that they have been destroyed. Let us take the case of a 16 year-old girl, reported only yesterday. She is severely learning-disabled, autistic—therefore non-verbal—and entirely dependent on others for what is now known as "intimate care". It is scandalous that the special needs place in which she is resident has removed "cross-gender consent from personal and intimate care policy". I have an earlier case of this—I had thought it was a once-off—in a school in Surrey. It is no longer a once-off: I understand that 50% of local authorities have adopted that position. To be blunt, this means that behind the closed doors of a lavatory, male members of staff, without any necessary qualification, with no consent from the parents of the patient and with the patient unable to agree, can dress, undress, use tampons—I apologise, but I have to be accurate—and indulge themselves, if they so wish, with female genitalia. These are girls and woman who cannot object and cannot consent. I would suggest that there are plenty of female carers around. There are threats of rape. The Brent HIV case of a couple of years ago, involving a girl called Cassie, shows that this is no figment of the imagination; there are actual evidenced cases. Health boards' approaches to single sex make such cases seem meaningless—"remove the complainant"—and sexual assaults are happening.

JK Rowling, our most eminent and wonderful author, with whom I have worked for acutely disabled children in eastern Europe either side of the same bed, calls it "this horror show", whereas an NHS professional who works with patients who cannot move or speak declares it intentional cruelty. I believe it is illegal, because it is against the Health and Social Care Act 2008 and the Act of 2014. I beg the Minister to allow me a meeting.

12.34 pm

Baroness Goudie (Lab): My Lords, I thank my great friend and colleague, the noble Baroness, Lady Gale, for initiating this debate. She has worked tirelessly, both in her life in Wales with the Labour Party there and in this House.

Human rights are women's rights. Women belong in all places where decisions are made, including at the peace table. This Government gave an undertaking prior to Covid that we would not go into any peace negotiations without both local women and women outside being at that table. Can the Minister give me an undertaking that this will continue? Should we become involved in peace talks in relation to Russia and Ukraine and Sudan and parts of Eritrea, it is vital that we know this today. Local women add to our knowledge of what needs to be done in their areas—about local schools, investment, further and higher education and the rebuilding of communities. Without women having been at the peace table, Northern Ireland would not be at peace, which has now lasted for 30 years.

The Government are considering moving away from the European Convention on Human Rights. This would be a great mistake for women and girls. Further, would we want to be lumped with Russia and Belarus? They are the only two European countries not part of the convention on human rights.

The WEF report published this morning makes depressing reading. It indicates that we are going backwards and that the political gap is huge. We need only look at the G20. We need to look too at our own Department for Business, Energy and Industrial Strategy. There are no women Ministers. This is the department that is meant to encourage companies to have more women on boards and in other places, but it has not had one woman Minister for some time. If we look at it clearly, it does not seem to want to fund the department's work on women on boards. Again, the Minister should give us an undertaking that this will be looked at and the funding replaced. There is a person working there but no support staff.

I thank Prime Ministers Brown, Cameron and May, plus the noble Lord, Lord Davies, who started the whole initiative. Along with the *Financial Times*, the noble Baroness, Lady Morrissey, myself and other colleagues, they started the 30% Club to make the change for women on boards. This was by getting CEOs and financial directors and chairmen of major companies to work together to make the change. Diversity on boards is really important. We have seen from Parker report how some of these targets are now being met. But targets are not enough; we have to keep looking at the targets and going over them. We have seen that the financial rewards for boards and shareholders are enormous. We have seen that through the work of ShareAction, which has put pressure on shareholders to ensure that we have more women on boards. It is not just on boards; it is also right through from the C-suite up to the top. I like the situation we have in Great Britain, where people can serve on a board for only so long—two terms—and then they have to move off. The same happens for a chairman: they can do only a percentage. That ensures that we have turnaround, unlike in other countries, where once you are on, you are on for life. We see a huge amount of experience used and people giving it. We have to remember that a person on a board is a responsible for every woman's pension, for every woman's mortgage and for every woman's wages, and it is vital that we have the right diversity on those boards. Women's pensions in this country are not good at all; we need to ensure that more is done about that. We also need more teaching of finance in schools, as well as opportunities for girls to go into the C-suite and to aspire to be on a board and at a senior level.

Many Members of this House work with Speakers for Schools and the schools programme. When we go to schools, we have to explain to students that every door is open to them as it has been made open to us. Nothing is closed. Education also has to change to ensure that every girl knows. We can do that only by men and women working together to make this change. We have seen this change on boards in this country and a number of others. The 30% Club is not changing its name, because some of the countries in which we have our 20 chapters do not have the same percentages and the same way of working.

We believe in parity. It is on that basis that I want to go back to some of the opportunities that that Prime Minister Cameron mentioned when we first started. He said that all government boards should be 50:50. I would like the Minister to respond to that, to ensure that it is going to happen—there are plenty of people out there to take up these positions—and that we have a wider choice. We are working with head-hunters and investors through the 30% Club, and they keep telling us of really good people. KPMG has a whole list of people who are ready for this, but the Government still seem to be giving the positions to a very small grouping—it is not the same people; I would not say that—when we need women on those boards. That goes also for when we look at the departmental NEDs, charities and chairmen.

12.40 pm

Baroness Meyer (Con): My Lords, I too welcome this debate. It is an honour for me to speak after so many excellent speeches.

In the 1980s, I worked in financial services and was confronted by a world dominated by men, many of whom saw the arrival of women as a threat. Molestation and abuse were common. My promotion was once delayed because I refused to submit to my boss's sexual advances. There was no point in complaining; if you wanted to succeed in a man's world, you just had to put up with it. Today, this kind of behaviour is unacceptable—illegal, even. It has been a long struggle but it is not over yet. As many noble Lords have mentioned, misogyny still exists, but we women should be proud of what we have achieved in just over a generation.

I am also proud of the Conservative Party: we have provided two women Prime Ministers and, as my noble friend Lady Jenkin noted, of the six remaining candidates for the party leadership, four are women. However, this is no time to celebrate. No sooner had we demolished the barriers of misogyny, then others sprang up in their place. These are far more dangerous; they are based on bigotry and ignorance, and they send women's rights back to the Dark Ages.

The fanatics of gender politics have perverted a worthy campaign to give transgender people the protection of the law; it is now a demented ideology which denies the reality of biological sex. It is now enough for a man to say that he feels like a woman to be treated as a woman, despite the plain fact that he is still a man. In just 10 years, gender ideology has infected a whole range of public and private institutions. It is playing havoc with our pronouns and grammar, and it invents words to give itself a veneer of pseudoscience. It despises feminism and even has homophobic undertones. It is no wonder that President Putin used JK Rowling's battle with the trans fanatics to highlight the decadence of the world.

Women have been shocked to discover that what they thought were safe places—toilets, gyms, hospital wards, prisons and the like—now admit men with fully intact male genitalia claiming to be trans women. Free speech is damaged; the no-platforming of countless people who challenge trans identity is an offence to democratic values. I therefore warmly welcome the Government's Higher Education (Freedom of Speech) Bill.

Most dangerous of all, the teaching of gender fluidity to pre-adolescent children can do harm for life. There are charities that encourage sex change treatments for children involving hormone blockers and mastectomies. Take the example of Keira Bell: by the age of 20, she had had her breasts removed and the treatments she took for years had given her body hair, a beard and a low voice, and had impacted her sexual functions—and none of it has helped her. The court ruled in her case that it was doubtful that children could be given informed consent to treatments which might affect the rest of their lives. I go further and say that it is child abuse, plain and simple; it is scandalous.

To be clear, I stand before noble Lords not as a womb carrier, a birthing person, a chest feeder, a cervix owner or an adult human, but as a woman and a mother. Can the Minister reassure this House that the Government will update the Equality Act 2010 with clear, biologically sound definitions of "men", "women", "sex" and "gender"? At the very least, this will help some bishops with their predicament.

12.45 pm

Baroness Prosser (Lab): My Lords, I too thank my noble friend Lady Gale for introducing this debate, which is important not just for women but for men and for all of us in the country at large.

In May, we discussed aspects of the Queen's Speech in this Chamber and I chose to speak on the subject of levelling up as it was taking place between men and women. At the end of the debate, when the Minister was making his remarks, he drew attention to my comments on levelling up between men and women and said that, of course, the Government are

"levelling up for women, for men and for everybody."—[*Official Report*, 11/5/22; col. 96.]

At which point, I thought he had spectacularly missed the point: if people start off unequal, levelling everybody up means that they are still unequal. I hope that today we can get the Minister to recognise that we need to think about levelling up for women.

I concentrate, as always, on women in the world of work. First, back when we had a Labour Government, we had a programme that concentrated on recognising the continuing gender pay and opportunities gaps. As part of that programme, the Government introduced various positive action ideas. I ask the Minister today to say whether this Government will recognise that positive action is important and necessary. For example, we all know that many women find it impossible to carry on with their employment when faced with the extraordinarily high costs of childcare. Many women at that stage choose to work part-time; that is fine, but we need companies—the Government can play a major role here—to work together to identify better part-time opportunities. In the past, most of those women went to work in retail, but over the last five years, 650,000 jobs have gone from retail, so even those chances are no longer there. Many women with qualifications and the wherewithal to move on to better things ended up not being able to do so, simply because the job chances were not there.

Secondly, will the Government work with businesses to provide positive action training programmes for women? Many women go to work in all kinds of places, from food factories to the legal profession, doing different kinds of work. They often have the intelligence, wherewithal and determination to move on and do better things that will bring them better rewards, yet those chances are not there. Companies can provide those training chances; they have done it in the past. As I said earlier, it would be beneficial to the whole country to enable women to move forward in that way.

My final point is not about the world of work but about the fact that, through the limited opportunities in the world of work, many women end up with very little of their own money in their own pockets. We all abhor domestic violence; it is often mentioned in this Chamber. Many women are stuck in relationships where there is domestic violence because they do not have the financial wherewithal to be able to take themselves off and get out of that situation. Again, this is a very important issue. I look forward to the Minister's response.

12.49 pm

Baroness Eaton (Con): My Lords, I am delighted that the noble Baroness, Lady Gale, has initiated this debate today, which will consider the status of women and girls in the UK. I am hugely honoured to be a Member of your Lordships' House, a prospect that seemed completely out of the question to me as a woman when I was growing up. My selective single-sex grammar school did nothing to engender aspiration in any of us. The choices of careers were made clear to us: as girls we could as aspire to be a teacher or a nurse. Both are very valuable professions, but limited choices in a world that should have had so much more to offer.

It was a great pleasure to see the hugely improved opportunities in practically all walks of life for women and girls, and I share with others the pleasure that there are four women standing for the election of our new Prime Minister, showing how much attitudes have changed. Women can now move more readily, aim for the top, and actually reach the top in so many fields.

[Baroness Eaton]

Having seen a generation of women growing in confidence and success in so many fields, I have at present a real worry that there is a very great danger that this is being seriously undermined. Obscure, dehumanising terms are frequently used to replace ordinary words such as "women", "girl", and "female". As the noble Baroness, Lady Meyer, has mentioned, we hear of "birthing people", "menstruators", "chest feeders", and "people with a cervix", and we have all heard the embarrassing interviews with leading politicians who were unable to define what a woman is. The *Lancet*, a trusted medical journal, on its cover in 2021 called women "bodies with vaginas". Our so-called national treasure, the NHS, is removing words such as "mother" and "female" from its website, and replacing them with unacceptable, dehumanising terms such as "birthing people".

Women most definitely are not a collection of sexual organs, bodily excretions and reproductive functions. Such language reduces women's power as a political constituency. Women's needs are erased by turning us into a series of micro-groups—"menstruators", "birthing bodies", "lactators"—when actually they are all the same group. All these things are done in the name of inclusion, making sure that men who identify as women are not upset by being reminded that women are a group with characteristics that no man can ever have, and making sure that women who identify as men are not left out when we talk about women's issues. In the name of inclusion, all these actions and words actually exclude many more women. By using language such as "people with a cervix", women and girls who do not speak English as a first language may miss out on important health messages. Older women, women with a history of sexual assault, teenage girls suffering sexual predation, women from certain faith traditions—all may have a greater need for privacy and women-only spaces.

It grieves me to think that girls are growing up in the United Kingdom and receiving such undermining messages about their status as young women. Having seen society recognise the valuable role that women and girls can and do make in society, we should use clear, polite language for the two sexes, ensuring the dignified provision of single-sex facilities, and keep all males, however they identify, out of women's sport. These are all inclusion measures, ones essential to the dignity of women and girls, giving them status and full participation in society.

12.54 pm

Viscount Stansgate (Lab): My Lords, I too congratulate my noble friend Lady Gale on providing us with the opportunity to have today's debate, and on giving me the chance to make a brief contribution from the Opposition Back Benches. The part of the Motion to which I draw the House's attention is the reference to "opportunities". To get straight to the point, I want to talk about women and girls and their opportunities to study science. Perhaps I should refer to my entry in the register of interests as president of the Parliamentary and Scientific Committee.

I thank the Campaign for Science and Engineering, the House of Commons Library, and the Royal Society for providing far more statistics in this area than I could ever fit into the speech time available to me, but I want to refer to a few. The Higher Education Statistics Agency publishes data on student enrolment, and it shows that there are small increases in the proportion of women students in STEM subjects, but nothing dramatic. A Royal Society report in 2019 showed a 1% rise in the number of women fellows, from 9% in 2018; and 34% of researchers offered fellowship grants were women. The Royal Society also highlights that at the end of 2019 just 27% of the STEM workforce were women, although women in the workforce as a whole comprised 52%.

So there are still areas where progress needs to be made and where we may be going backwards. For example, take mathematics, a fundamental science that underpins all other areas. The latest figures produced by the Protect Pure Maths campaign, of which I am a supporter, show that the proportion of women enrolling in first degrees in maths actually fell from 39.3% to 37.7% in the space of seven years. This is not good news. The 1% of women enrolling in doctoral research in maths slipped from 29% to 28% over the same period—again not good news—and in the 2017-18 academic year 89% of maths professors were men while only 11% were female. In the chemical sciences, the retention and development of women into senior roles remains poor. The higher up the career ladder, the fewer the proportion of women. At professional level it even drops below that for physics; only 9% of chemistry professors are women, whereas the figure for physics is 10%.

There are many strategies that the science community could adopt to address the leaky pipeline. In particular we must do more to encourage women taking career breaks to keep in touch with their science, and to make it easier for them to return as soon as they want to, and not to positions clearly less senior than those they occupied before taking a maternity break, for example.

It is a well-known fact that female scientists frequently fail to get proper credit for their research. Rosalind Franklin—I agree that this example was 70 years ago—was the person whose X-ray crystallography made it possible for Watson and Crick to discover the double helix, for which they got the Nobel Prize. I am not saying that they did not deserve it, but she was not even referred to in their paper, which is a scandal. The problem remains. A new study published by *Nature* found that women were 13% less likely, on average, to be named as authors on scientific papers to which they had contributed. When it comes to the patents that emerged from the research, women were 58% less likely to be named as authors than men who spent a comparable time in the laboratory. In other words, at every level, women are less likely to get the credit, although they spent the same time at work as the men.

We must not forget that people can still suffer from a great deal of sexism. I remind the House of the experience of Dame Jocelyn Bell Burnell, probably Britain's most distinguished living astrophysicist. As the House will know, in 1967 she personally discovered pulsars, a most remarkable discovery, for which she did not get sufficient credit—she has now, but not then. She was left off the paper, other people got the Nobel Prize, and she has written in a recent book,

The Sky is for Everyone, about her experience. Her supervisor at the time—the press was very interested in the discovery—was asked about the astrophysical significance of the discovery. What was Dame Jocelyn Bell Burnell asked about? Her bust size, her hip size, and how many boyfriends she had had—you could not make it up; it is astonishing. I like to think things have changed since then, but there will be many people in this Chamber who are not so sure.

Thank heavens, we have more women now active in science who can inspire. Anyone who has listened to Maggie Aderin-Pocock, who has presented "The Sky at Night", will know how inspirational they can be. My time is fast running out so, with the indulgence of the House, let me just get in a reference to some more women scientists. For example, the first Briton in space was not Tim Peake but Helen Sharman. Then there are the women scientists at Oxford who spearheaded the development of the AstraZeneca vaccine, Sarah Gilbert, who was recognised with a damehood for science in public health, and Catherine Green, who received an OBE for the same contribution. You may remember the moment at Wimbledon when the crowd discovered that Sarah Gilbert was in the royal box, all stood up and gave her a standing ovation, which she certainly deserved. I understand that Sarah is now being celebrated by the toymaker Mattel, which is making a Sarah Gilbert Barbie doll, one of six to honour women in STEM.

I must not test the patience of the House, but this week, the James Webb telescope produced the most fantastic, beautiful images of deep space. I am very pleased and heartened to tell the House that the BBC interviewed the following people about what those images mean: Sarah Kendrew from the European Space Agency, Jane Rigby from NASA, and Becky Smethurst from the University of Oxford. If only the media had been present at the Parliamentary and Scientific Committee meeting—I am coming to the end—last week when we had two brilliant young women who were chief executives of start-up companies.

In conclusion, my message is very straightforward: our country cannot afford to waste the talents of half the population. Science needs access to the full range of talent, and women and girls need science.

Baroness Scott of Bybrook (Con): I remind noble Lords that five minutes is not an advisory speaking time for this debate; it is actually a limit. If we go over, the Minister will not have as much time to respond.

1.01 pm

Lord Griffiths of Burry Port (Lab): My Lords, I hear the word and will try to observe it. First, I must express an interest: I have a 20-year association with the Central Foundation Schools of London, for over half of that time as chair of its board. I retired in December but will make reference to this experience in my remarks.

I come at this subject from a slightly different angle. I want to honour those who have fought the fight. In the first instance, I refer to my indefatigable and noble friend Lady Gale, who has flown the flag for such a long time and reminded us constantly that this is not a debate that is finished but one that we are in the middle of. I attended a recent debate in Grand Committee on the Istanbul convention, to which my noble friend made reference in her remarks. Every single speaker in that debate paid tribute to my noble friend Lady Gale, and quite rightly too. When my noble friend Lady Hayter made her final remarks, she referred to the fact that my noble friend Lady Gale was always asking, "When are you going to ratify the Istanbul convention?" It is going to be ratified on 31 July, but I think she hinted that she will now continue by asking, "When are you going to erase the reservations?", because it is ratified with reservations. It was also interesting to hear in her remarks today about the transference of her gaze, after 10 years asking about the Istanbul convention, to a 10 year-old commitment in the Equality Act that has yet to be dealt with. She is indefatigable. She is a terrier with a bone, and we all need to heed her words.

I want to choose another object for my remarks. Tomorrow, I will be making a speech at the Central Foundation Schools for the retirement of a headteacher at the girls' school. It is a truly remarkable school in Tower Hamlets, with the strapline and mission commitment, "Educating tomorrow's women". The school has 1,500 pupils, 85% of whom are Muslim and hijab-wearing, and who are largely Bangladeshi by background, and a BAME quota of 90%. It is an extraordinary school which has risen to become the second in the attainment list of Tower Hamlets schools. Some 60% of its pupils qualify for the pupil premium and free school meals. English is a second language for so many of them—the noble Baroness opposite referred to instances of that kind—and cultural attitudes within the Muslim community add their own difficulties to finding educational, aspirational models in an outward-facing direction.

That is the school. The headteacher, Esther Holland, is a very remarkable person, and she will step down tomorrow. She has long Covid, and her doctors say that she can expect to suffer from that for many years to come. Her heroism in holding the tiller through this last academic year has been extraordinary too. She has built up a leadership team around her who make it possible for her, with her diminished energies, to have authority at the school while not letting its standards slip at all.

The year 2015 was particularly difficult for the school. In February of that year, three Muslim girls from the nearby Bethnal Green Academy went off to Syria. In July of that year, the Counter-Terrorism and Security Act was passed, heightening our awareness of those possibilities for schoolchildren to be inculcated in the sympathies of terrorist groups. Esther Holland has overseen the implementation of the Prevent programme for early intervention in a constituency where the girls come from extremely difficult socioeconomic backgrounds, with extended families and all kinds of other factors. I wanted to use this debate—I hope I can ask for the sympathy of my colleagues here—to pay tribute to a remarkable woman, who in her way is educating women for tomorrow.

I know that I have gone over time and that I should not have, but I have a second slot on the speakers' list, so I have let the clock run on for 33 seconds. I gladly

[Lord Griffiths of Burry Port]
renounce the time I am still entitled to claim when my second slot comes round, and I commend these wonderful women to the sympathy of the House.

1.07 pm

Baroness Donaghy (Lab): My Lords, I am grateful to my noble friend Lady Gale for giving us the opportunity to debate this important subject. Clearly, in a weak economy and with a Government not exactly firing on all cylinders—although I exempt the Minister from that comment—the sharpest decline in living standards since records began in the 1940s will impact on men as well as women, but it will most affect those with the lowest incomes and in the least secure jobs, the majority of whom are women.

Women predominate in the lowest-paid jobs—caring, cashiering, catering, cleaning and clerical work—and even though employment levels may be recovering, the recent surge in job vacancies is entirely driven by low-paying occupations, according to the IFS. Wages are not keeping pace with inflation. Average wages today are no higher than they were before the financial crisis in 2008, which represents a wage loss of £9,200 a year. The UK lags internationally on hourly pay adjusted for purchasing power, and similarly for household incomes. We have a weak social security net. Basic unemployment support is now down to 13% of average pay, its lowest level on record. The Government's policy of starving people back to work has been successful, and I hope that they are proud.

The employment rate of women is highest in the south-west and south-east, at 75% and 74% respectively, and lowest in Northern Ireland and the north-east, at 68%. Perhaps that 6% to 7% gap points a way to how real levelling up might take place, as opposed to dealing out occasional grants to favoured constituencies. Those 30% of women on the national minimum wage are still trapped in low-paid jobs: they must simply love it when politicians urge them to get a better-paid job.

The Covid pandemic had a particular impact on women, not just in terms of extra work caring for the elderly, home-schooling and being in jobs that made them particularly at risk of catching the virus. The number of black and ethnic minority women in work fell by 17% between the third quarter of 2019 and the third quarter of 2020, which is likely to lead to a further increase in gender and race inequalities.

The furlough scheme also had a gender impact. Women were less likely than men to have their wages topped up by their employer beyond the 80%, putting them at an economic disadvantage. Some 46% of mothers made redundant during the pandemic cited a lack of adequate childcare as the cause. According to the TUC, 70% of furlough claims made by women with caring responsibilities following school closures in January 2021 were denied. The Self-employment Income Support Scheme discriminated against women on maternity leave and, although statutory sick pay is only £95.85 per week, 15.5% of women do not even earn enough to quality for it. Women in employment were twice as likely as employed men to be key workers and experience high levels of exposure to Covid-19; they were therefore more reliant on that inadequate sum.

Fifty years ago, we talked about equal pay for women, the problem of job segregation, the importance of childcare and adequate benefits, and job security. Why do we still have to discuss these issues 50 years later? The gender pay gap is still stubbornly high, at 8%. We know that benefit increases can rapidly boost income and reduce poverty; they played an important role in cutting absolute poverty in early 2020 and most of 2021. It is a crying shame that they were reversed.

We know that the employment rate for disabled women is 53%, compared with 72% for full-time women. Just think of the loss of talent and opportunity that this figure represents for disabled women. We know that a public sector pay freeze will have a particular impact on women, who make up two-thirds of all public sector employees. We know that extending employment rights and investing in strong, effective enforcement will help to reduce insecurity among low-paid workers.

1.12 pm

Lord Strathcarron (Con): My Lords, I, too, thank the noble Baroness, Lady Gale, for the opportunity to join this debate. I want to focus on the safety of women and girls part of the subject matter. I feel slightly out of place here as a man among so many women—in fact, proportionately, it reminds me of my Pilates class—but it is the implications of a biological man taking part in a biological woman's event that I would like to touch on briefly today.

I know that it may not look likely, but this old wreck standing before your Lordships today was once a keen rugby player. Rugby is a sport where no quarter is given or taken. I take the liberty of assuming that not many noble Baronesses here today have ever been rugby-tackled but, if they have, they will know that a rugby tackle is a form of uncontrolled violence where—in men's rugby anyway—two big, beefy players run as fast as they can and the one from behind launches himself at the person in front with the simple intention of stopping him in his tracks and bringing him to the ground with as much force and as little subtlety as possible. The mind boggles at the damage that could be done by somebody like the person I used to be—15 stone of muscle and bone—launching myself flat out on to a 10-stone girl and bringing her down as forcefully as possible. At the very least, she would be battered and bruised, but it could easily result in broken bones or damaged brains.

It seems like madness that such a thing is permitted, yet this is exactly what England Rugby does permit, despite World Rugby being a pioneer in recommending that males are categorically excluded from female sports. England Rugby had to choose between fairness and inclusivity—clearly incompatible choices. It is obviously completely unfair that girls should have to compete in contact sports against fully developed biological men, yet they ignored fairness and common sense for the false god of woke inclusivity.

Other problems arise when the final whistle blows. Rugby is a sweaty and often muddy game; after it, we all repair to the changing and shower rooms. Typically, at club level, there will not be male and female changing rooms but just one room as, up to now, men and

women have played the game separately and at different times. Most trans women still have their male equipment intact, so we now have a situation where women and girls obviously do not want to get undressed and shower with a fully equipped biological man present. At the very least, it is awkward and undignified. It is certainly uncivilised and potentially dangerous; it is amazing how it has been allowed to happen.

I must emphasise that this is absolutely not an attempt to dissuade trans athletes from playing any sport, including other contact sports such as kick-boxing where, unbelievably, biological men can kick-box women and girls. Rather, it is a plea that biological women play against biological women while there is a new third category—let us say, a form of open category—where trans athletes can compete for honours among themselves and win them fairly in the true spirit of sport.

1.16 pm

Baroness Chakrabarti (Lab): My Lords, I, too, pay tribute to my noble friend Lady Gale for securing such an important debate. It has thrown up many interesting issues already. I also congratulate my noble friend on a lifetime of service to her community, her party, this country and the continuing, vital cause of women's equality. She is a veritable lioness of a woman, if I may say so; I send my congratulations to the Lionesses on their fantastic displays in Euro 2022. It is nice to be positive for a change because what those young women are doing on the pitch for little boys and girls in terms of their belief in equality and in what women can do has been so inspiring. I continue to be riveted and inspired by this tournament.

Less happily, I have to talk about rape. According to Rape Crisis England & Wales, one in four women has been raped or sexually assaulted as an adult. That is 5 million women in this jurisdiction. One in six children has been sexually abused. One in 20 men has been raped or sexually assaulted as an adult. In 2021, the police recorded the highest-ever number of rapes reported to them: 67,125. However, only one in a 100 of those reported rapes resulted in a criminal charge in that same year. Charge rates and conviction rates have dropped to their lowest in our country since records began. That is totally unacceptable in one of the wealthiest countries on earth in the 21st century. It represents a veritable pandemic of rape, in particular against women, and we are failing. After all these years of austerity, our criminal justice system is failing women when they are raped.

Half of these rapes against women are by a partner or ex-partner. There is a lot of talk at the moment about rebalancing the relationship between Parliament and the courts, wicked old judges and activist lawyers, but I remind noble Lords that marital rape was only outlawed in this country as late as 1991 and it was the House of Lords Judicial Committee—not a Government or a Parliament but the judges who stepped in—that did this. Let us just remember that when we are trying to put judges back in their boxes and be proud of ourselves for being parliamentarians.

Five in six rapes against women are by someone they know, 98% of prosecuted sex offences are against men and five in six women who are raped do not even go to the police. Some 40% of them say they are embarrassed, which is understandable, but 38% of those who do not go say they do not believe the police can help and 34% think it would be humiliating. Every year in England and Wales, 618,000 women are raped. That is based on the March 2020 crime survey, which is the latest crime survey. That is one in 35 women. Whether we realise it or not, each of us probably knows a woman who has been raped in the past year. This is the scale of the problem. I hope the noble Baroness has some notes from the relevant officials that tell us what the Government plan to do about this. We need a fundamental reset of policing and the justice system on these matters.

Noble Lords may remember a wonderful film from 1980 called "Brubaker". Robert Redford played a prison governor who goes undercover as a prisoner to expose the corruption and abuse in that system. I wish the new Metropolitan Police Commissioner well in his task, but he might want to consider an investigation that drastic, because the situation is so bad.

1.22 pm

Baroness Crawley (Lab): I thank my noble friend Lady Gale for all her work in favour of women over many decades. I also thank her for her excellent, probing opening remarks today. Most of us speaking see ourselves as second-wave feminists. We fought for equal pay and conditions and for universal childcare in the 1970s and 1980s. Some of us pitched up at Greenham Common; some of us burned our bras—not all of us, obviously. Fast-forward to the 2020s and we realise that we can never be complacent, as the status of women and girls continues to be a cause for great concern. You have only to listen to some of the extremely strong contributions made today from all sides of the House.

It is no exaggeration to say that the Labour Party has, perhaps more than any other institution, helped to feminise Britain. In 1997, more than 100 women were elected as Labour MPs. Less than a generation earlier, the number was just 10. Those years from 1997 saw the birth of the minimum wage, the rollout of tax credits, the introduction of Sure Start—all political decisions that did so much to assist the lives of women in low-paid jobs.

When Labour left government in 2010, we had made huge strides in maternity and paternity leave, thanks to a Labour Government working with EU standards. While things were never perfect in the history of Labour in government after 1997, from that year, according to the ONS, there was a steady decline in the pay gap, at least for full-time workers, to its position now of 8%. Thank goodness for the Fawcett Society for keeping alive the dream of equal pay for work of equal value.

There is so much more we could have done, but the last 12 years have seen women and girls in this country feeling more unsafe, having less trust in the police, being poorer in many cases and, in terms of girls, feeling more unsure of their identity and self-worth than ever before. Much of that is down to the unwillingness of this Government to tackle the internet giants where it hurts—in their pockets—despite the long-awaited Online Safety Bill, which of course has now been delayed.

[BARONESS CRAWLEY]

The last 12 years have brought us to the point of being told in a recent study by Legal & General, reported last month in the *Financial Times*, that the average pension pot of a woman at retirement was found to be £12,000, compared with an average of £26,000 for a man. For all the talk of modern, well-off pensioners, older women earn less than their male counterparts and therefore face very weak personal pensions. They are seriously dependent on state provision to stay fed and warm. This coming winter must be terrifying for a lot of older women.

The coalition Government introduced some welcome gender equality initiatives, but the emphasis on austerity policy kept contradicting them. Most of that ongoing austerity policy in the last 12 years was directed at single-parent households, nine out of 10 of which are headed by women: the benefit cap, the two-child limit and the bedroom tax. Also, half of all single parents now receive no child maintenance at all, as Governments have continuously offloaded that responsibility. The list goes on.

The Domestic Abuse Act introduced by the present Government has indeed been an important step forward, but deep cuts to the justice system have had a hugely detrimental effect on women. We have only to look at the desperate situation with rape cases, as set out by my noble friend Lady Chakrabarti, to know that that is so. Covid saw millions of women taking more than their fair share of the consequences of that terrible pandemic. The Government may say they are not responsible for the arrival of the pandemic, and it cannot be blamed on them, but it is important to remember that all those years of austerity policies meant that the poorest women in the country were less resilient in coping with the pressures of the pandemic and, more recently, of this unique cost of living crisis.

1.27 pm

Baroness Bennett of Manor Castle (GP): My Lords, I feel I must begin by asking the noble Lord, Lord Strathcarron, to reconsider some of his assumptions. As he was speaking, he was facing a female rugby player—me. Thirty years ago, I was playing informal but full-contact games against and with men. I suggest he looks at the distribution of the bell curve, because some of the men on those pitches were smaller and lighter than I was. I also suggest he reads a book called *The Frailty Myth*.

Since we are on sport, I join the noble Baroness, Lady Chakrabarti, and the noble Lord, Lord Addington, in celebrating the women's Euro 2022, which is happening now. I am hoping to make it to a match next week, but I point out that this is one of the last areas—probably the last area—of legal discrimination. In 2006 I wrote about a potential woman, whom I named Waynetta Rooney, who might have wanted to be selected by a Premier League team. She is not allowed to play for that team or to get the salary that would go with it because of her gender. All those wonderful players we are watching now are paid vastly less and are not allowed into teams where they could be paid more, because of their gender.

I thank the noble Baroness, Lady Gale, for securing this debate. I will focus briefly on a lifestyle economic analysis. We start with a girl in school who faces stereotypes about the subjects she should study and restrictions that will affect her lifetime earning potential. She will be expected to sit quietly and to be polite and compliant, something particularly difficult for neurodiverse girls.

A recent study by the charity In Kind Direct found that in some cities and towns period poverty affects two-fifths of girls and women. In Brighton and Hove it is 46% and in Oxford 40%. I am proud that Green councillors on Oxford City Council have just this week submitted a motion for free period products to be put in public toilets, town halls and community centres. However, the fact that this is necessary is a dreadful indictment of our society.

I note the points made by the noble Viscount, Lord Stansgate, about discrimination in science and work. Why do we have the Francis Crick Institute, named after a very controversial character, instead of the Rosalind Franklin Institute? Lynn Margulis is one of my scientific heroes. She is an evolutionary biologist who proposed a real change to the science of evolution. Her gender definitely had something to do with the difficulties she had in having that accepted.

Going back to economics, there is something called "sheflation". Note that figures from the Living Wage Foundation show that 20% of women earn less than a real living wage. The figure for men is 14%; it is unacceptable for both. Every worker of whatever age should earn enough money to live on. Many people have referred to the situation of single parents, 90% of whom are women. The New Economics Foundation has figures showing that, in the current cost of living crisis, single-parent families have seen 50% more of their income lost to the crisis than families with two adults.

We come to middle age and the generation trap. So many middle-aged women are now caring for younger children and teenagers and providing support for older children and their own parents, or even grandparents. The slashing of government services has meant that the practical reality is that the overwhelming weight of that has landed on women.

I come to my worst figures. They are from the Health Foundation. A number of other noble Lords have referred to the situation of female pensioners and older women. Life expectancy for women in the poorest areas of the UK is lower than the overall life expectancy for every country in the OECD, except Mexico. We are doing worse in the poorest parts of the country than all but one other OECD country. That is a measure of the level of discrimination.

I shall make one final point. Sometimes this is seen as a zero-sum game—more for women, less for men. Actually, however, if we make a society that is fit, decent and caring for women and girls, we make a better society for everyone.

1.33 pm

Baroness Pitkeathley (Lab): My Lords, the word "indefatigable" has been used about my noble friend Lady Gale. I say amen to that and thank her for today. Your Lordships will not be surprised that I will concentrate on the role of women and girls as carers in the years

since 2010. I include girls because, as your Lordships know, there are many underage carers. What we have to say about caring is that there is more of it and more women and girls are involved. Since 2010, the number of women providing unpaid care has continued to increase and the average woman now has a 50:50 chance of providing unpaid care to a family member or friend by the age of 49, 11 years earlier than for any man and significantly ahead of the time they reach retirement age. This of course impacts on women's ability to work in full-time employment. The lack of investment in social care, which I have brought to your Lordships' attention many times, has served to exacerbate these challenges. The lack of an adequate social care workforce has placed additional pressure on carers' lives. We must have a social care system fit for the future if we want all women to be able to participate fully in society and the economy. Is it not interesting that we have not heard one word about social care from the candidates for Prime Minister—not a single word about what they will do about social care, except that some have pledged to cut the levy that was going to fund it?

Overall, women are much more likely to take on caring roles than men. More than half of carers are women. Carers UK has calculated that the economic value of the unpaid care provided by women in the UK is a massive £77 billion a year. They are more likely to be around the clock carers, more likely to be sandwich carers—the noble Baroness, Lady Bennett, referred to caring for young children and elderly parents—and more likely to have given up work or reduced their working hours to care. Is it not a pity that the promise made in the 2019 Conservative Party manifesto to bring in five days' unpaid leave for those with caring responsibilities, a modest enough proposal when all is said and done, has not been carried out because of the lack of an employment Bill? There is a Private Member's Bill in the other place that I hope may serve to rectify this omission.

If you do not continue full-time work, what do you do? You build up problems with your pension and build up poverty for the future, and that is without thinking about the cost of living problems. We hear that carers are having extreme difficulty in managing choices about whether they eat or heat their homes. Many cannot afford to do both. Just over half of all carers responding to a recent survey are currently unable to manage their monthly expenses. This is not sustainable without urgent intervention because it will lead to carers breaking down and being unable to continue caring for family and friends—instead, passing the cost of doing so to local authorities and the state.

I do not want just to whinge. Caring is necessary for and central to human relationships and a desirable feature of family and community life. It happens to all people and in all walks of life, although disproportionately to women. Most carers do not resent the care they give. They see it as their duty and family responsibility, but the quid pro quo of taking on the things they do, willingly and with love, is that carers suffer disadvantages and problems with their own health, including their mental health, and economic and financial insecurity. I have pointed out their difficulties with paid work. Their rights as citizens and voters also suffer if they are not able to pursue their own interests or have any free time. We must recognise and support all carers, but especially women carers. We should remember that, because the contribution they make to the economy far outstrips anything else, even the resources of the National Health Service, it makes very sound economic sense—as well as moral good sense—to support carers.

1.38 pm

Baroness Fox of Buckley (Non-Afl): My Lords, as all of us have said, we really appreciate this debate initiated by the noble Baroness, Lady Gale, in which we get to voice our concerns. Indeed, one way of framing our commitment to improving the status of young women is to help them find their voice and give them the skills and space to be heard. It is why campaigners complain about mansplaining or worry about young girls being bullied off social media by sexist trolls.

I want to talk about two categories of young women whose voices we seem happy to have muted because their stories offend contemporary political orthodoxies. Some women's voices are definitely more equal than others. The demand to listen to women arguably reached its zenith with the #MeToo movement, even leading to the slogan "Believe all women". This slogan sometimes dangerously dispensed with important principles such as innocent until proven guilty. Those who spoke out were often encouraged to elide serious sexual abuse with more trivial, if unpleasant, incidents of interpersonal advances.

Regardless, at the height of #MeToo, while Westminster and the media raged about predatory abuses of power, with acres of coverage telling those victims' stories, the same politicians and commentariat ignored another group of young women at the heart of industrial-scale sexual abuse by grooming gangs operating across myriad northern towns such as Rotherham, Oldham and Blackpool. This week, the Telford inquiry revealed details of the horrendous catalogue of rapes and sexual degradation of thousands of young women over decades. When these largely white working-class girls turned to the authorities for help, schools, social services, councils and police officers dismissed the complaints, looked the other way, even victim-blamed. One survivor, Joanne Phillips described how they were dismissed as "child prostitutes".

When one young woman went to Telford police about Shabir Ahmed abusing her, her complaints were ignored. Grotesquely, Ahmed went on to work for Oldham Council as a welfare officer, simultaneously leading an Oldham grooming gang now convicted of rape and sexual trafficking, crimes that could have been prevented if its original female accuser had not been contemptuously disregarded. More shamefully, despite inquiries, court cases and mealy-mouthed police and council mea culpas, polite society continues to sideline these young women's stories. Is it not shocking that, despite these revelations, there is no clamour for Urgent Questions and emergency Statements about the issue here in Parliament? Where are those social justice activists taking to the streets chanting the name of 16 year-old pregnant Lucy Lowe, who died alongside her sister and mother in a house fire started by her abuser, Azhar Ali Mehmood?

[Baroness Fox of Buckley]

Is this awkward silence due to political expediency? We know that the reason these horrendous incidents happened in plain sight was that those in authority feared that investigating the Asian male perpetrators could inflame racial and religious tensions. Council employees who tried to whistle-blow, with rare courageous exceptions, were silenced themselves by the threat that they would be labelled as bigots. Indeed, that message—"You can't say that" for fear of being branded a hatemongering bigot—is silencing another group of young women who, ironically, simply want to discuss womanhood. In recent months we have heard of the 18 year-old who was bullied out of school by her fellow pupils, who accused her of transphobia. She was abandoned by her teachers for fear of guilt by association. Her crime was using her voice to challenge a noble Baroness who was speaking at her school when she quoted a debate in this very Chamber about the attempt to pass maternity legislation minus the words "mother" or "woman".

While we all know about Professor Kathleen Stock, who was hounded out of Sussex University, less attention is given to those female students I have met who have confessed they were too scared to speak in support of Professor Stock in case of reprisals by activist tutors or having their academic prospects destroyed if dubbed a bigot. Such censorious intolerance of views that clash with identity politics has real-life victims. Today, law student Lisa Keogh should be attending her graduation at Abertay University, but after a two-month misconduct investigation for having the temerity to say "women have vaginas" in a gender and feminism seminar, she has been ostracised by fellow students, despite being cleared. Congratulations, Lisa—you should be there. No wonder the lesson of these and many other examples I could give is that young women in 2022 believe they should stay schtum and self-censor in order to avoid being branded a bigot. The old sexist dictum, "Be seen, not heard", is back with a modern twist.

To conclude, here in this Chamber we must not simply proclaim our commitment to giving young women a voice. We must instead mount a vigorous defence of free speech; the freedom to voice dissenting, even unfashionable opinions. We owe it to the victims of grooming scandals to learn a bitter lesson: if we enable a culture that chills speech in case it offends or leads to demonising labels, it can lead to catastrophic, tragic results for women.

1.44 pm

Baroness Thornton (Lab): My Lords, this has been a fascinating and mixed debate, and I fear some of issues raised will pose some challenges for the Minister today. I start by congratulating my noble friend Lady Gale on choosing this debate, although I doubt even she could have anticipated how relevant it would be in highlighting the shortcomings of this Government in dealing with the safety and security of, and need for trustworthiness for, women in the UK. My noble friend's introduction to the debate was a tour de force and posed many of the questions the Government need to address. I particularly appreciated the tributes from my noble friends Viscount Stansgate and Lord Griffiths. They were very welcome and positive and needed to be said. Indeed, I have a small lioness in my own family: I am very pleased to say that my eight year-old granddaughter is in the football team this evening. She sees no reason at all why she should not be playing football and intends to do so.

I intend to focus on security for women in its broadest sense: economic, physical, and for families. Sometimes, those forms of lack of security are experienced all at the same time, because there is no doubt that the evidence shows that many women are in a much less secure position than they were in 2010. As my noble friend Lady Crawley said, we cannot be complacent, and as my noble friend Lady Pitkeathley said, totally correctly, until we have, for example, comprehensive social care in the UK, we will not make women economically emancipated.

Some noble Lords have put as positive a spin as they can on the status of women and girls today, and without doubt there has been some very welcome progress in many areas since 2010. We have equal marriage and we now have equal pay statistics. My noble friend Lady Goudie mentioned the 30% Club. I pay tribute to the work she has done over many years in involving women and persuading them to play their part at a senior level in our lives; indeed, we have seen an increase in the number of women MPs, for example. I commend the noble Baroness, Lady Jenkins, for the work she has done over many years with Women2Win.

I also commend and recognise the diversity of the now shortening list of potential candidates for the Conservative leadership—even though their politics are still the same old, same old. I also say to the noble Baroness, Lady Jenkin, and my noble friend Lady Gale that we all have battle scars from trying to make our parties more representative and to get more women elected. That unites us. However, we must ask if the policies and programmes pursued by consecutive Conservative and Conservative-led Governments have substantially challenged the patriarchal nature of our society and whether women and girls are able to thrive in safety and opportunity.

I particularly enjoyed the speech of my noble friend Lord Stansgate; had my noble friend Lord Davies of Brixton been here, I know that he would have joined him on the importance of girls playing their part in science, maths and technology. As my noble friend said, it is the idle comments that have the deepest effect and discourage girls from taking physics to a higher level—an ill-judged quip that girls cannot do maths or physics or that it is too hard can lead to their making life-changing decisions that influence the subjects they study or the career they pursue. Noble Lords will know the person I am referring to who has made those idle comments, which can have such a devastating and negative effect.

The evidence suggests that tackling misogynistic conduct from the top of our society to its bottom has been patchy at best. I will come back to misogynistic matters and will look for a moment at investment in growth and the levelling-up agenda, which is an important political focus. The usual focus for an economic stimulus package after a downturn is on the construction industry or investments in physical infrastructure. Women make

up just 11% of the construction workforce and 1% of the UK's on-site construction workforce. When the Treasury issues a call for shovel-ready projects, it is actually saying it wants to invest in male-led occupations.

The ADASS is doing some very interesting work on the adult social care workforce, of which 82% are female. Modelling indicates that any investment in care in the UK would produce 2.7 times as many jobs as an equivalent investment in construction. I invite the Minister to pick that up and champion it, because that is how we will get growth and investment in our society and create jobs for women. My noble friend Lady Donaghy made a great case on issues of low pay; I cannot better it.

The truth is that Governments of the past 12 years have pushed women further into poverty. Noble Lords across the House have described the cost of that. I will not repeat what has been said, but one of the keys to women's economic emancipation has always been childcare, which is important for the security of family life. The cost of a full-time nursery place for a child under two has risen by approximately £1,500 over the last five years. Some 98% of providers responding to a recent survey said cutting childcare ratios would not cut costs for parents.

This Government have knowingly underfunded free childcare hours, and Ofsted data shows that 4,000 childcare providers closed between March 2021 and 2022, limiting access to childcare and driving up price rises. Under the Conservative Government, soaring childcare costs are compounding the cost of living crisis and putting increased pressure on families while pricing people out of parenting. Labour's children's recovery plan would invest in childcare right now, with a more than fourfold increase in the early years pupil premium and before and after school clubs, ensuring that every child gets a new opportunity to learn, play and develop.

I turn to physical security and misogyny, which many speakers have mentioned. It is disappointing for us all—but must be particularly so for Conservative Members, the Minister and some of her colleagues—that so many Conservative MPs have been sexual harassers or worse over the last year. It would seem that the Prime Minister and his party were an outlier on misogyny and sexual harassment, if it were not so redolent of the standards recently prevailing in the Metropolitan Police.

The facts show that there is an epidemic of violence against women and girls under the watch of this Conservative Government. As my noble friends Lady Chakrabarti and Lady Crawley said, women feel threatened in both reality and the virtual world. The number of women homicide victims is at its highest level for 15 years, rape prosecutions and convictions are at a record low and victims are abandoning their trials due to delay. Although I credit the Government for publishing the very welcome domestic abuse plan a few months ago, it commits only to "considering" and "looking at" a register for serial domestic abuse perpetrators. This side of the House and the sector have been demanding this for years, so why are they now only looking into it? This is yet another example of piecemeal steps instead of the widespread reform we all need. I ask the Minister to respond to a simple question: why is there not a RASSO unit—a rape unit—in every police force in this country? Can she explain why?

I will wind up with some questions for the Minister. Does she agree that it is time that misogyny is made a hate crime? Will she commit to the Government bringing forward the victims' Bill? I look forward in particular to her response to my noble friend Lady Prosser's remarks on levelling up and practical solutions to women's work. When will we get the long-promised women's health strategy? Will the Minister give a commitment, for example, to tackling the gender bonus gap, which in 2021 was 40%?

Labour has a plan. For example, we have a new deal for working people which will put women at the heart of our economic recovery. I think I just need to say: what this country needs, and what the women in this country need, is a Labour Government, and we need the opportunity for an election to have one.

1.54 pm

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office and Department for Work and Pensions (Baroness Stedman-Scott) (Con): I start by echoing many of the tributes paid to the noble Baroness, Lady Gale, for bringing forward this debate, and to all Members who have spoken and contributed to such an all-encompassing discussion. I would also like to pay tribute to those men who have joined us today and made very forthright contributions. It is great that you respect women, and their role and potential in the country. I thought the noble Viscount, Lord Stansgate, gave five minutes of excellent value, and it was a very significant contribution which I will refer to as I go through.

One thing is as sure as eggs: I am never going to be able to answer everybody's questions. If I do not answer your question, it is not because I do not want to, or I am disrespecting you, but I will, at the end, make sure I write to all noble Lords who took part in the debate, and make sure all your questions are answered to your satisfaction.

I had the great pleasure of being part of the International Women's Day debate held in March, when again the noble Baroness, Lady Gale, made a very powerful and eloquent speech. While that debate was not all that long ago, I will never turn down a chance to highlight the great work taking place across government to ensure that everyone can access opportunities and reach their full potential.

I suspect that for most Members here, as is certainly the case for me, 2010 now feels like a very distant memory, although it was a momentous time for me, being the year that I first took my seat in this place. I am conscious that, while this Chamber still looks the same, the world around us has changed immeasurably. A great number of things may be different, including those currently in government. However, one thing that has remained constant is our commitment to achieving gender equality. Each successive Government have reaffirmed their resolve to make the UK a place where women and girls can access all opportunities on an equal basis and be able to thrive.

[Baroness Stedman-Scott]

We know that this is not something that can be achieved overnight; there are no quick fixes or silver bullets, much to the frustration of probably everybody in this Chamber. It can often feel as though the pace of change is too slow, and progress is always just out of reach. But this week I have more than one reason to step back and appreciate just how far we have come since 2010.

On Monday, we celebrated—and the noble Baroness, Lady Goudie, was there—10 years of the Women's Business Council, and I was overwhelmed to hear what it has achieved within that time. In 2010, the gender pay gap was 19.8%, and in 2021 it was 15.4%. There are nearly 2 million more women in work since 2010, and the number of women in FTSE 100 boardroom roles has jumped to 39% from 12.5% 10 years ago. At the 2010 election, 143 women were elected to the other place; in 2019, it was 220. We have got some way to go on this, and more about that later. While we can all agree there is more to do, and my ministerial colleagues and I are certainly not complacent when it comes to tackling that challenge head on, it is remarkable to see the strides that we have already made in such a short space of time.

I do not believe that we should dwell on the past or rest on our laurels, so I want to focus on the exciting work that we are doing now to ensure that this progress does not stall but in fact is accelerated. The underpinning principle behind government work undertaken since 2010, is that women should have the economic freedom to make choices about their lives and careers, unconstrained by inequalities or expectations. We want women to be economically empowered, and to remove the barriers that prevent them from reaching their full potential.

The noble Viscount, Lord Stansgate, and the noble Baronesses, Lady Bennett of Manor Castle, Lady Prosser and Lady Thornton, all talked about the importance of women in careers where they could really achieve their potential, not least of all construction and science. I am pleased that one of the ways in which we are doing this is by ensuring women can enter into higher-paid sectors and positions. The STEM world is calling for people with the right skills to come and help them meet the needs of our future economy, yet women currently make up only 24% of the STEM workforce. If we are to meet those challenges, then we need to first tackle this occupational segregation.

Of course, much of this relies on inspiring girls to consider STEM careers and study STEM subjects from a young age. We are already making some progress here, with girls representing 44% of all STEM A-level entries in 2021, and the proportion of women entering full-time undergraduate courses taking STEM courses having increased to 42.2%. The Department for Education is currently supporting a number of initiatives to encourage a more diverse uptake of STEM subjects and pathways. To name but a few, it funds the Inclusion in Schools project and the Stimulating Physics Network, it is researching interventions to tackle the barriers young women encounter to studying STEM, and it is enhancing mathematics teaching through a national network of 40 school-led maths hubs and funding the Advanced Mathematics Support Programme.

However, it is not just getting young women interested in STEM that is important; the real challenge is how we get them into STEM and keep them there. On International Women's Day, I announced a programme to encourage more women to return to STEM careers after taking time out for caring. The pilot will give them the opportunity to refresh and grow their skills in sectors where their talents are most needed, and will build on what we have learned from previous government returner initiatives.

The noble Baroness, Lady Goudie, also mentioned women and diversity on boards and women in leadership. We are not just supporting women into higher-paid STEM careers; it is also about helping them to reach the top within their chosen profession across a range of sectors. Over the last 10 years, the Government have lent support to successive reviews, most recently the *FTSE Women Leaders Review*, to drive progress on female representation at the top of our biggest companies. This business-led framework has had fantastic success. In 2021, the UK FTSE 100 ranks in second place compared with 11 similar counties. But it has now turned its attention to fixing the pipeline of talent, making sure that this level of representation spreads through the entire leadership team and across a wider range of companies.

When the noble Lord, Lord Griffiths of Burry Port, speaks to that school tomorrow, will he pass on the very best wishes of everybody in this Chamber today to that head teacher, who has given and given, and thank her on our behalf?

We also want to help women to realise their entrepreneurial aspirations. As it stands, only one in three UK entrepreneurs is a woman—a gender gap equivalent to 1.1 million missing businesses. That is outrageous, and we must do something about that. Our aim is to increase the number of female entrepreneurs by half by 2030, so we will look very closely at that.

Many noble Lords mentioned the gender pay gap. One of the ways we are helping women in every workplace, regardless of how senior they are, is by driving transparency on pay. We will not have the situation where a woman goes for a job and is asked, "How much did you earn in your last job?" We do not want that. We want a salary on the advert so that women can negotiate the pay that shows their worth. We recently announced that we will take this transparency one step further. We will provide women with the information they need, making it easier for employees to understand whether they are being paid fairly.

However, as many of my noble friends have noted today, the world of work does not exist within a vacuum. So much of what goes into getting work right, not just for women but for everyone, is about making sure that workplace culture and practices fit with the lives that people lead outside of them. All the effort we put into empowering women and girls throughout their lives and careers goes to waste if we do not also remove the barriers that can prevent them being able to fully realise their ambitions.

The noble Baronesses, Lady Prosser and Lady Thornton, touched on the subject of childcare. This is something that is vexing me. I am on it. I cannot make promises, but I can promise to try getting

to the bottom of some of the things that we can do to enable women to get the childcare that they need so that they can fulfil their potential in the workplace. The Government have doubled free childcare and have done much on tax-free childcare. But we want to help parents with the cost of childcare so we have introduced, as I have said, tax-free childcare, providing working parents with up to £2,000 of childcare support a year for each child. Much has been done on flexible working and parental leave. I am really proud that we extended the right to request flexible working to all employees with 26 weeks of continuous service with their employer.

Half the time has gone already, and I will not be able to answer everything, but let me turn to some of the other points that were raised. The noble Baroness, Lady Gale, and the noble Lord, Lord Griffiths of Burry Port, spoke about the remit of the Government Equalities Office being reduced. The equality hub will move beyond the narrow focus of protected characteristics and drive real change that benefits people across the United Kingdom. We have announced a new approach to equality, which will extend the fight for fairness beyond the nine protected characteristics covered by the Act, to include socioeconomic and geographical equality.

The noble Baroness, Lady Gale, raised Section 106. If the aims of Section 106 are to be realised, all political parties must be truly committed to it rather than be forced to do something. It is our job to drive that change to come naturally. The noble Baroness, Lady Gale, and the noble Lord, Lord Griffiths of Burry Port, raised the Istanbul convention. We are delighted to be ratifying the convention. This will send a clear message, not only within the UK but overseas, that Britain is committed to tackling violence against women and girls. Whatever the differing views on the two reservations, we can all agree about the vital importance of ratification. Ratifying will make it easy for us to hold to account those countries elsewhere in Europe that are pulling away from the convention.

Many noble Lords have raised the cost of living crisis and the impact on women, particularly lone parents. We understand completely that millions of households across the UK are struggling to make their incomes stretch to cover the rising cost of living. That is why the Government have provided an extra £37 billion this year. On a point of difference that the noble Baroness, Lady Donaghy, raised about giving one-off grants as opposed to fixing the system as one would like, the Government are not standing there watching people struggling. We are adding vast sums of money for people as quickly as possible. Our Plan for Jobs campaign is working, as is the Way to Work campaign, which got over half a million people into work. As my Secretary of State, Thérèse Coffey, an outstanding woman, said, we want people to be in work. Once they have a job, it is easier for them to get a better job and then into a career. I cannot say more about the benefits system than I have said and said yesterday. We are doing all that we can to support people.

On the point raised by the noble Baronesses, Lady Chakrabarti and Lady Gale, about what we are doing to improve rape prosecutions, protecting women and girls from violence is a key priority for this Government. We have made it clear that we need to make improvements to restore victims' faith in the criminal justice system. We published our rape action plan setting out clear measures to more than double the number of adult rape cases reaching court by the end of this Parliament. However, there are no holds barred here. There is still work to be done, still progress to be made. We will not stop driving actions forward to rebuild confidence in the criminal justice system to pursue justice for rape victims.

My noble friend Lady Jenkin, the noble Baroness, Lady Gale, and others mentioned women in politics. If I may, I will take a moment to congratulate my noble friend on the work she and others have done on Women2Win. She does not take her foot off the pedal at all on this. We have more women MPs than ever before and political parties, as I said, are responsible for their candidate selection and should lead the way in improving the diversity of representation. Let us all redouble our efforts to see whether we can get to that 50:50 target. I would also say that we need to understand why people do not want to enter politics. I had a conversation with someone about this earlier and if we can address the reasons why people do not want to do it, perhaps we will inspire some younger people to take it up.

The noble Lord, Lord Addington, got us off to a great start about the football. The noble Baroness, Lady Chakrabarti, is obviously very excited about the performance of our wonderful team. The noble Baroness, Lady Bennett of Manor Castle, a rugby star in her own right—

Baroness Bennett of Manor Castle (GP): Not a star!

Baroness Stedman-Scott (Con): Oh, she has changed her mind. Noble Lords are absolutely right that these women are doing a great job.

I was at the football on Monday in Brighton. I have never been to a football match in my life. Before I went, my other half said to me, "Please behave. Don't start shouting out and telling people what to do. You know nothing about football." I had been there about 10 minutes and I was alive with it. They were like rockets running round the field. They were absolutely fantastic. I just wondered why I had not seen them before. They are doing a great job and if they get to the final at Wembley, I will be pleased to represent all noble Lords and shout. I started to get excited and then realised that I was sitting next to the Duke of Gloucester and I had to calm down. I take on board the challenge from the noble Lord, Lord Addington. I will speak to my noble friend Lord Parkinson about investment in sport.

The noble Lord, Lord Strathcarron, raised the issue of transgender athletes participating in sport. All sports which compete internationally must comply with their international federation rules on that level and the Government are clear that a way forward is needed that protects and shows compassion to all athletes while maintaining the integrity of the competition. I heard the concerns of the noble Baroness, Lady Nicholson, and others in the Chamber today. I am very happy to commit to meeting the noble Baroness and other noble Lords to discuss this.

[BARONESS STEDMAN-SCOTT]

The gender pensions gap was raised. We take this very seriously. Our reforms, including automatic enrolment, have helped millions more people save into a pension. Pension participation among eligible women working in the private sector was 86% in 2020, up from 40% in 2012.

I congratulate the noble Baroness, Lady Goudie, on her 30% Club. I will have to write regarding 50% of women on government boards because I do not have that figure to hand. The noble Baroness also mentioned women and girls in the Ukraine conflict. To mark International Women's Day this year, the UK was proud to launch new funding for women's rights organisations and civil society actors working to support the critical needs of women and children both inside and displaced outside Ukraine. There is more information, but I will include that in my letter.

The noble Baroness, Lady Prosser, mentioned levelling up for men and women. I thought her explanation of the fact that if we levelled up, it would still be unequal was really quite interesting—

Baroness Prosser (Lab): I did not say that if we levelled up for everyone, it would still be unequal. I said that the Minister who responded to the debate seemed to think that levelling up for women, men and everyone was the answer. My point was that we start off unequally so we end up unequal at the end. My point is that we should level up for women and make it equal.

Baroness Stedman-Scott (Con): I thank the noble Baroness for clarifying that and I agree with her.

My noble friends Lady Meyer and Lady Eaton raised the issue of the protected characteristic of sex. This is a subject that we shall have to come back to and debate. As I have said, everyone must be free to express what they feel about it, but everyone must be respectful and tolerant when some people have different views from theirs.

I am afraid my time is up. I knew this would happen and I am sorry, but I am incredibly grateful to all noble Lords who have contributed to this debate. As such, I will write, as I promised, and have the meetings that we so need to have.

2.15 pm

Baroness Gale (Lab): I thank the Minister very much for her response to the debate. We met only yesterday; she is always willing to meet and have discussions, and I thank her for that.

I thank all noble Baronesses and noble Lords for their contributions today. There is no doubt that we can say that this has been a wide-ranging debate. Today we have covered a whole range of political life: women on boards; women in science; women in peacemaking; the gender pay gap; women in sport; the very low incidence of convictions for rape; domestic abuse; pension pots; carers; and young women victims. It has been a really good debate in that sense, but I think we all recognise through the debate that we still have a long way to go.

There is no doubt that we are getting there. There have been many improvements in women's lives. Certainly since 1918, when women first got the vote, we have seen a gradual increase of women in political and public life, although we know that there are still many barriers. That is something that we will no doubt come back to, but we all know what the campaign is and we will keep on.

It has been great to hear women and men with experience speaking in this debate today. I thank your Lordships very much.

Motion agreed.

Royal Assent

2.18 pm

The following Acts were given Royal Assent:

Supply and Appropriation (Main Estimates) Act,
Energy (Oil and Gas) Profits Levy Act.

China

Question for Short Debate

2.18 pm

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government what steps they will take to respond to the long-term security challenges posed by China.

Lord West of Spithead (Lab): My Lords, the Chinese threat and the actions we need to take to counter it have been brought to prominence by two recent events. First, in June, the declaration agreed at the NATO Heads of Government summit in Madrid, referring to the specific threat posed by China and establishing a new strategic concept, said:

> "The People's Republic of China's … stated ambitions and coercive policies challenge our interests, security and values. The PRC employs a broad range of political, economic and military tools to increase its global footprint and project power, while remaining opaque about its strategy, intentions and military build-up. The PRC's malicious hybrid and cyber operations and its confrontational rhetoric and disinformation target Allies and harm Alliance security. The PRC seeks to control key technological and industrial sectors, critical infrastructure, and strategic materials and supply chains."

That is pretty damning stuff but a good reflection of Chinese behaviour over many years, despite Prime Minister Cameron's good but somewhat naive push in 2015 to befriend China, encouraging trade and business investment with it.

The second event was the unprecedented MI5 and FBI joint address on the threat from China on 6 July this year. The FBI director said China presented an immense threat— indeed, the

> "biggest long-term threat to our economic and national security".

The director-general of MI5, Ken McCallum, said the most "game-changing challenge" came from the Chinese Communist Party. In particular, he referred to the surge in illegal procurement of

> "tech, AI, advanced research or product development".

He said that MI5 had

"doubled … previously-constrained effort against Chinese activity of concern"

and is

"running seven times as many investigations"

into Chinese threats compared to 2018. However, these two events just emphasise something we were already aware of. There have been numerous actions by China over several years that are of concern, and China has steadily become more assertive and dangerous. Let us list some of them.

As CDI in 2000 on a visit to China, I was instructed to give a warning to my opposite number that they should stop using cyber techniques to steal our intellectual property—which they were doing on a vast scale. Unsurprisingly, my interlocutor denied that it was happening, although, interestingly, later that day it stopped and did not start again until I left five days later. Since then, it has been done on an ever greater scale. There are about 40,000 Chinese working in the area of cyber to do things such as stealing IP; it is unbelievable.

Then there is the belt and road initiative, which is clearly aimed at gaining control of vulnerable countries—we mentioned Sri Lanka and its port, but this is happening all around the world—and opening up grand strategic options for the Chinese. There is also the deepening of the strategic partnership with Russia and attempts—there is no doubt they are trying to do this—to undercut the rules-based international order because it does not suit China. They are both attempting to do that.

There are actions that have led to democratic regression in south-east Asia. There have been threats of activity on the Indo-Chinese border and threats to maritime security in the Indo-Pacific region, including in the Korean peninsula, Taiwan, the East China Sea and the South China Sea. Noble Lords will be interested to know that I am not going to bang on about maritime issues and demand more ships.

Noble Lords: Oh!

Lord West of Spithead (Lab): Mind you, we do need them—but that is a different issue.

We will move on to the erosion of China's "one country, two systems" policy towards Hong Kong, which is extremely worrying. I note it has come to the attention of this House a number of times. There is the human rights abuse of the Uighur community in Xinjiang, which is a terrible situation. There are also broader security challenges related to climate change, including increased food and water insecurity, and—particularly in central Asia—forced migration and displacement.

It is hardly surprising that there was action, if somewhat late, over the involvement of Huawei in our 5G plans based on all these aspects and, more generally, concern over the takeover of UK-based technology firms by Chinese companies. Of course, the Chinese also have huge involvement in our nuclear programme. There are concerns about Hikvision; I said that I was very surprised that we were going to establish it on the Parliamentary Estate. From cameras such as those you can get amazing intelligence, which I know from my intelligence background.

This is all symptomatic of our conflicted relationship with China. We have still not resolved how we wish to deal with it and we need to do so quickly. Xi Jinping has articulated very clearly that he has a very clear agenda for China to become the most powerful nation on earth, setting its own rules for global behaviour. What is clear is that the integrated review provided no guidance on balancing ambition for increased economic engagement with China with the need to protect the UK's wider interests and values.

The Lords International Relations and Defence Committee recommended that the Government publish a strategy on China. May I ask the Minister whether now, in view of the NATO conference, warnings and all these other things, such a document will be produced? There is no doubt that clarity is required, as uncertainty is damaging to businesses and detrimental to our partnerships and alliances in the region.

On the subject of agreements and alliances, I welcomed the recent AUKUS agreement, which gave China a clear message of intent. I have to say that there are some huge question marks over the cost of a nuclear submarine programme for Australia, but I will put that to one side.

The UK is already part of the Five Power Defence Arrangements between Australia, Malaysia, New Zealand and Singapore. That is something we have in the Far East, where no other European has something similar. We have also recently joined the Partners in the Blue Pacific with Australia, Japan and New Zealand.

China's behaviour needs to be confronted, not least its establishment of a base on a South Pacific island, for instance. Why would it do that? No wonder the Australians are concerned. The Indo-Pacific Quad is a significant new alliance. Is there any intention for the UK to join the Quad?

My concern is that although we are beginning to understand more completely the threat presented by China, we are constrained because of its economic importance. China is not an immediate real and present danger like Russia, whose dreadful actions present a real possibility of world war by miscalculation in the near term. As an aside, wars tend to happen in August, as do international crises, and I am pretty worried that we do not have a proper Government at this stage. In the long term, however, China is far more dangerous. Unlike most, I do not think the current war in Europe means that the Chinese will invade Taiwan barring some very dramatic change. I have spoken to Chinese leaders over the years, and know that they have seen the outcome of wars as far too unpredictable. Putin told Xi Jinping that his attack on Ukraine would not be unpredictable, and it has proved very clearly that the Chinese are right in their assessment that wars are unpredictable. However, they believe time is on their side and world hegemony assured. They have been building up large armed forces, and they will be willing to use them unless confronted by proper alliances. It is crucial, I believe, that we have a clear road map of how we counter this Chinese ambition.

2.27 pm

Lord Howell of Guildford (Con): My Lords, I congratulate the noble Lord, Lord West, on bringing us this short debate on an enormous subject. He really

[LORD HOWELL OF GUILDFORD]
is one of the few experts in this field who understands the new realities. I am afraid it is rather few as well; we need more debate and more understanding.

I will make two quick points in the limited time. First, we should be far more aware of Chinese encroachment on Commonwealth member states—and others of course, but particularly Commonwealth member states—in the global south, Africa, the coastal states and the Caribbean. In the South Seas, their wish to have a naval base in the Solomons Islands is just the latest example. This involvement is not just commercial—unrepayable loans, infrastructure and so on—it is becoming military as well, with officer training and weapons training. This has security implications for this country.

Secondly, China now controls port facilities in 53 countries round the world, and has belt and road initiative memorandums of understanding with 141 countries, including 38 Commonwealth members. As part of its desire for hegemonic control of Asia, and getting the Americans, whom they loathe, out, it is eyeing the Taiwan takeover opportunity and assessing whether Ukraine is an encouragement or a reason for delay—fascinating scenes. There is also, as the noble Lord reminded us, the Chinese hacking activity. Military intelligence people now tell us that it exceeds those of all other countries combined. This is a part of the invisible war. The war in Ukraine is very visible and very primitive. Maybe it is the last of its kind—who knows? Meanwhile, quiet, invisible wars are taking place and beginning to undermine our structure and our desire to reposition ourselves in an entirely changed world.

I am not Sinophobic, but we are heading for major foreign policy failure if we ignore these developments and allow the Commonwealth network—a worldwide alliance of like-minded countries—to crumble away and align itself with autocracies and those who flout international law.

2.30 pm

Lord Alton of Liverpool (CB): My Lords, I refer the House to my relevant non-financial interests.

If we look through the lens of Tibet, Taiwan, Hong Kong, Wuhan or Xinjiang or through the lens of Xi Jinping's support for Putin in Ukraine, we see that the security threat posed by the CCP is both stark and self-evident. Let us consider, as the noble Lord, Lord West of Spithead, has invited us to do, the stark and unprecedented public warning from the director of MI5 and the FBI director last week, which stated that the Chinese Communist Party is

"covertly applying pressure across the globe",

including through "covert theft", "technology transfers" and "interference" in our political systems. Such interference was illustrated by the case of Christine Lee, the Chinese spy, who sought to influence Members of this very Parliament, boasting that she had even secured amendments to a Bill before this House. It is just the subversive tip of an iceberg.

Too many among the political and business elites have naively considered the CCP and Chinese state-owned enterprises as benign, welcoming unprecedented levels of Chinese investment into strategic sectors of our economy and research partnerships with institutions linked to the People's Liberation Army, and even considering a free trade agreement between the UK and China. This week alone, Treasury officials were reported to be scrambling to ensure the restart of the UK-China Economic and Financial Dialogue, despite Parliament and the Foreign Secretary stating that China's treatment of the Uighurs is "genocide".

Take public procurement. In a variety of sectors, we are far too dependent on Chinese companies, from NHS PPE to surveillance technology cameras in numerous government departments. The Cabinet Office told me that there are more than 1 million Hikvision cameras, referred to by the noble Lord, in the United Kingdom. This is a Chinese company that the Government openly admit is a security risk, that receives nearly half its funding from the state and that has been blacklisted in the USA—our Five Eyes ally—for its active complicity in gross human rights violations in Xinjiang.

Then there are long-term security concerns regarding Chinese takeovers of strategic UK industries, from the attempted takeover of the UK's biggest manufacturer of semi-conductors, Newport Wafer Fab, to that of the graphene maker Perpetuus. We must strengthen resilience, protect cutting-edge technology and safeguard our research facilities. Universities must get off the gravy train and be more vigilant about their partnerships and theft of sensitive academic research. It is indefensible—even worse, a betrayal of our national interests—for UK universities to be working with, and providing sensitive research on, hypersonic missiles to companies and research institutions linked to the People's Liberation Army.

We are all grateful to the noble Lord. I hope that the International Relations and Defence Select Committee report to which he referred will be the subject of a debate in your Lordships' House soon.

2.32 pm

The Lord Bishop of St Albans: My Lords, I have spoken on numerous occasions about the ongoing tragedy in Xinjiang province. I have also spoken on various occasions about the worrying issues of surveillance and hacking of businesses and individuals in this country. It is very helpful to hear other noble Lords picking up on some of them. However, in the very limited time I have, I want to make a few comments building on some of those made by the noble Lord, Lord Howell of Guildford, about China's relationship with the Commonwealth. In particular, I want to focus on the soft power which maintains strong international bonds, bolsters our influence in the world and commends our western culture, rooted in an understanding which draws on Christian tradition.

Last year, Barbados decided to end its ties with the monarchy. The chair of the UK Foreign Affairs Select Committee noted:

"China has been using infrastructure investment and debt diplomacy as a means of control"—

he was referring to Barbados. In April this year, the Solomon Islands signed a security pact that could pave the way for a Chinese naval base there. China is also increasing its investment in Papua New Guinea

with the recent $30 million purchase of a special economic zone. These events are happening at a time when we have cut our international aid—our practical involvement with many countries in great need of support. Surely this is the very time when we need to increase our involvement in the wider world and in the Commonwealth, to nurture strong relationships, not least through increasing the number of students and looking at trade. That helps those countries which, if we do not work with them, will look elsewhere, and China is all too ready to respond to the opportunities. This is particularly true and important in the South Pacific, where the ability to project naval dominance holds the key to curbing China's ambitions in relation to Taiwan and the South China Sea. I therefore ask the Minister: what is the UK, alongside its allies the USA, Australia and New Zealand, actively doing to counter Chinese influence in these nations?

2.35 pm

Baroness Meyer (Con): My Lords, we are still waiting for the Government's strategy for managing relations with China. I know that it is complicated because China is, at the same time, a partner, a competitor and an adversary. It invests in our airports, microchip companies and universities, but it challenges our values at every turn.

Earlier this month, the heads of MI5 and the FBI said that China was an "immense" threat. It is not hard to see why: China seeks to replace the US as the dominant superpower, it has suppressed democracy in Hong Kong and it supports the Russian invasion of Ukraine. A key reason for maintaining Western solidarity in the face of Russian aggression is to make Ukraine a deterrent to, not an incentive for, any Chinese attack on Taiwan.

We have allowed China to worm its way into the inner workings of British life. We have all heard of Huawei's grip on the manufacture of equipment for UK communications companies. Something similar has happened with our surveillance cameras: as we have heard earlier, there are approximately six million CCTV cameras in the UK and most of these are supplied by Chinese companies to public bodies. I do not have to spell out the dangers, but we can do something about it. Last year, the US Government banned federal agencies from installing equipment supplied by Hikvision and other Chinese companies. I therefore welcome the recent banning of Hikvision from competing for new business in the Department of Health and Social Care. Can my noble friend the Minister reassure this House that this is part of a coherent strategy across the Government and not just a piecemeal reaction to the concerns of that department?

2.38 pm

Lord Anderson of Swansea (Lab): I congratulate my noble friend on his prescience because there have been two unprecedented events recently, one of which was the reference to the threat from China in the NATO strategic concept set out in Madrid and the other was the similarly unprecedented appeal by the FBI and our own MI5. This puts us on guard. There has been a certain naivety in our attitude to China in the past—I think of George Osborne's view of China's "golden era" in 2015. Since that time when agreements were made, there have been the threats and takeover in Hong Kong, the situation with the Uighurs, which has already been mentioned, and the general threats of Chinese malign activity that have been revealed. Surely a wake-up process is now under way.

This sadly comes at a time when much of our attention has been focused on the attack on Ukraine. We hope that President Xi will perhaps see the robust response in terms of sanctions and feed that into his own calculations on Taiwan.

That said, we must recognise that there is a certain professional deformation in the response of our securocrats in the FBI and MI5. There is a much broader canvas in terms of China; this was recognised in the integrated review, of which I commend page 26 to your Lordships. The IRDC report, which my noble friend referred to, called for a "coherent strategy" regarding China.

In terms of understanding China, I think, for example, of our response in the early 1960s to Russia, when we had the Hayter report on an increased focus in our universities. Of course, it is not only in terms of industry, but also in our universities, where we must look at the China question. We know, for example, that there are now 144,000 Chinese students in the UK—a 50% increase in five years—and they are studying applied science, not chorus endings from Euripides. In short, yes, we need vigilance, but we also need balance and a better understanding of the middle kingdom—China. President Johnson once said of another relationship, "Keep your hand out, but your guard up". I know this is a difficult posture, but I would commend it to your Lordships.

2.41 pm

Viscount Waverley (CB): My Lords, today takes us back to the report last September, *The UK and China's security and trade relationship: A strategic void*. It says it all: a singular lack of understanding of China, its mentality and future plans.

Indicators point, I fear, to China triggering an invasion of Taiwan to assert its one-China policy. This presents two conundrums: first, Taiwan having been delisted as a UN nation state in 1979 and, secondly, liberal democracies believing that steps to strengthen relations with Taiwan would instigate retaliatory measures from Beijing. The ripple effects that would extend across the region, however, should not be underestimated, with China having to spend years pacifying Taiwan, both militarily and politically. China must believe that sanctions represent deterrence and an existential economic threat by Western countries curtailing trade while being challenged in parallel to protect vital logistical supply routes before China ends dollar-based transactions.

The US maintains a position of strategic ambiguity. It pursues a deterrence and reassurance strategy and deliberates on how to reduce the possibility of war by exploring conflict contingency plans, notwithstanding the Taiwan Relations Act, by which the US provides Taiwan with defensive capabilities. It juggles that by leading in the applying of economic, political and cultural sanctions, with the retaliatory freezing of Chinese assets, confiscation of Chinese-origin organisations and decoupling of information technology companies.

[VISCOUNT WAVERLEY]

Sanctions are not the only deterrent, however. Any invasion would hinge on intricate military and logistical planning, requiring an amphibious assault across the large sea gap to reach Taiwan. It is fortified by heavily forested mountain ridges running the length of the island and is, crucially, mostly urban, which would present China's forces with significant losses. China would likely resort to activating kinetic strikes using long range hypersonic ballistic weaponry with the spectre of threatening to go nuclear or, at the very least, escalating cyberspace activity and targeting a range of critical Western infrastructure by secretly deploying Trojan horse missiles in shipping containers positioned in Western ports.

Concluding on a less gloomy note however, a window still exists to pour oil on troubled waters, but Western policymakers and diplomats need to up the game and face the gravity of the situation with a supercharged, innovative carrot-and-stick strategy. I have just one question, which follows the initial remarks of the noble Lord, Lord West. The other day, I asked for comment on the background to NATO leaders agreeing to a

"strategic concept, which addresses China and its systematic challenges to collective security"—[*Official Report*, 7/7/22; col. 1151.]

at the recent NATO summit. Was the statement designed to be ambiguous?

2.44 pm

Lord Desai (Non-Afl): My Lords, the Chinese have a long memory. We have to cultivate the same sort of long memory; that will be one very important weapon if we are going to fight the Chinese. First, they all remember the opium wars, because before that China was practically the number one country in the world, and they want to get back to that time.

I think we occasionally have to do a sort of role-playing. Suppose I was China—how would I feel about Taiwan? Why would I accept that Taiwan is an independent country of any sort, and why should anybody think that it does not belong to China? I see no reason for that view if we look at it from the British point of view of its being a British province or island, and another country is pretending that it belongs to it. I am saying all this because we have to remember that the Chinese do think differently, and they are not going to go away.

Secondly, look at the contrast between the Soviet Union, which tried to establish a powerful league of friendly nations, and China. China has obviously thought about all the Soviet Union's defects very carefully and built its camp not on ideology or preaching Marxism but on giving money to other countries and getting them into debt with China—originally on very friendly terms but ultimately, it is quite ruthless at capturing those debts.

Thirdly, China has not rejected capitalism like the Soviet Union did. It has not only adopted capitalism but invested massively in cybertechnology, artificial intelligence and all the new directions of science. We should take China seriously, and I advise Her Majesty's Government to carry out this role-playing exercise, which will tell us how the Chinese are likely to think about the challenges we pose to them.

I end with this. France was our enemy between, let us say, 1750 and 1850, and later on became a friend, while Germany became our enemy. The same situation exists between us and Russia and us and China: Russia will very soon stop being effective, and China will continue to be the enemy.

2.47 pm

Lord Foulkes of Cumnock (Lab Co-op): My Lords, we should all be grateful to my noble friend Lord West for initiating this long-overdue debate. As he said, the directors of MI5 and the FBI pointed out in that unprecedented speech that our traditional defence architecture is no longer suitable for dealing with the major threats from China, because although it is developing its weapons, its major threats are hacking, as has already been said, and economic coercion.

On the hacking front, it is vital that we continue to invest heavily in cybersecurity. As others have said, we must make sure that any Chinese investment in our technology sector undergoes thorough scrutiny, and, wherever possible, reliance on Chinese technology in essential industries should be kept to an absolute minimum—if not kept out altogether.

The war in Ukraine has highlighted the dangers of any form of dependence on authoritarian regimes, so we should be concerned that in 2021 we ran a total trade deficit with China which amounted to just over £30 billion, making China our third largest trading partner. As has already been mentioned, while much of the recent debate around dodgy London property owners has understandably focused on Russian oligarchs, China continues to quietly buy up the city. Over 200,000 London-based properties are owned by Chinese buyers. As the noble Baroness, Lady Meyer, rightly said, we sometimes forget that Chinese investors own British football clubs, airports, landmarks such as the Cheesegrater and, even more worryingly, strategically important infrastructure in our oil, gas, water and nuclear industries.

One of the many unfortunate consequences of Brexit is that we are now in a less favourable position when it comes to picking trading partners. But if you compare UK regulations to the strict FDI laws that operate in China, we should be tightening our restrictions on Chinese investment, even in non-strategic industries, as China could use this as leverage in areas such as climate change.

As my noble friend Lord West said, a new approach to UK-China relations is long overdue. When was the last one? The last clearly defined strategy paper was published by Labour in 2009; that shows how long overdue this is. One point I want to raise is that we need more British people, such as graduates, speaking Chinese and understanding China and its civilisation a lot better. This begins in the classroom with the promotion of Mandarin and lessons about Chinese civilisation and other similar subjects. I hope that the Minister will agree to tighten regulation of Chinese investment in this country, and that he will support a nationwide attempt to build a China-literate and China-aware workforce through increased education programmes at school level and across all government departments.

2.50 pm

Lord Rogan (UUP): My Lords, I too congratulate the noble Lord, Lord West, on securing this timely debate, in which I declare an interest as the proud co-chair of the British-Taiwanese All-Party Parliamentary Group.

Taiwan is a country that I have visited many times since 1972. I have always been impressed by the kindness, generosity and dignity of its people. However, it is a land that feels under constant siege because of the aggressive words and actions of China. Beijing has increased the number and scale of patrols of bombers, fighter jets and surveillance aircraft in Taiwanese airspace and close to Taiwan itself. It has sailed its warships and aircraft carriers through the Taiwan Strait in shows of force. As the noble Viscount, Lord Waverley, alluded to, it has also launched thousands of cyberattacks against Taiwanese government agencies, with new assaults coming every day. The authoritarian Chinese regime hates the freedoms enjoyed by the people of Taiwan. By his aggressive actions, Xi Jinping believes that he can wear down the population and lead them to conclude that unification with China is in their best interests. I must tell your Lordships that he is very much mistaken.

I regard it as shameful that the United Kingdom does not recognise Taiwan as a state and has no diplomatic relations with the country. We must ask why. Is it because successive UK Governments have chosen to placate the dictators in Beijing rather than stand up to them? However, despite this, China has continued to sabre-rattle and issue thinly veiled threats to attack Taiwan. Only last Thursday, a Chinese official told a government-controlled newspaper that "reunification" of the two countries was approaching.

His comments were made 24 hours before the assassination of the former Japanese Prime Minister, one of the most ardent opponents of Chinese militarisation in the Pacific and a great friend to the people of Taiwan. Shinzo Abe's funeral was held on Tuesday but, rather than express condolences on his passing, Beijing lodged "stern representations" with the Japanese Government in protest at the attendance of Taiwan's vice-president, William Lai. A Chinese foreign ministry spokesman claimed that Taiwan is a part of China and

"does not have a so-called vice-president."

Shinzo Abe's stance on the security threat posed by China was both admirable and correct. As the contest to choose a new UK Prime Minister continues, I hope that the victorious candidate, whoever he or she may be, chooses to follow the strong lead on China of Shinzo Abe rather than the somewhat weaker position adopted by recent occupants of Downing Street.

2.53 pm

Lord Cormack (Con): My Lords, we are all very much in the debt of the noble Lord, Lord West, but this must be a prelude to a proper debate on one of the most important subjects before the world. I urge my noble friend the Deputy Chief Whip, who is sitting on the Front Bench, to take this message from this debate: we must have a full debate on China very soon. Indeed, with all the expertise in your Lordships' House, we need more foreign affairs debates.

It is often said that democracies think in terms of the next election, despotisms in decades. The real problem here, as was referred to by the noble Lord, Lord Foulkes, is that we do not have a strategy. We must decide whether we wish to continue to be a world power. If we do, those who wish the ends must wish the means. This issue needs to be at the very top of the new Prime Minister's agenda, whenever he or she takes office, which I hope is in the next week or so: do we wish to be a world power?

The noble Lord, Lord Anderson, referred to how we are cross-party. The noble Lord, Lord Collins, referred earlier to how the Opposition totally support us on Ukraine. We need a national council, consisting not only of the Prime Minister and inner members of the Cabinet but of the leader of the Opposition and others from the other side of the House, so that we can plan a strategy together that we know will be supported by both. There is no point in thinking merely in terms of the next election; we too have to think in terms of decades.

The Chinese have been doing that, with their belt and road policy, by taking an option on a port in the Solomon Islands and by taking over Piraeus in Greece. We need an effective answer, spearheaded by the Government and supported by the Opposition, and we need to discuss it fully in your Lordships' House.

2.56 pm

Lord Liddle (Lab): My Lords, I commend my noble friend Lord West on procuring this debate and I wholly agree with what the noble Lord, Lord Cormack, just said about the need for a much deeper discussion of these issues. My own two-pennorth is a plea for a little nuance in this discussion of China. Yes, it is an autocracy and does terrible things. Yes, it is investing massively in military force and, yes, we have to be wary of its technological ambitions. But we should not lump it together with Russia. It is not like Russia.

In my view, the legitimacy of the Chinese regime fundamentally depends on its continued success in raising living standards at home, and that depends on its continued engagement with the world economy. The West should continue to engage with the Chinese to manage globalisation better. For example, without Chinese involvement we will make no fundamental progress on the crucial question of climate change.

I do not want to see an attempt to isolate China in order, as it were, to start a new Cold War. I do not agree with that. When I was chair of Lancaster University, I supported investments in Chinese campuses and promoted, along with my council and the noble Baroness, Lady Neville-Jones, a lot of Chinese students coming to our university.

The second point of nuance that I would like to make is that we have to be realistic about our defence commitments as a country. I am a strong supporter of an increase in the defence budget, but I remember the Labour Government having the debate, back in the 1960s, about withdrawing east of Suez. Do you know how much we were spending on defence in 1968? We were spending 5.9% of our GDP to maintain that global defence role. I ask Members of this House whether, in our present reduced economic state, we

[LORD LIDDLE]
really think Britain is in a position to go back to that level of global defence commitment. We have to be very careful about what commitments we make.

3 pm

Lord Collins of Highbury (Lab): My Lords, I, too, thank my noble friend for initiating this short but vital debate. Increased aggressive rhetoric combined with human rights abuses in Hong Kong and Xinjiang illustrate the long-term security challenges which the Government of China pose. It is now clear that President Xi is intent on controlling Taiwan in some form, even if he is reluctant to go to war like Putin has in Ukraine. Our relationship with China must therefore centre on pragmatism and be alert to the security risks which it poses.

I was very pleased to read the report by the International Relations and Defence Committee, published last year, which laid out the clear case for a consistent written strategy setting out the Government's security relationship with China. As long as Ministers maintain their policy of ambiguity, we cannot be confident that they are properly balancing the need for economic engagement with the importance of the UK's interests and values. Unfortunately, the response to the report gave no further indication of a wide-ranging strategy—far from it. Instead, there were only piecemeal points about the UK's interests and values. It focused on things such as it being important to avoid strategic dependency on China.

The Government argued that the National Security Council provided a clear direction for the their China policy and that it was supported by the work of the integrated review. I have no criticisms of the direction of the pathway of the integrated review, although we have some issues in terms of the tilt in the light of Russian aggression. I agree with the noble Baroness, Lady Anelay, who wrote a follow-up letter in which she said that the ambiguity and uncertainty was

"damaging to businesses and detrimental to our partnerships and alliances in the region".

In particular she wrote that it was unclear how the Government intended to balance human rights issues with its economic relationship with China,

and

"how it will prioritise when these considerations clash."

In response to the noble Baroness, Lady Anelay, Amanda Milling said:

"We will uphold our values and protect our national security while promoting a positive and reliable trading relationship."

Can the Minister tell us exactly what is the extensive programme of engagement with UK businesses to ensure that the UK's policy is fully understood? I think most noble Lords want to hear from the Minister some concrete examples.

3.03 pm

Lord Sharpe of Epsom (Con): My Lords, I join other noble Lords in thanking the noble Lord, Lord West of Spithead, for tabling this debate, and I thank all noble Lords for their insightful contributions.

Before I respond to the points raised during this debate, I have to declare an interest. I lived in Hong Kong for the best part of a decade and I am a former member of the APPG on Hong Kong. I should also say at the outset that, when I refer to China in this debate, I am referring specifically to the Chinese authorities and not to the Chinese people. The noble Lord, Lord Liddle, made a similar point in his remarks.

My noble friend Lord Howell made the fair point that this is an enormous subject. He is obviously quite right. It will be difficult to do justice to all the contributions in the short time I am allowed, but I will study *Hansard* and if I miss anything I commit to write.

The scale and reach of China's economy, the size of its population, the speed of its technological advancement and its increasing ambition to project its influence on the global stage have profound implications worldwide, including for UK interests. The UK's integrated review of security, defence, development and foreign policy sets out the Government's commitment to respond to the systemic challenge that China poses to our security, prosperity and values and those of our allies and partners. At the same time, we are committed to maintaining a robust but functioning relationship. We must try to manage disagreements and preserve space to engage where our interests align.

My friend the right reverend Prelate the Bishop of St Albans asked about the economic and financial dialogue. No date has been agreed for it. Arrangements for it sit within the Treasury.

We are both permanent members of the UN Security Council, and members of the G20. There are mutually beneficial reasons for us to work together, from increasing trade and co-operation in science and innovation to tackling climate change and rebuilding the global economy. As we work to understand and respond to the long-term security challenges arising from China's increasing assertiveness and the modernisation of its military, we are in good company. As many noble Lords noted, including the noble Lords, Lord West, Lord Alton and Lord Foulkes of Cumnock, there was an unprecedented joint address by MI5 and FBI heads in the last couple of weeks, I think it was. They have a mandate to speak out about threats to our countries and there are serious and well-evidenced concerns. The speech was clear that engaging China is in the UK's interest. We want UK organisations to be able to engage safely, and they can do so only if they are aware of the potential risks arising from China's actions.

As the noble Lord, Lord West, noted, in June the Prime Minister joined other NATO leaders to sign off a new NATO strategic concept. To answer the noble Viscount, Lord Waverley, I do not think it is ambiguous. For the first time, it recognises that China's ambitions and coercive policies challenge the alliance's interests, security and values. The Prime Minister also met G7 leaders in June, when they renewed their commitment to stand up to China's efforts to undermine freedom, human rights, and the rules-based international system. For China to be a responsible power requires transparency, good faith and confidence building, and maintaining lines of communication in order to maintain stability and reduce tensions. We encourage China to take its international responsibilities seriously; for example, engagement as one of the permanent members of the Security Council in the P5 nuclear risk reduction process.

The integrated review sets out the Government's commitment to reduce our vulnerabilities and improve our resilience to persistent threats. Most noble Lords referred to the specific issue of a published strategy. Our approach to China is co-ordinated across government. The FCDO is at the heart of the cross-Whitehall strategic approach to China, but led by the National Security Council, as referenced by the noble Lord, Lord Collins. The integrated review highlights that we will do more to adapt to China's growing impact, managing disagreements, defending our values and co-operating where our interests align, but it remains the case that we do not publish NSC strategies on China or other issues. We continue to implement a comprehensive and co-ordinated approach to China, which identifies and pursues UK interests in these areas, engaging international partners as we do so.

A number of noble Lords, including, powerfully, I thought, the noble Lords, Lord Rogan and Lord Collins, mentioned Taiwan. The UK, like our international partners, has a clear interest in enduring peace and stability in the Taiwan Strait. The UK's long-standing position on Taiwan has not changed, as the Prime Minister and Foreign Secretary have made clear. The numerous Chinese military flights that have taken place near Taiwan recently are not conducive to regional peace and stability. We consider the Taiwan issue one to be settled peacefully by the people on both sides of the Taiwan Strait through constructive dialogue, without the threat or use of force or coercion. In June, G7 leaders confirmed their shared perspective on this issue. We support Taiwan's meaningful participation in international organisations as a member where statehood is not a prerequisite, and as an observer or guest where it is; for example, at the World Health Organization.

The noble Lord, Lord West, and the right reverend Prelate the Bishop of St Albans asked some very pertinent questions around issues in the South China Sea. We remain seriously concerned by militarisation, coercion and intimidation in the South China Sea, and we are opposed to action that raises tensions. We believe in the primacy of the UN Convention on the Law of the Sea, and in freedom of navigation and overflight. We are clear that the UN Convention on the Law of the Sea is the legal framework for all activities in the oceans and seas. That is why we set out our full legal position on the UN Convention on the Law of the Sea and the South China Sea to Parliament in September 2020. We have objected to China's claims based on the so-called nine-dash line, and the "offshore archipelagos" concept, and believe they are unfounded in UNCLOS. We agree with the findings of the 2016 South China Sea Arbitral Award in this respect and we are supporting ASEAN partners to strengthen maritime law and security capacity, including by delivering law of the sea training in February.

The Royal Navy, as the noble Lord, Lord West, will be delighted to hear, continues to operate in the South China Sea and the wider region, with the Carrier Strike Group having navigated the South China Sea in July and October last year. Building on this deployment, HMS "Spey" and HMS "Tamar" have established a permanent Royal Navy presence in the Indo-Pacific. They have also operated in and around the South China Sea and have been working hard to deepen our relationships with allies and partners throughout the region.

I turn to China's economic and political influence around the world. It is an authoritarian state, with different values from our own. Our aim is to bring more countries into the orbit of free-market economies. We have launched British investment partnerships as part of the international development strategy, which will contribute to the G7 partnership for global infrastructure and investment. We aim to mobilise up to £8 billion of UK-backed financing a year by 2025, including from investors in the private sector. Additionally, we will invest £1.5 billion to £2 billion a year through British international investment in private sector companies, expanding into the Indo-Pacific and the Caribbean.

A couple of noble Lords referred specifically to the Solomon Islands. As I think I referenced earlier, the UK is committed to and strategically focused on the Indo-Pacific region, as set out in the integrated review. As a long-standing partner and friend, the UK works to support peace and prosperity for the people of the Solomon Islands and across the Pacific region. Our recent deployment of the UK Emergency Medical Team demonstrates our commitment to the Solomons.

We have also taken steps to protect domestic security and increase our resilience. These measures are not targeted at China specifically; they shield us from all potential external threats. We have introduced the National Security and Investment Act to prevent predatory investment that undermines our national security. The noble Lords, Lord West and Lord Alton, and my noble friend Lady Meyer addressed the domestic operations of certain Chinese companies. The National Security Bill will make it even harder for states to commit hostile acts against the UK. In specific answer to the noble Lord, Lord Alton, as he will know, the Business Secretary has decided to call in the acquisition by Nexperia of Newport Wafer Fab for a full national security assessment.

The National Security Bill will modernise our counter-espionage laws and provide our world-class law enforcement and intelligence agencies with new tools to protect us from evolving threats, including from China. It is worth pointing out that we have also enhanced export controls and strengthened measures, including visa vetting, to prevent the transfer of sensitive technologies through academic collaboration.

A number of noble Lords asked about Hikvision cameras. As we have said before, we take the security of our citizens' systems and establishments extremely seriously and have a range of measures in place to scrutinise the integrity of our arrangements. It remains our long-standing policy not to comment on the detail of those arrangements, but I can say that we are taking robust action to help ensure that UK businesses and the public sector are not complicit in the human rights violations occurring in Xinjiang.

The noble Lord, Lord Foulkes, asked about the extent of the economic threat from China; in particular, coercion. China's scale of economy, population and ambition means that it will contribute more to global growth than any other country, but it also presents the

[LORD SHARPE OF EPSOM]
biggest state-based threat to the UK's economic security. As an open economy, we welcome foreign trade and investment, including from China, where it supports UK jobs and growth in non-strategic areas, but we will not accept investments which compromise our national security and must make sure that trade is reliable and avoids strategic dependency.

I am running out of time, so will try to race through the last couple of pages of my speech. On cyber, widespread and credible evidence demonstrates that malicious cyberactivity emanating from China poses a threat to UK security. In response to the various cyberthreats we face, we are pursuing a new £2.6 billion national cyber strategy, which will cement the UK's place as a leading cyber power. We will also continue to raise our concerns with China in private and call it out publicly, as we did alongside 38 like-minded partners in July 2021.

On all these issues, we will continue to co-operate with our allies and like-minded partners. As a European power with global reach, we will continue to play a leading role in the continent's security. Through our Indo-Pacific tilt, we will continue to deepen our ties with the region, as we have by obtaining ASEAN dialogue partner status and through our AUKUS relationship.

The noble Lord, Lord West, asked about membership of the IP Quad. The UK recognises the need to be flexible in building new partnerships in the region to realise opportunities and manage risks. The Indo-Pacific Quad is an important means for four of the UK's closest partners in the region—the US, Australia, India and Japan—to work together more closely. The UK is looking at options for closer practical co-operation with the Quad members in these areas, bilaterally and collectively, supplementing our important bilateral partnership.

My noble friend Lord Cormack made an extremely good point: this is a very large subject and deserves a much longer and wider debate. To conclude, the UK is well-prepared to respond to the long-term security challenges emanating from China; we have strong relationships, partnerships and alliances, including through the G7, NATO, ASEAN and other multilateral groups. We have strong security architecture to protect us as the threat from China and other states evolve. We have a permanent regional presence and growing ties in the Indo-Pacific. Underpinning all of those, we have a long-term strategic approach, as articulated in the integrated review. We believe that these collectively equip the UK to adapt to the changing international environment and to China's increasing international assertiveness.

Human Rights Act 1998
Motion to Take Note

3.16 pm

Moved by ***Baroness Whitaker***

To move that this House takes note of the practical impact of the Human Rights Act 1998.

Baroness Whitaker (Lab): My Lords, may I first acknowledge the contribution to human rights of my dear friend of many years, the noble Baroness, Lady Greengross, a founder member of our Equality and Human Rights Commission, whose work for the rights of older people, among others, was so very effective?

I am grateful for the opportunity to explore what the Human Rights Act 1998 has achieved by way of impact on ordinary people's lives—not, I hasten to say, as a legal expert, though I should perhaps declare that I have been a magistrate and a member of employment tribunals. More to the point, I am proud to be a member of the British Institute of Human Rights advisory board, and it is there that I have learned much about the very many examples of redress for breaches of human rights. What these amount to is, essentially, disregard for the dignity of our fellow citizens and a lack of respect for them on the part of public authorities. May I invite the Minister to congratulate the British Institute of Human Rights on the work it has done over the years to train public services in the application of the Human Rights Act to their functions?

I will first give some examples of what I mean by impact on people's lives. Secondly, I will say a few words about what the Human Rights Act has not done. I will conclude by suggesting some of the lasting principles that have informed the Human Rights Act. My remarks are premised on the assumption that, although professional lawyers and judges at every level are essential for the interpretation and implementation of law—we are lucky in this country to have such a distinguished and honourable corps of practitioners—the law is meant for people, for everyone, so that they should understand their obligations and be clear about what they are entitled to. It follows that law should be intelligible, as far as possible, and that redress should be accessible.

Some examples of what our domestic courts have achieved for people through the Human Rights Act are well known. We have heard about the elderly couple who had their wish to live in the same care home respected, that people must be allowed to wear religious symbols at work and that siblings should not be arbitrarily placed in separate, distant foster homes. Do we also all know that the police now have a positive obligation to protect women from domestic violence? This has achieved a change—somewhat—in police priorities and practice. There are several cases of children with learning disabilities who were subjected to damaging isolation, harsh restraints or unexplained evidence of violence, whose parents were able to use the Human Rights Act to obtain changes in their treatment, often resulting in an improvement in a child's behaviour. We should also remember the case of Corporal Anne-Marie Ellement, whose family were finally able to obtain a full investigation after she took her own life following rape and bullying; that of the incontinent patient forced to use a bucket to urinate in and carry it along the corridor to empty it herself; the safeguarding of trafficked children as a result of the 2013 case of L, HVN, T v R; the Northern Ireland decision that same-sex couples can adopt children; and the use of the right to be free of torture and inhuman and degrading treatment after tragic deaths in mental health institutions.

All these cases relied on the Human Rights Act to achieve lasting improvements in their situation. Is it really plausible that all the people bringing these cases

could have managed to get to Strasbourg for a hearing, also knowing that they would have to wait the customary four to five years? I suggest that the domestication of the rights in the European convention, through the Human Rights Act, was essential for justice to be done in these and many other cases.

I think it is important to remind ourselves that uses of the Human Rights Act do not necessarily involve going to court. One of the significant effects of domestic law is that well-meaning people—most people—want to comply. Carers have raised the specific human rights issues of their charges with the public service concerned, which has then responded positively. Conscientious public servants have been helped by discussions with, for instance, the British Institute of Human Rights to think again about how they can adapt their practice. The British Institute of Human Rights has trained over 40,000 people in the last 20 years in the application of the Act to their functions. I am reminded of the dictum of the great Sir Hersch Lauterpacht, the founder of the concept of crimes against humanity:

"the well-being of an individual is the … object of all law".

The law can achieve that by simply being there.

To take this down to specific instances, a housing association specialising in people with offender backgrounds has been able to reduce their violent behaviour and thus improve the safety of residents through training in interpretation of the Human Rights Act; young people in mental health institutions have similarly been protected from grooming while still having their mobile phones for access to their families; students have secured protection for girls against sexual harassment at school; countless advocates and carers, both volunteer and professional, have obtained the exercise of rights essential to well-being for the people they look after.

There are several things that the Human Rights Act has not done, however. It did not vindicate the relationship with a pet cat as a reason not to be deported, as a reading of the judgment will show, contrary to the claim made by Theresa May MP. Unlike the original *Daily Mail* story that a "suspected Iraqi insurgent" "caught red-handed with bomb" had won £33,000

"because our soldiers kept him in custody for too long",

the Iraqi, who was neither an insurgent nor a terrorist, and had no bomb, was unlawfully detained, beaten with rifle butts, punched in the face and subjected to sleep and sensory deprivation by soldiers while in custody. Fortunately, in this case, the *Daily Mail*, which had attributed its false interpretation to the Human Rights Act, was obliged by IPSO to make a full apology and retraction. The Human Rights Act has not supported a contention that a right to hardcore pornography exists for prisoners. There are quite a few other examples of these misleading and pernicious myths. Some of these centre on difficulties with understanding the import of Article 8, on the right to private, home and family life. This is an area where jurisprudence may be evolving—and we should try to clarify the balance that it is intended to strike.

There are some important principles in the Human Rights Act. Perhaps the first is that our judges have full discretion in determining human rights cases in the United Kingdom and the UK is the primary forum for deciding on the application of human rights to its citizens. Secondly, the Human Rights Act reflects the devolved settlement for the nations of the United Kingdom. This is of concern to the peace process in Northern Ireland. The noble and learned Lord, Lord Hope of Craighead, who regrets that he cannot take part, has encouraged me to point out that under the Scotland Act, which also gives effect to the convention rights, there is no wish to alter the arrangements and that any changes would, of course, need the consent of the Scottish Ministers. I hope that the Minister can give me the assurance that that consent would be sought.

The Human Rights Act has also been helpful in defining a public authority as one which carries out public functions. This inclusive definition acknowledges the public/private partnerships which underpin our modern public services. The Human Rights Act also establishes judicial discretion about decisions on whether the Government acted fairly in restricting our rights. It stipulates positive obligations to act in accordance with human rights, thus making them a reality, and to apply laws whenever possible in a way that upholds human rights, to underline the centrality of the interests of the individual citizen and to enable modern concepts such as belief to be understood together with religion; and, most significantly, by creating a system for hearing cases in the UK rather than in the Strasbourg court it enables access for all to justice. Domestic jurisprudence will encourage the development of clarity about proper limits to non-absolute rights, so that people can understand where the balance ought to be struck. So, while there is always room for updating, these are some of the principles of our modern legislation which should be maintained.

One other effect of having the Human Rights Act as part of domestic law deserves mention: the culture that it promulgates of respect for the dignity of our fellow citizens within public services. Sadly, this is not always present, not necessarily because of callousness but because the constraints felt even by dedicated public servants of expenditure, time and targets can be allowed to prevail over what should happen. The Human Rights Act is, in fact, often cited as a practical tool to support public services in their work. Thus, we are in a position to create public ownership of rights values. To entrench this, we need to teach and debate them in schools and in citizenship education generally. We can explore what the balance between conflicting rights should be and how responsibilities are a necessary corollary of rights. In a diverse society, with different faiths and backgrounds, we can cohere better around human rights.

There is another reason for promulgating a domestic human rights culture. In this country, we prefer to enable equality of opportunities rather than equality of outcomes. But the inadvertent consequence of that is that it assumes that those who fail to benefit from equal opportunities were simply not up to it and lacked the necessary qualities of one sort or another—it was their fault. We need a human rights culture to ensure that scorn for the failures in our society does not undermine a humane and compassionate approach. Respect for the individual human being is the core of human rights. Human rights are a recognition that everyone is of equal worth.

[Baroness Whitaker]

In conclusion, in his writings on the theory of justice, Amartya Sen quotes Pip in *Great Expectations*, that

"there is nothing… so finely felt as injustice."

Professor Sen adds,

"and there the search begins. The idea of justice calls for comparison of actual lives and iniquities."

That is what I hope an exploration of the impact of the Human Rights Act can uncover. I look forward with keen interest to the contribution of learned and distinguished speakers in this debate, and very much to the response of the noble and learned Lord, Lord Bellamy, whose speech in the crime reduction debate I very much admired.

3.30 pm

Lord Sandhurst (Con): My Lords, I welcome the chance to engage in this important debate on this important statute. I begin by declaring my interest as chair of research at the Society of Conservative Lawyers.

Experience of the Human Rights Act has revealed structural flaws that the Bill of Rights would go some way to remedying. Our time today is short, so I will focus on just three matters. The first is Section 2, which directs a court determining a question in connection with a convention right to "take into account" any judgment of the European Court of Human Rights. That has led to unfortunate results, with our courts sometimes doing more than just take account. As the noble and learned Lord, Lord Judge, said in a lecture in 2013, Section 2 should be amended to make it plain that in this jurisdiction, the United Kingdom, the Supreme Court is, at the very least, a court of equal standing. Thankfully, Clause 1 of the Bill of Rights addresses this.

Next, I turn to Section 3. Under this, our legislation must be interpreted as far as possible in a manner compatible with the convention. This displaced conventional approaches to statutory interpretation. The House of Lords in the case of Ghaidan made that worse. It held that this meant the court should adopt any possible interpretation of a statute to give effect in a way compatible with convention rights, even if "the interpretation is unreasonable". That is extraordinary.

This has led to strained interpretation, unintended by Parliament. Then, because the provision in question has not been ruled incompatible, as it could have been under Section 4, it is not sent back to Parliament to address. This has taken away from Parliament decisions that are rightly for it. Such decisions often involve balancing exercises. Our parliamentarians, for better or worse, represent society. They are likely to have access to information—and better information than people arguing it in the courts—about the issues involved to balance what matters.

Let me explain. Policy is essentially for those who make the law. Policy choices have to be made between compensating individuals and protecting the budgets of public services. Of its nature, a balancing exercise presupposes a situation in which the factors are not all one way. A stark example is the case of Quila, decided in 2011. In 2008, the Home Secretary changed the Immigration Rules to deter forced marriages. The change raised from 18 to 21 the minimum age of the person entitled to be granted the right to settle by reason of marriage.

The worthy aim was to deter forced marriages, but the Supreme Court found a violation of Article 8, the right to family life. It ruled that the interference with family life was not proportionate. One might feel, and I suggest, that there was scope for more than one view on this sensitive matter. The Home Secretary's policy was supported by 50% of the respondents to a government consultation and by the largest NGO concerned with the evil of forced marriages. That was a matter for Parliament, not for second guessing.

Finally, Section 12 has given insufficient weight to freedom of expression. Incorporation into domestic law of the two qualified rights, Articles 8 and 10, gave direct domestic effect to Article 8, creating a right to privacy. That has protected the rich and powerful with insufficient weight given to the public interest in free speech.

Fortunately, under the Bill of Rights and the forthcoming Higher Education (Freedom of Speech) Bill, free speech will be given greater weight, but I should add as a footnote that the Online Safety Bill will wrongly create a serious threat to free speech. What we can legally say or write, we shall be stopped from putting online—a strange concept of "legal and harmful".

Without leaving the convention, there is plenty to be done to improve its incorporation in domestic law.

3.35 pm

Baroness Warwick of Undercliffe (Lab): My Lords, I thank my noble friend for drawing attention to this important subject, and for finding an opportunity to note the many improvements to life in the UK brought about by the Human Rights Act 1998. Her comments are a timely reminder of how much the HRA has achieved for all UK citizens.

Unlike other distinguished contributors to this debate, I am far from being a legal expert. I come at it from a general sense that the HRA has had a positive and enlightening effect on the way the UK perceives justice and has had a particularly beneficial impact on public services. The HRA compels public organisations—the Government, the police and local councils—to treat everyone equally, with fairness, dignity and respect.

The HRA is now embedded in the work of public authorities. Instances of this have been highlighted by my noble friend, but I also note that it was a humans rights case that finally decriminalised male homosexual acts in Northern Ireland, in 1982, and it was a violation of human rights under the HRA that led to a change in UK law that allowed gay members of the Armed Forces to be open about their sexuality.

The HRA has achieved lasting improvement in individuals' lives by helping to develop an everyday human rights culture across the UK. It is not just the stuff of high-profile and often controversial court cases; indeed, it often acts to stop cases before they go to court. Despite that, criticism of and antipathy towards the HRA run throughout public and political discourse. I believe this to be misplaced. Indeed, when reading for this debate, it was instructive to see how much of the opposition to the HRA is based on

mythology. The noble Lord, Lord Pannick, highlighted this in his oral evidence to the Joint Committee on Human Rights earlier this month. He busted the myth that the HRA has reduced the power of Parliament to legislate as it sees fit. European Court of Human Rights judgments are not binding on our courts, so why do the Government feel the need to include provisions that assert parliamentary sovereignty in their proposed, and rather unhappily titled, Bill of Rights Bill? There is also a myth that, because of the HRA, courts may be interpreting laws in ways that were never intended by Parliament, thereby undermining parliamentary democracy. But what court judgments exist to give substance to that view?

As others have observed, much of the mythology surrounding the exercising of human rights stems from media misrepresentation, not least the tabloids' obsession with the HRA as a "chancers' charter". I can add to my noble friend's litany of things the HRA is not responsible for. The HRA is not the reason why the police cannot put up wanted posters. A UK judge on the European Court of Human Rights did not call for axe murderers to be given the vote; in fact, he said it was important for the UK to implement the Hirst judgment that the blanket ban on voting by convicted prisoners was unlawful. Myths about the HRA may start in the *Daily Mail* but they become part of the popular discourse about human rights. To counter that, we need a better understanding of our fundamental rights, how the UK's human rights framework works and how our rights are enforced.

An important recommendation from the independent HRA review was for an effective programme of civic and constitutional education on human rights and individual responsibilities. That was touched on recently in this House in an Oral Question on citizenship education, which in recent years has been allowed to fall away in our schools. We need to do better. Does the Minister agree that a good start would be to extend the statutory entitlement to citizenship education to primary schools?

The Human Rights Act helps to protect the most vulnerable in our communities, but it serves us all. How human rights are applied and how competing rights are balanced may vary depending on the context, but that does not affect their universal nature. Human rights apply to everyone. They are the deep foundations of our lives and of our laws, and they exist because of our humanity, not because of what we have done in our lives. Does the Minister agree that, much as my noble friend Lady Whitaker said, human rights recognise that everyone is of equal worth?

May I further ask the Minister whether, in these troubled times, when the UK is seeking to ask other countries to respect human rights and international law, he will acknowledge that many of the Bill of Rights proposals would put the UK in breach of its international obligations under the European Convention on Human Rights? That would be a shameful state of affairs.

3.40 pm

Baroness Ludford (LD): My Lords, I also thank the noble Baroness, Lady Whitaker, for this important debate. I am delighted to see the noble and learned Lord, Lord Mackay of Clashfern, in his place after the jollifications of last night when he so generously invited us all to his party. He has obviously got great stamina.

I am most grateful to the organisations that have sent us material: the British Institute of Human Rights, Amnesty, Liberty and one new to me which has the apt acronym of POhWER—People of Hertfordshire Want Equal Rights, equal rights being very much the theme of this debate.

The European Convention on Human Rights and the Human Rights Act have enabled many ordinary people in this country to secure their rights in many sectors and aspects of their daily lives. This is a very different narrative to that pushed by some politicians and commentators, mainly but not all on the right of politics, who have spent years criticising and misrepresenting the convention, the Strasbourg court—which gets confused with the EU court, deliberately or negligently—and the Human Rights Act, which incorporated the convention into UK law.

These human rights instruments have been demonised as benefiting only criminals, illegal immigrants and the generally undeserving. That accounts for the distasteful provisions in the Bill of Rights whereby human rights have to be earned and are contingent on conduct, undermining the principle that rights are universal and attached to a person by virtue of their humanity.

This debate is a welcome chance to redress the score and acknowledge the myriad ways in which human rights provisions protect all of us. Over the past two decades the HRA has given individuals a mechanism to enforce their rights in practice, challenge unlawful policies, be treated with dignity by public authorities and to secure justice for their loved ones. It has ushered in—not least through the positive obligations provision that the Bill of Rights will undermine—a culture of respecting human rights in hospitals, schools, care homes, local government, housing providers and the criminal justice system, helping to ensure that people who may be vulnerable are given the support they need to flourish and thrive.

Most recently, the Government whinged mightily about the interim measures—a sort of injunction—from the European Court of Human Rights to put a hold on Rwanda deportation flights until the UK courts substantively determine their legality. Similar interim measures have also been served on Russia—which is still subject to the jurisdiction of the court for another couple of months, even though it has been expelled from the Council of Europe—to stop the executions of the two British prisoners of war it is holding.

In fact, the Human Rights Act has provided justice and accountability for soldiers and their families in several ways. The noble Baroness, Lady Whitaker, mentioned the case of Corporal Anne-Marie Ellement. I would also mention the families of the 37 military personnel who died in Snatch Land Rovers, dubbed "mobile coffins'" as they were so unsuited to and unsafe for this role, in the Afghanistan and Iraq conflicts. The families used the HRA to challenge the Government and in 2013, the Supreme Court ruling that soldiers do not lose their rights when fighting overseas prompted an apology from the Ministry of Defence and a commitment to no longer use them.

[BARONESS LUDFORD]

In its inquiry on protecting human rights in care settings, on which the Joint Committee on Human Rights is about to report, our committee heard examples of people being cared for turning to the ECHR to seek respect for their needs through Article 2, on the right to life; Article 3, on protecting against torture and inhumane or degrading treatment; and Article 5, on the right to liberty and security. As I do not have time to discuss it further, I invite all noble Lords to read the report, which is about to be published.

An example not from the JCHR but from the British Institute of Human Rights is that of Kirsten, a mother who used the HRA to challenge inhuman and degrading treatment of her autistic son, who was held as a teenager in mental health hospitals under the Mental Health Act. He was subjected to mechanical restraint such as metal handcuffs, leg belts, being transported in a cage and long periods in a seclusion cell. As Kirsten said:

"My child was not a criminal, he was in distress, frightened and alone."

She used the Human Rights Act to get meaningful change to her son's care and treatment.

I have time only to mention that, in the criminal justice system, it was the Human Rights Act that enabled the victims of serial "black cab rapist" John Worboys to hold the police to account for their failures to investigate him. There are many other examples.

This rapid canter has, I hope, helped to demonstrate the relevance of human rights law to all the ordinary people of this country. I regret that the Government have refused to allow pre-legislative scrutiny on the Bill of Rights Bill, so that Parliament could expose its myriad flaws. Indeed—this is now public because the JCHR has published its letter—the Lord Chancellor has cancelled his agreed 20 July appearance before the Joint Committee on Human Rights to answer questions on the Bill. I hope we will at least get another date.

3.46 pm

Baroness Donaghy (Lab): My Lords, I thank my noble friend Lady Whitaker for initiating this debate. I read her contribution in a debate that took place 11 years ago. Her wisdom and compassion shone out then as it did today. I quote one extract from her contribution:

"Enemies of red tape and bureaucracy should welcome the Human Rights Act. It is there to give a human dimension back to state operations. It is not … primarily for lawyers any more than water is for water engineers. It is for citizens to rely on and public servants to have regard to."—[*Official Report*, 19/5/11; col. 1507.]

In the same debate the noble Lord, Lord Pannick, said:

"one of the central purposes of human rights law is to protect the interests of those sections of the community who lack political power, who Parliament has failed to protect against unfair treatment by the majority … Parliament remained sovereign on all these issues … tempting though it is for politicians to try to win support by fighting a battle of Parliament Square against the Supreme Court, the current Administration need to be reminded that there are many issues where the dispassionate assessment of public policy by an independent judiciary, and by a reference to standards of fairness and proportionality, serve a valuable public purpose." —[*Official Report*, 19/5/11; cols. 1502-03.]

Of course, we now know that the current Administration, the same Conservative Government, have yielded to that temptation 11 years later.

Before I continue, I echo the tributes that were made at the time to the noble and learned Lord, Lord Irvine of Lairg, who led that particular debate and, more importantly, steered the Human Rights Act 1998 through this House. His contribution to this country is immense. He reminded the House then that although Britain was the first state to ratify the European Convention on Human Rights in 1951, failure to incorporate the convention into our domestic law meant that our own citizens could not argue for their convention rights in our own courts, but had to take the long and expensive road to Strasbourg that some noble Lords have already referred to. It took another 47 years to resolve that, and he paid tribute to Churchill's Conservative Government for ratifying the convention and referred to a publication by Norman and Oborne entitled *Churchill's Legacy: The Conservative Case for the Human Rights Act*. In attempting to dispel many of the myths about the Human Rights Act, Norman and Oborne concluded:

"it is unlikely that reform of the HRA would be on any political agenda, were it not for the potent advocacy of the most powerful media groups in the country".

The noble and learned Lord pointed out that the convention and the Act had

"enhanced protection for journalistic sources",

and seen

"a dramatic reduction in the level of libel damages, and the right to report on a much wider range of court proceedings".—[*Official Report*, 19/5/11; col. 1494.]

The Government's Bill of Rights is actually a rights removal Bill. The Council of Europe's Commissioner for Human Rights found that the Bill could weaken human rights protections across the UK. How will the Bill reconcile with the rights available under the Scotland Act and the Good Friday agreement in Northern Ireland? The Scottish Human Rights Commission and many other organisations pointed out that the Government ignored their own independent review, which concluded that there was no case for widespread reform. The commission is quite clear that the Government's Bill of Rights will undermine rights protections for people in Scotland. The director of Liberty, Martha Spurrier, said that the Bill would make it harder for people to access justice. My noble friend Lord Ponsonby of Shulbrede said the same thing on 23 June. Incidentally, I am a member of Liberty. I ask the Minister whether he could satisfy my questions on the issue of the Good Friday agreement and the Scotland Act.

3.51 pm

Lord Brown of Eaton-under-Heywood (CB): My Lords, some 40 years ago—that is, some 20 years before the 1998 Act—I used to appear for the UK Government in Strasbourg. I regularly—almost invariably—lost their cases. My record there was: played 12, lost 10, drew 1, won 1. That counted as not a bad record in those days.

I then spent some 30 years on the Bench, roughly half of it before the 1998 Act came into force in 2000 and half afterwards, dealing with cases of a human

rights nature. There are some who question whether the convention was ever necessary for us, and whether our own laws were not ample and well able to secure our basic rights and liberties. Indeed, one prominent member of the Tory party just a few weeks ago in this House, in an HRA debate, raised that very question and asked the Minister to identify any specific advantages that had come to this country as a result of our adherence to the European convention. Five minutes is just about enough for a riposte to that, to show that the convention has proved over the years invaluable in liberalising and modernising our laws and practices, but it does not allow time to discuss the impact of the 1998 Act in intensifying, accelerating and facilitating the process. Still less does it give time to discuss the more nuanced and altogether more topical question as to the effect of the proposed replacement of the 1998 Act with Mr Raab's current human rights Bill. As to that, I shall say no more than that, while I regard much of it as window dressing—or in the words of Sir Robert Buckland, as a solution in search of a problem—I am less sceptical than many as to whether it is all bad or whether it is designed, as some would suggest, to limit our human rights in future.

Turning therefore very briefly to the benefits of the convention over the years, here are just a few. These first are drawn from the cases that I lost in Strasbourg. First, on prisoner rights, we used to censor all prisoner correspondence, in and out, even with their lawyers. The Home Office, to its credit, wanted to liberalise, this regime, but the Prison Officers' Association, a militant union, would not allow it. We duly went to Strasbourg, fought and, of course, lost the cases, and the Home Office was then in a position to confront the union with these adverse decisions, and we made way forward.

We similarly happily lost the closed-shop case to the then Government: there is as much a right not to join a union as there is to join one. Other cases I lost were about telephone tapping practices and the security service intrusions where there was no legal authorisation. In later years, as the noble Baroness, Lady Warwick, mentioned, our adherence to the convention prevented the MoD outlawing all service personnel with homosexual tendencies, and prevented the Executive, as opposed to the judiciary, in life cases determining the actual length of tariff sentences and prisoner release dates. One could go on and on, but there is no time.

Despite my general support for the convention, I should not be taken as applauding all the court's decisions or as opposing all that is now proposed by way of what the Minister calls the recalibration of the legislation—there are aspects that need it. The noble Lord, Lord Sandhurst, mentioned the Aguilar case where the Supreme Court made a contentious decision on forced marriage—I dissented.

3.56 pm

Lord Cashman (Lab): My Lords, I am proud to speak in this debate and it is always a pleasure to follow my friend the noble and learned Lord, Lord Brown of Eaton-under-Heywood. I thank my noble friend Lady Whitaker for this important and timely debate and for her far-reaching introduction. I thank Professor Paul Johnson, the executive dean of the University of Leeds, for his invaluable advice and briefings from Justice, POhWER—including a coalition of charities—Amnesty and the Scottish Human Rights Commission, which warned us about the Government's intention to replace the HRA and the negative consequences that could follow. I note with concern the absence of a briefing from the English Equality and Human Rights Commission.

I apologise for being blunt, but when I think about the practical impact of the Human Rights Act it is personal, because the impact of the Act has been deeply profound for LGBT people like me. Indeed, the very concept of equality, in which our legislation later developed, began with the equal age of consent. I think back to when the Labour Government introduced the Bill that became the HRA, and of the great promise made in this House by the then Lord Chancellor, the noble and learned Lord, Lord Irvine of Lairg, that:

"This Bill will bring human rights home",

so that

"the human rights of individuals and minorities should be protected by law".—[*Official Report*, 3/11/97; cols. 1228, 1234.]

As a minority, I take the protection of my rights by the HRA very seriously indeed. I remember when, year after year, decade after decade, LGBT people and other defamed minorities were forced to go through extremely lengthy and costly proceedings to reach the European Court of Human Rights to gain protection under the European Convention on Human Rights in the United Kingdom. Even though the United Kingdom, as we have heard, was a signatory to the convention, individuals had limited mechanisms before the Human Rights Act to enforce their convention rights in full in the domestic courts. This produced the disgraceful situation in which domestic courts often acknowledged that LGBT people suffering discrimination would win if they advanced a complaint under the convention in the Strasbourg court but were powerless to help them in the United Kingdom.

In this respect, I need mention only the so-called gays in the military case, in which my friend the noble and learned Lord, Lord Brown of Eaton-under-Heywood, then sitting in the High Court, noted the extreme limits created by the lack of the convention not forming part of domestic law, resulting in litigants having to pursue their claims in Strasbourg, where of course they won.

The Human Rights Act gave LGBT people like me and other minorities a vital cloak of protection that we never had before. It is a protection that is in operation every single day, both in the private and public spheres. The Government's plan to repeal the Human Rights Act in the Bill of Rights Bill should horrify anyone concerned with the development and protection of human rights in the United Kingdom. It is an act of vandalism.

It should be realised that the Bill of Rights Bill is probably a staging post for the ultimate aim of some in this Government to remove the United Kingdom from the convention itself. Indeed, provisions in the Bill of Rights Bill, which will create a damaging disconnect between the domestic courts and the European Court of Human Rights, have the great potential for once again forcing LGBT people and others to go to

[LORD CASHMAN]

Strasbourg when the UK courts are less responsive to protecting their convention rights. This will potentially result in a rapid rise in violations against the United Kingdom in the Strasbourg court, which I fear will be used by a Government of this type down the line to make the tired and obscene claim that a foreign court with foreign judges is meddling in our domestic affairs and that the UK should leave the convention system.

I hang my head in shame at the kind of country we are becoming; a country where once again rights are seen as unaffordable, and people are being depicted as a threat from which others should be protected. It is happening now. Look at trans women and trans men; we have seen the casual and unacceptable dehumanisation of an entire minority, with dangerous consequences. Ultimately, any civilised country is judged by how it treats the most disfavoured and how it treats those who seek sanctuary and justice. In this regard our country has been brought low and is sinking further.

I conclude by reminding noble Lords that the Human Rights Act brings rights home and that is ultimately good for everyone. I resolutely oppose taking away the vital protection of the HRA. We are all diminished and debased by such squalid intentions.

4:01 pm

The Lord Bishop of St Albans: My Lords, I too thank the noble Baroness, Lady Whitaker, for securing this debate, and for setting out so clearly many of the great benefits that have been achieved through the Human Rights Act. I will not repeat or elaborate any of those here, and perhaps save a moment or two in so doing.

As neither a legal nor constitutional expert, I am not going to delve into the technical side of the matter, but it is clear to me that this is a discussion not simply about the importance of the Human Rights Act 1998 but about many of the concerns—already raised from different Benches in this House—that noble Lords have with the proposed British Bill of Rights. Before I mention some of my concerns, I commend the introduction of the right to a trial by jury in the updated Bill of Rights Bill. But aside from this one welcome measure, it strikes me that there is a very real danger that the new Bill of Rights may remove levels of accountability from government, particularly in areas such as immigration, which I have an interest in.

Interim decisions by the European Court of Human Rights, such as that which recently prevented the deportation of refugees to Rwanda, will, it appears, become a thing of the past once the 1998 Act is replaced. This Bench has been particularly critical of the Rwanda policy. Recently, the Lords spiritual signed unanimously a letter that spoke of our Christian heritage, which should inspire us to treat asylum seekers with compassion, fairness and justice, and, above all, that when they arrive on these shores they are given due process so that their claims can be examined.

This emphasis is important when we remember one of most influential architects behind the Council of Europe, which drafted the original European Convention on Human Rights. Robert Schuman, drawing on Catholic social teaching, saw the convention as the foundation on which to base the defence of individuals against all tyrannies and against all forms of totalitarianism. What concerns me is that the emphasis on areas such as national sovereignty and the "will of the people"—although there are obviously aspects of those that are good in themselves—means we lose sight of the original impetus behind the foundations of institutions such as the ECHR, which was to protect individuals against abuses from their Governments, something that at the time they were tragically aware of.

The defence of each human being should apply just as much to refugees, even to foreign criminals, and to individuals who have suffered at the hands of the Armed Forces as anyone else. Either they are human rights—universal and overseen by a supranational authority—or they are national rights. I sense that our Government may want to argue for both, when actually we are moving towards the latter.

Our adherence to the 1998 Act is a national choice that Parliament has made, but it is also a convention respected by successive Governments. We can all recall the huge frustration of former government Ministers at not being able to deport individuals they deemed dangerous, but their reaction was not to leave behind this well-established convention that bound us to a higher authority. A convention like this holds weight only so long as it is genuinely respected and supported.

My fear, along with that of many others I know, is that in altering or tinkering with the convention, a precedent is being set that would encourage future Governments to further tinker with our human rights legislation when it conflicts with other agendas. In the UK, Parliament is sovereign, yet it is that sense of long-established convention that prevents any overextension of its authority. Once that convention disappears, there is nothing holding back that sovereign power from acting in the sort of tyrannical manner that Schuman and many others were determined to avoid.

4.06 pm

Lord Murphy of Torfaen (Lab): My Lords, it is a great pleasure to follow the right reverend Prelate the Bishop of St Albans and to take part in a debate so excellently opened by my noble friend Lady Whitaker.

During the pandemic, Sir Robert Buckland asked a very good friend of mine, Sir Peter Gross, to chair a commission looking into the operation of the Human Rights Act. This very distinguished commission included a Member of your Lordships' House—the noble Baroness, Lady O'Loan—and came up with very sensible and useful suggestions. For example, the commission said that greater use should be made of Parliament's Joint Committee on Human Rights. It concluded that the Human Rights Act was generally working well but that it could be improved. There is nothing wrong with any of that, but a later Lord Chancellor—the current one—decided along with the Government that the commission did not go far enough, and that there should be a Bill of Rights. That there is some scepticism about the European Convention on Human Rights was pretty evident in the reaction to Sir Peter's commission's report. I do not need to remind your Lordships that Winston Churchill and Sir David Maxwell Fyfe were behind the European Convention on Human Rights.

My noble friend Lady Donaghy referred quite rightly to Scotland and the Scottish Human Rights Commission, with its opposition to this. She also referred to the fact that there should be legislative consent Motions from the Scottish Parliament, and indeed from the Welsh Senedd. I look forward to the Minister's reply on whether that will have any bearing at all on the decisions the Government might make. They cannot get one from the Northern Ireland Assembly yet because it is suspended. It is not meeting now, but I hope that it will be by the time that these matters are debated later in the year.

However, the greatest impact of the changes which have been brought about and are predicted to come will indeed be on Northern Ireland and the Good Friday agreement—I have it here—which was signed 24 years ago. In the same year that the Human Rights Act was passed by Parliament, I was taking the Northern Ireland Act 1998 through the House of Commons as a government Minister. That Bill incorporated the Good Friday agreement, both of which had within them huge aspects of human rights and the discussions that we had. I had to deal with those when I was dealing with the talks.

If the Minister eventually looks at the human rights recommendations in the Good Friday agreement, as I am sure he will, he will see, for example, the ECHR, which should be incorporated into Northern Ireland law; direct access to courts; remedies for the breach of the convention; powers for the courts to overrule the Assembly on the grounds of inconsistency; the establishment of the new Human Rights Commission in Northern Ireland; similar changes in the Republic of Ireland; and, of course—although this has never happened—the establishment of a Northern Ireland Bill of Rights. I imagine that the Government propose that their new Bill of Rights will incorporate a bit on Northern Ireland but that was not the agreement signed in Belfast a quarter of a century ago.

This agreement is an international treaty. It has been the basis of peace and prosperity in Northern Ireland for the past two or three decades. It will be difficult to persuade those in Northern Ireland who deal with human rights issues, on both sides of the community, that the Government's proposals will not affect the findings of that agreement or the international nature of the agreement itself. The British Government and the Irish Government are joint guarantors of the agreement. It is facing enough trouble as it is. The Government pray in aid the Good Friday agreement to support their views on the Northern Ireland protocol. In so doing, they must also understand the importance of human rights, the European Convention on Human Rights and, indeed, the European Court of Human Rights for the people of Northern Ireland. We have enough trouble in Northern Ireland at the moment; we do not need any more.

4.11 pm

Baroness Chakrabarti (Lab): My Lords, I should declare that I was a lawyer in the Home Office in the late 1990s during the preparation and passage of the Human Rights Act. I also worked on the Good Friday agreement, to which my noble friend Lord Murphy referred. I am a council member of Justice and was the director of Liberty for some years, during which I had the privilege of publishing Jesse Norman and Peter Oborne's wonderful pamphlet, *Churchill's Legacy: The Conservative Case for the Human Rights Act*. I commend that document to all noble Lords, particularly those opposite.

I congratulate my noble friend Lady Whitaker on securing this debate and on all her wonderful human rights works. Of course, it is always an honour to follow my noble friend Lord Murphy of Torfaen. His record speaks for itself but I wholeheartedly support everything that he said about the importance of the Human Rights Act in our constitutional settlements, including our devolution settlements and the precious Good Friday agreement, in particular.

The Human Rights Act is both a progressive, contemporary Bill of Rights and an exquisite British constitutional compromise. I do not mind the word "compromise"; it is a good word. It preserves parliamentary sovereignty via Sections 3, 4 and 6 while still allowing an independent judiciary to protect both the will of Parliament and the fundamental rights and freedoms of all people, not just citizens, from executive abuse and outmoded, discriminatory laws.

I was slightly surprised by some of the comments from the noble Lord, Lord Sandhurst, because I had not taken him for an originalist, as the Americans refer to people who use very literal interpretations. It is only right to share with noble Lords the facts of the Ghaidan v Godin-Mendoza case that he found so outrageously creative. It concerned a same-sex couple who had lived in rented accommodation for many years. The person whose name was on the rent book died. His partner would have been evicted but for the Rent Act having to be reinterpreted under the Human Rights Act Section 3 duty so that the words "living together as man and wife" could be applied to a same-sex couple. That is the outrage of interpretation to which, with respect, the noble Lord, Lord Sandhurst, was referring.

The Human Rights Act is very British in that compromise, but internationalist in incorporating the European convention, which was itself drafted, in no small part, by Conservative lawyers after World War II, as we heard from many noble Lords—particularly from my noble friend Lady Donaghy, in her fantastic history lesson of a speech. Section 2 requires our courts to take accounts of the decisions of the Strasbourg court, but they are not bound by them. That has now been fully accepted by our Supreme Court, as we have heard. This facilitates, therefore, a wonderful judicial conversation—a continuing judicial dialogue—between national and international jurists. This is so important and to the benefit of both. It benefits our law here and means that great jurists, such as the friend of all of us, the noble and learned Lord, Lord Brown of Eaton-under-Heywood, have contributed to the breadth of jurisprudence in Europe as well as here. That is so important: we do not want to break that dialogue and vital link.

Section 19 statements by Ministers have also been important to parliamentary scrutiny of the human rights impact of legislation. Would the noble and learned Lord tell us how many times, even in the last few years under the Johnson Government, Ministers

[BARONESS CHAKRABARTI]
have actively relied on Human Rights Act obligations and interpretations when justifying things such as the CHIS Bill, as was, and the Nationality and Borders Bill, as was—now unfortunately Acts? Ministers have frequently stood there and said, "Do not worry: this power looks broad, but it will have to be exercised in a way that is compliant with the Human Rights Act." Presumably, all that goes out the window now.

As we have heard, positive obligations, which are now to be trashed, have helped so many victims, but I have one final point on free speech. The Human Rights Act in Article 10 created the first enforceable right to free speech in this country. That will, ironically, be undermined by this rights removal Bill. Finally, I wonder if the noble and learned Lord agrees with me that the greater threat to free speech in this country does not come from the Human Rights Act; it comes from super-injunctions sought by wealthy and powerful people, including in government, relying on Article 8 and on a lot of money. That is hypocrisy: one rule for some and another for everyone else.

4.17 pm

Lord Carlile of Berriew (CB): My Lords, it is a great pleasure to follow the noble Baroness. I agree with what she said and defer to her experience in dealing with matters under the Human Rights Act. The background to this debate is in six stark words in paragraph 2 of Schedule 5 to the Bill of Rights Bill:

"The Human Rights Act … is repealed."

The noble Baroness, Lady Whitaker, opened this debate in that context, with great self-control and temperance. I thank her for keeping the subject so cool, when it could be extremely emotive. If that Bill is ever debated in this House, the Government will face a serious fight, because it is not a manifesto Bill in the form in which it has been presented to Parliament.

The noble Lord, Lord Sandhurst, is an admired legal colleague, and I hope he takes what I am about to say in good part. In my study at home, I have approximately 100 years of *Criminal Appeal Reports*. Let me take the first Birmingham Six appeal as an example: I could take pages from those reports and say to your Lordships, "These decisions were just wrong", but I do not present that as an argument for abolishing the jurisdiction of the Court of Appeal Criminal Division. Courts are not perfect places and, as has just been illustrated by the noble Baroness, Lady Chakrabarti, there will be subjects on which we disagree, but they are not an argument to abolish a jurisdiction.

The quantity of cases that have come before the European Court of Human Rights in recent years is deeply connected with this argument, as Suella Braverman happens to have said this morning—I may return to that in a moment. There have been only five cases before the European Court of Human Rights against the United Kingdom since October 2017. I doubt if any Member of this House or member of the Conservative Party could present a respectable argument for disagreeing with the decision reached in those cases.

So I look forward with interest to hearing the speech of the noble and learned Lord, Lord Bellamy, in due course. I had the privilege of serving as one of his part-time chairs when he was president of the Competition Appeal Tribunal. Brilliantly knowledgeable, he was a very good teacher, and, heavens, did I need it in that jurisdiction. The House will often benefit from his great intellectual skills and persuasive voice, and I hope he will use that persuasive voice in his customarily logical way to try to persuade the Government that they are wrong about this issue. We will not blame him if he fails; we will blame him only if he does not try.

The absurdity of Her Majesty's Government's position was illustrated this morning by Suella Braverman who is, of course, the current Attorney-General—she is not a random Back-Bencher standing for the leadership of the Conservative Party—who said that one of the reasons why we should abolish the Human Rights Act and take no part in the decisions of the European Court of Human Rights is because that is the way we would prevent refugees crossing the English Channel. I have been struggling with that one all morning. It has absolutely no intellectual or—can I put it this way?—even political credibility. I hope at least that we will hear the Government saying that tropes of that kind will not be used in argument against the Human Rights Acts.

We will have full debates on this issue, I fear, if the new Prime Minister, whoever they are, decides to proceed with this Bill or something like it. I simply ask them to bear in mind some words of James Madison, the founding father of the American constitution, who wrote:

"Liberty may be endangered by the abuses of liberty, as well as the abuses of power".

That proportionality test is well worth some deliberation before presenting legislation as intended at the moment to this House at least.

4.22 pm

Lord Parekh (Lab): My Lords, I congratulate my noble friend Lady Whitaker on introducing the debate and my noble friend Lady Chakrabarti on ending her powerful speech with some extremely pertinent observations.

I want to step back a little and think about the concept of human rights in this country and what we have done with it. For centuries, our legal and political culture was centred on the idea of liberty. After the Second World War, and especially after the formation of the European Union, the culture of liberty was replaced by the culture of rights. The language of rights became more dominant and with that, obviously, the language of human rights. We helped to formulate the European Convention on Human Rights, we signed it in 1958 and we brought it into domestic law in 1998. During that period, the convention has been embedded in various aspects of our public life, various institutions and in organisations such as the NHS, universities and prisons so that one can easily predict how the principle of human rights is instantiated in a particular context. It is easy for an ordinary Briton to predict how human rights are going to be applied in a particular context.

Now there is a proposal to change the situation yet again. One needs to step back and ask what the change is for and what it is likely to achieve. I have no objection to changing anything, including the idea of

human rights. Human rights are defined differently in different societies depending on their conception of human well-being. For example, in China human rights include the right to be maintained by your children in your old age and to be able to go to live with them, and in Germany human rights include the right to dignity so that no defamatory remarks will be made about you. So human rights can be defined differently and the question is: when we look back at our record on human rights, what are the acknowledged deficiencies? What are the improvements that the new Bill will make? I do not see many.

We are told, for example, that Parliament should be sovereign and far more important than the courts of law, and that the Human Rights Act gives far more importance to the courts than to Parliament. I do not see that this is particularly significant because I do not think that a culture of human rights is incompatible with the idea of parliamentary sovereignty. Or we are told that, in particular human rights cases, our courts are superseded by the European courts. Again, this is an idea of nationalism—of national sovereignty—and I do not see that it is particularly significant.

My simple concern is that when we look at the proposals, they seem to remove all constraints, moral and political, on the power of the Government to do what they want to do. The new proposals are intended to be a template for permitting the Government to do what they wish to do, as is obvious, for example, in the case of our refugees and asylum seekers being sent to Rwanda. What is objectionable about the proposal to reform the Human Rights Act is that, rather than strengthening or reinforcing constraints on government power, it releases those constraints and allows the Government to get away with anything they wish to do.

4.26 pm

Baroness Kennedy of The Shaws (Lab): My Lords, I start with a warning. This Government do not want scrutiny. It will not matter who becomes the new leader of the Conservative Party and, on the vote of only 160,000 people, our new Prime Minister—the Government do not want scrutiny. That is why they want to repeal the Human Rights Act, and I thank the noble Baroness, Lady Whitaker, for introducing this debate and for her humanity over the years in promoting human rights.

I remind everyone—I see here the noble Lords, Lord Thomas and Lord Carlile, the noble and learned Lord, Lord Brown, and my noble friend Lady Chakrabarti, people who have been involved in these issues over a long period—that it used to take us six years to get a case to the European Court of Human Rights. When we took a case about the cruel and inhumane treatment being used in interrogation practices in Northern Ireland, it took six years to get the case to the European court. The business of bringing rights home in 1998 was to say, "Look, this is ridiculous; we ought to be able to make some of these decisions in our own courts". What is being said now is that we want to constrain these terrible foreign judges, but let us be very clear that this is about constraining our judges even more. Do not be taken in by the rhetoric.

Human rights, as we know, are about respect for the humanity of another, irrespective of whether that person is male or female, whether they are a person of colour, whether they have one religion or another or no religion, whether they are gay or straight or trans, whether they are an asylum seeker or an economic migrant, whether they are a prisoner who has forfeited their liberty because of bad things they have done: they are still human beings who deserve to have their humanity respected. A person's status should not reduce their humanity in our eyes; their human rights should not be contingent on their conduct or have to be earned. Those things, we have to hold on to.

I reinforce what has just been said by my noble friend Lord Parekh: decision-making by public bodies that undermine human rights should not be above challenge. Unfortunately, this business of repealing the Human Rights Act is precisely as he said. This is about a grab of power to the Executive, so we should be very clear about what is underpinning this. It really is about saying that members of the public will not be able to say, "These decisions being made by public bodies or by government policy are going to take away some of my human rights". They do not want that, and that is what will mean significant inroads into the powers, not just of an international court but of domestic courts, to review the legality of what the Government do.

It must be remembered that the law develops by bringing test cases. To reinforce something said by my noble friend Lady Chakrabarti, at the heart of this assault on rights is the division between lawyers who believe in the "living instrument" doctrine—the idea that law has to live and breathe through generous interpretation of rights because society changes and becomes different, so we want our judges to do likewise—and lawyers who want to cling to the original meaning of a text. They insist that common law is the great tradition and does not need any additional elements from outside, or the outside eyes that can often help us look at our system and see where it might need bettering. This idea of the original text comes from the US Justice Scalia school of lawyering, which insists on what the drafters of law had in mind and takes no account of changing norms or culture. It maroons society in a romance with the past, which is one of the things that we have to guard conservatives against, instead of moving into contemporary times and respecting the humanity of all.

We should be very clear about what the Government have in mind. This is why they are so dismissive of consultation or bringing in experts, as we had with the noble Lord, Lord Faulks, on judicial review and my noble friend Lord Murphy's friend reviewing the Human Rights Act. They were dismissed by the Government because they do not want external reviews; basically, they just want to stick to an ideological position—to attack human rights. The objective of this Bill is not to restore parliamentary sovereignty or bolster rights, but the very opposite: to reduce rights, consolidate executive power and resist scrutiny.

4.31 pm

Lord Dubs (Lab): My Lords, I too thank my noble friend Lady Whitaker for introducing this debate. I suspect it will be the first of many in which the

[Lord Dubs]
Government will find it hard to defend the position they are in. I also pay tribute to my noble friend Lord Cashman, who reminded us of not just how far we have to go but how far we have come. That is a sign of positive progress. I am a member of the Joint Committee on Human Rights—I have been on it before and am on it at the moment—and will say a little about the recent visit we paid to the European Court of Human Rights and the Council of Europe in Strasbourg a few weeks ago.

Before that, I think it was Robert Buckland, the previous Lord Chancellor, who coined the Government's approach to the Human Rights Act as

> "A cure in search of a problem".

Never were truer words uttered. Dominic Grieve, a previous Attorney-General, said:

> "Did I ever feel that government was being rendered ineffective by Human Rights Act claims? No, I did not."

There are very few defenders of the Government's position, although I missed Suella Braverman on the television this morning. The Joint Committee on Human Rights looked at all this—indeed, we await the Justice Secretary coming to give us evidence. He was supposed to come next Wednesday but cancelled a few days before. I wonder whether there is a hint that things are changing in government on this; I have no evidence beyond his saying that he does not want to come at the moment.

I hope these debates will render one misconception obsolete. In some of our newspapers, there is still a misunderstanding between the European court and the European Court of Human Rights, which has sometimes bedevilled some of the discussion.

When the Joint Committee on Human Rights went to Strasbourg, the people we spoke to were taken aback by the idea that this country would significantly weaken our commitment to the European Court of Human Rights. Indeed, they were full of praise for both the way in which we approached human rights and the Human Rights Act, which they emphasised to us is viewed internationally as a gold standard and a model example of how human rights can be effectively embedded into domestic law and practised. It was almost embarrassing how full of praise they were for our position at the moment; they were dismayed at the thought we might withdraw from that position.

But it is nice, at a time when this country's reputation, internationally, is not of a high order, for us to be so well regarded—we were of course founder members. It is true, as has been said, that our record, in terms of the European Court of Human Rights, is better than that of any other country in relation to size of population. We come out best because we do it so well, and because our courts have a good relationship with the European Court of Human Rights. That link would be cut by what the Government are proposing to do.

I was a colleague of my noble friend Lord Murphy for a time—in a more junior position, I hasten to add. I remember when the Northern Ireland legislation was going through, I had to certify that the Bill conformed to the Human Rights Act. I had never been a Minister who had sign this sort of thing, and I checked with officials. I said, "Please convince me now, I want to be absolutely sure what we're doing", and they did assure me. It was a healthy process for a Minister to have to go through that and be assured that what I was signing was absolutely right.

When the prisoner voting rights issue came up some years ago, I went with the human rights Select Committee to Strasbourg. There was dismay in Strasbourg at the thought that we would breach a decision of the European Court of Human Rights, which we had never done before, because that would encourage the countries of the notorious abusers of human rights to say, "Well, if the United Kingdom can do it, why shouldn't we?"

I support the comments made by my noble friend Lord Murphy about the damage that this will do to the perception of human rights, whether it is the Good Friday agreement that would be weakened in Northern Ireland, or the position in Scotland. We are embarking on a dangerous path. I hope, even at the 11th hour, the Government will see sense and not pursue this path.

4.37 pm

Lord Etherton (CB): My Lords, it is a great privilege to participate in this debate, with so many moving and informative speeches. I want to mention in particular the speech of the noble Lord, Lord Cashman, which I thought graphically highlighted the way in which minorities, particularly the LGBTQ+ communities, have been assisted by having to go to Strasbourg—but, before the Human Rights Act came into force, at tremendous cost and with an inevitable delay.

Mention has been by a number of people of the now celebrated case of Smith and Grady, and a second case, Lustig-Prean and Beckett, against the United Kingdom, in which the brave claimants, all of whom had served in the military, had been dismissed from the military simply because they were of a homosexual orientation, not because they committed any sexual acts. In Strasbourg they successfully challenged the decision and policy of the Government, having failed, inevitably, before the divisional court and the Court of Appeal in this country. It was with great prescience that my noble and learned friend Lord Brown of Eaton-under-Heywood, who gave the leading judgment—in fact, the only judgment—in the divisional court, said that the Ministry was fighting against the tide of opinion, and it was only a matter of time before the policy would be revoked at an international level—and that is indeed what happened. But it took six years for that to be achieved, and at great cost.

I want to reinforce and support everything that was said by the noble Baroness, Lady Chakrabarti, about this remarkable Act—and the Human Rights Act is a remarkable Act. It melds together all sorts of apparently conflicting aspects of our constitution, and it works in a way which is not reflected anywhere else. She described it as a unique British invention. I would say it is a masterpiece, when you look at the way it is worked, of statutory provision.

I just want to reinforce that by looking at the three objectives that the Government set out for what they wanted to achieve through this Act and the way that they have been very effectively achieved. The first, on which almost everybody here has spoken, is bringing rights home. They have been brought home in the form of the obligation in Section 6 of the Act that:

"It is unlawful for a public authority to act in a way which is incompatible with a Convention right."

We have to remember that before this Act, you could challenge the actions and policies of a public body by judicial review in our domestic courts only on the basis of so-called irrationality—the Wednesbury principle. There was no ability here to claim damages or an injunction for breach of a convention right.

However, "bringing rights home" here was to be achieved in a way that would ensure that the United Kingdom observed its international obligations as a member of the Council of Europe. There was to be a high degree of alignment between domestic law and the convention, and no major gaps. That is what has been achieved by Sections 3 and 4.

I am afraid that I do not agree with the analysis of the noble Lord, Lord Sandhurst, in his criticisms of either Ghaidan or indeed Section 2. That section says that the courts, when considering a convention issue, are to take Strasbourg into account. This has served to our advantage to enable what the noble Baroness, Lady Chakrabarti, described as judicial dialogue, which has worked in our favour in cases where Strasbourg has failed to appreciate particular features of our own domestic courts and has then subsequently changed its jurisprudence.

As regards interpreting our provisions consistently so far as possible with the conventions concerned, it has always been open to the Government—and it is still open to the Government in any case, always—to put through Parliament legislation overturning decisions that they do not like.

Finally, and most importantly, parliamentary sovereignty was to be retained and reinforced. That is the effect of Section 4 of the 1998 Act, which provides for the courts a discretion to make a declaration of incompatibility but not to strike down or render invalid a piece of legislation.

At the end of the day, I would simply say that, as Sir Peter Gross said, having received 150 written submissions and held numerous meetings across the country, very little is wrong with this legislation. Anything that is found to be wrong can be corrected. The proposed new Bill of Rights is not moving forward; unfortunately, it will be moving, retrogradely, backwards.

4.43 pm

Lord Morgan (Lab): My Lords, like I think every previous speaker in the debate, I regard the repeal of our Human Rights Act as a backward and indeed reactionary step which would greatly harm this country. Only one other country in Europe, Belarus, has hitherto repealed human rights legislation, and I do not think we particularly want to keep company like that.

It is worth pointing out, as have various other speakers, that it is a concept with a great deal of all-party consensual agreement. The initial pressure for the European Convention on Human Rights came from no less a figure than Winston Churchill, although I do not think that it figures too prominently in the current Prime Minister's work on that great man. The charter was written largely by Sir David Maxwell Fyfe, with the assistance of Sir Samuel Hoare, and much valuable work was done by the Society of Conservative Lawyers—I gather that the noble Lord opposite is a member, and I congratulate him—which pressed for the European convention to be enforced and incorporated into domestic law. The original movement towards having a European charter was of course under the aegis of Ernest Bevin, Labour's Foreign Secretary. The Liberals were always very enthusiastic for this, as were the nationalist parties of Scotland and Wales. It would be extraordinary and tragic if Britain were the first country to withdraw its signature from this Act.

Many noble Lords have pointed out how minorities, people with very little power or authority of their own, have required the assistance of the Human Rights Act. In what is left of my five minutes, I would like to point out, as my noble friend Lord Murphy did, the damage this policy will do to the unity of the United Kingdom. If we continue with it, we will be a very disunited kingdom. The Scottish Parliament and Scottish legal system are deeply intertwined with the human rights charter and the general concept of human rights. The Scottish Human Rights Commission is very active and, as my noble friend Lord Murphy pointed out, drawing on his own matchless experience, this policy is extraordinarily damaging in Northern Ireland at a time when, with its Sinn Féin Government, it is on the cusp of a very perilous period in its history. In Scotland there is now a serious proposal for a referendum on independence. This is a gratuitous and quite unnecessary way of juxtaposing different visions of justice and therefore throwing relationships within these islands back into conflict. Wales is less closely involved because Welsh jurisdiction is not devolved, which I regret. The report by the noble and learned Lord, Lord Thomas of Cwmgiedd, argues strongly for that; even so, human rights legislation has, for example, has been involved in the advancing of the Welsh language.

This is not a serious proposal. There are grounds for looking at the British constitution, but this is not one of them. It is taken out of a spirit of revenge. It is trying to deal with opponents, institutions and individuals who have opposed this Government and it is a policy taken for the wrong reasons. We have a Government who are close to the point of collapse, and a Prime Minister who has already passed that point. It is tragic that the result of these confusions and misunderstandings is that humane freedom, a staple of British culture—I am tempted to say of British civilisation—is now threatened. I hope very much that your Lordships' House will reject this.

4.49 pm

Lord Foulkes of Cumnock (Lab Co-op): My Lords, I too warmly congratulate the noble Baroness, Lady Whitaker, and the Labour Party on initiating what has been an excellent debate. I am not normally here at this time on a Thursday, as my noble colleagues know.

I have particular interest in this issue as a member of the United Kingdom delegation to the Parliamentary Assembly of the Council of Europe. We oversee the operation of the European Convention on Human Rights and the court.

First, I remind the House that the Human Rights Act was passed by our Parliament, as the Labour Party said at the time, to bring rights home, enabling

[Lord Foulkes of Cumnock]
UK citizens to take alleged breaches of ECHR rights before UK courts, as the noble Baroness, Lady Kennedy, rightly said. That is being misrepresented by people opposite.

It now seems that the Government are intent on ripping up the HRA and introducing this new, weaker, so-called Bill of Rights in order, sinisterly, and among other things, to make it harder for asylum seekers to make Britain their home.

Despite the best efforts of the right-wing press to convince us otherwise, the court in Strasbourg and the convention were not designed by some European Union bureaucracy; they were designed by us, as others have so rightly said. In fact, the UK initiated the convention project out of a shared belief that human rights throughout Europe should be common to all. It is particularly vital, as many of us here know, for the countries that were formerly part of the Soviet Union.

The court in Strasbourg is clearly still a place where the UK has influence, and all of us who are delegates to PACE elect the judges to the court after very careful scrutiny. I can tell noble Lords that it is a large bench of very distinguished judges. I have met our own British judge, who is a very distinguished member. They are all like that; we look at things very carefully.

Attempts to replace the Human Rights Act with a Bill which will limit our accountability to the ECHR, combined with recent suggestions that we should entirely remove ourselves from the court, from the convention and presumably from the Council of Europe, severely diminish our standing as a leader on human rights in Europe. I think it is Suella Braverman who has been promoting that. I think many of us will be glad to see that she is out of the race to be leader of the Conservative Party and Prime Minister.

We should be under no illusion as to the effect these proposed changes will have. Without the Human Rights Act and by extension the ECHR to protect basic human rights, the most marginalised groups in society will suffer. Article 8 protects the right to respect for family life and has been successfully used to prevent the deportation of migrants and refugees when it has been deemed that deportation would put their family members at risk. The new Bill proposes tightening the definition of risk to "extreme harm" and limiting its application to children, not all family members. Beyond the risks of regressive reinterpretations of the ECHR, the new Bill also seeks to introduce the concept of individual responsibility, which would seem directly to undermine the idea that all should be equally entitled to human rights. The Bill of Rights would also require individuals seeking to make a human rights claim against a public authority first to seek permission from a court, which would create yet another barrier for vulnerable people.

A number of Members mentioned the excellent memorandum from the Scottish Human Rights Commission. I say as a former Member of the Scottish Parliament that I agree with it and strongly support what it has said to us. In summary, it says that in its view, the UK Government's proposals threaten to damage protections available under the Scotland Act,

> "unsettling the Scottish devolution and introducing confusion and uncertainty for Scotland's public authorities."

A number of Members have asked the Minister to deal with this in his reply. I reinforce that and ask him to do so clearly and explicitly.

If the Human Rights Act needs reform, it certainly should not be driven by populist policies targeting people who have in many cases already suffered human rights abuses. The Government should instead consider much-needed reform of our criminal justice system, which is a much more pressing priority, given that current failures in the court and prison systems are encouraging rather than preventing crime, as we see in Scotland as well as in England and Wales.

If the United Kingdom is to remain at the forefront, as we should be, of the defence of human rights around the world, the Government need to make a rapid U-turn as quickly as possible, and I hope this is done under whoever is the new leader of that party opposite.

4.55 pm

Lord Thomas of Gresford (LD): My Lords, I congratulate the noble Baroness, Lady Whitaker, not just on introducing this debate but on her lifelong attention to human rights. I am very pleased to have heard her speech today.

The ECHR, passed in 1950, set out a series of articles for the protection of human rights and fundamental freedoms. In the last 70 years, there have been just 16 protocols that have added to or amended those original articles. Unlike Parliament, which creates or amends statutes at will, it is clearly an impossible task to keep up with all the changes in the communities and societies of the disparate 45 countries represented in the Council of Europe. That this would be so was realised by the original drafters of the covenant, a team led by British lawyers. Their answer was to use the European Court of Human Rights not just to resolve human rights claims but, by its decisions, to keep the convention up to date.

From the very beginning, therefore, the European Court of Human Rights has frequently delivered decisions that were outside the original 1950 language of the articles. The technique that the judges of the court employ is called the teleological interpretation of the texts. That methodology has always been the predominant mode of interpretation in civil law jurisdictions and in public international law. No other approach is practicable if the law is to be kept up to date.

A former English judge, Sir Humphrey Waldock, who served as the president of the court for eight years, said in 1981:

> "The meaning and content of the provisions of the Convention will be understood as intended to evolve in response to changes in legal or social concepts".

That is the living instrument to which the noble Baroness, Lady Kennedy of The Shaws, referred. For example, the court in recent years—by reference to Article 2, the right to life, and Article 8, the right to family life—has developed the concept of a human right to clean air. That is the context in which the noble Baroness, Lady Jones of Moulsecoomb, presented her Bill last Friday, seeking to embed such a right as a human right expressly into the domestic legislation of the UK. The court's judges continuously and

conscientiously research the developing principles worldwide, whether from United Nations human rights committees, conventions or elsewhere, in order to establish a European consensus. There is nothing arbitrary about their method; they do not pluck things out of the air.

The purpose of the Bill that the Government have introduced is to turn the clock back. While not resiling formally from the convention, Section 3 (2) of the Bill says:

"A court determining a question which has arisen in connection with a Convention right … must have particular regard to the text of the Convention right, and in interpreting the text may have regard to the preparatory work of the Convention".

That work was done in 1949 and 1950. That is, as the noble Baroness, Lady Chakrabarti, termed it, the originalist approach par excellence—and I suspect that the noble Lord, Lord Cashman, would not find reference to LGBTQ+ rights in the preparatory work done in 1949. Similarly, under Clause 3(3), the UK court:

"may adopt an interpretation of the right that diverges from Strasbourg jurisprudence",

while under Section 5:

"A court may not adopt a post-commencement interpretation of a Convention right that would require a public authority to comply with a positive obligation."

Post-commencement? It commenced in 1953.

Last October, the Lord Chancellor Mr Raab told the *Telegraph* on his appointment:

"I don't think it's the job of the European Court in Strasburg to be dictating things … whether it's the NHS, whether it's our welfare provision, or whether it's our police forces … We want the Supreme Court to have a last word on interpreting the laws of the land, not the Strasbourg court".

As he must know, UK courts are under no obligation to do more than take into account judgments of the European Court of Human Rights. They are not binding; the court does not dictate. What it does is set the standard of human rights for the 45 members of the Council of Europe.

It is the empty and useless rhetoric of the Tory party which lies behind this proposed British Bill of Rights, a false and dangerous belief in British exceptionalism. The Attorney-General Suella Braverman—I will not be as cruel as the noble Lord, Lord Carlile, with regard to her recent deposition—displayed her narrowness of vision and total lack of understanding when she demanded in the course of her approach to becoming premier that the UK withdraw from the European convention altogether. What understanding of the law is that in our Attorney-General?

A much nobler cause is surely to promote and support a common standard of human rights—the universal rights to which the right reverend Prelate the Bishop of St Albans referred. That is the reason why Russia has been expelled from the Council of Europe, as my noble friend Lady Ludford mentioned. It is the cause which Winston Churchill, a Conservative premier who—perhaps the noble Lord, Lord Morgan, will agree—never lost his Liberal roots, took up in the aftermath of the Second World War. This Government are turning their back on history.

5.02 pm

Lord Ponsonby of Shulbrede (Lab): My Lords, there have been so many moving and informative speeches today. I think I am right that the only noble Lord who has spoken in favour of the Government is the noble Lord, Lord Sandhurst. All other noble Lords have spoken extremely eloquently against the Government's proposals. I thank my noble friend Lady Whitaker for the way she introduced some of the practical benefits of the Human Rights Act and some of the myths promoted by parts of the press. I also echo her tribute to Baroness Greengross, who spent a lot of her working life promoting human rights as well.

I open by quoting Stephanie Boyce, president of the Law Society of England and Wales:

"The erosion of accountability trumpeted by the justice secretary signals a deepening of the government's disregard for the checks and balances that underpin the rule of law. The bill will create an acceptable class of human rights abuses in the United Kingdom – by introducing"

under a new permissions stage

a bar on claims deemed not to cause 'significant disadvantage'. It is a lurch backwards for British justice. Authorities may begin to consider some rights violations as acceptable, because these could no longer be challenged under the Bill of Rights despite being against the law. Overall, the bill would grant the state greater unfettered power over the people, power which would then belong to all future governments, whatever their ideologies."

That is the view of the Law Society, but we have heard the views of many other equally respected bodies which provide close to a united opposition to the Bill proposed by the Government.

Over the past two decades, the HRA has given individuals a mechanism to enforce their rights in practice. It was originally introduced to bring rights home by incorporating the ECHR into UK law. As I have said on other occasions, I was a delegate to the Council of Europe at the time that that legislation was going through. It has enabled people to challenge unlawful policies, to be treated with dignity by public authorities and to secure justice for their families without having to go to the European Court of Human Rights in Strasbourg. We have heard from noble Lords, not least my noble friend Lady Kennedy of The Shaws, about the practicalities of getting to Europe before the Human Rights Act was introduced.

The Government are seeking to repeal and replace the Human Rights Act with a new Bill of Rights, a move that exceeds the Government's manifesto commitment—a point made by the noble Lord, Lord Carlile. The Bill ignores the recommendations of the independent panel of experts as well as other expert groups. Such a change to our constitution—to the rights afforded to individuals across the UK—demands careful analysis and debate, including of its impact on the devolved nations. We have heard particularly informative contributions today from people who have been involved in Northern Ireland, Scotland and Wales. They have asked the noble and learned Lord a question about whether those authorities within the United Kingdom will be asked for an opinion on the Government's proposal and what sort of consultation there will be with the devolved Administrations.

I have noticed that there is no date for the Second Reading of the Government's Bill in the House of Commons—at least, that I could see on the parliamentary

[Lord Ponsonby of Shulbrede]
website. It may well be that the new Prime Minister will not share the current Lord Chancellor's enthusiasm for the Bill. I was going to make similar points about Suella Braverman and her comments, but my comments are a couple of days out of date. Things have obviously moved forward quickly since then. I hope that the comments from the noble Lord, Lord Carlile, did not precipitate her withdrawal from the Tory party leadership contest.

Nevertheless, when will the Government accept that it is not possible to legislate domestically to change international treaty obligations? These obligations are binding and we are part of the fabric of those international agreements in the first place.

The Lord Chancellor has claimed that 70% of successful human rights challenges are brought by foreign national offenders who cite a right to family life, in the first instance, when appealing deportation orders. This figure is highly contested by legal professionals I have spoken to. They say that the figure is unknowable. What is not contested is that the number of foreign criminals deported by this Conservative Government is down by a quarter on last year. Is it not simply the case that the reason these criminals are not deported has less to do with the Human Rights Act and more to do with the Government's incompetence in seeing through that process?

The Labour Party is proud of the Human Rights Act. A number of people in this debate played a part in it as it was introduced through this House, and in how it has developed over the last 20 years. The Conservatives' Bill of Rights divides the nations of the UK and weakens the rule of law during an international crisis. On top of that, it increases red tape for British people seeking justice. The Conservatives are more interested in picking a fight and sowing divisions with this Bill, rather than tackling the cost of living crisis, which we have heard about, and the crisis in our criminal justice system. These are surely the most important issues that we should be dealing with in this Parliament. I understand that the noble and learned Lord is in an impossible situation when I ask him what he thinks will happen to the proposed Bill.

5.09 pm

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bellamy) (Con): My Lords, I thank and pay tribute to the noble Baroness, Lady Whitaker, for bringing this very important debate to this House, and indeed to all your Lordships who have spoken so eloquently this afternoon.

First, I note that there seems to be a remarkable degree, perhaps to one's surprise, of common ground. The Government entirely agree that the domestication of the Human Rights Act was an extremely good thing. We have heard today many good examples of the positive impact of the domestic Human Rights Act. I want to make it clear that we do not want to throw those out of the window, as has been suggested. We are not "abolishing a jurisdiction"; we are not "withdrawing"; we are not "ripping up". We are remaining in the convention; the convention rights continue to apply; public authorities continue to be bound. Once that premise is accepted, we can perhaps get on to the more pertinent debate, which is exactly how we balance the various competing considerations that arise in the application of the Act. I say again: the Act itself and the principle are fully accepted. I associate myself with the tributes paid earlier to the noble and learned Lord, Lord Irvine of Lairg, who introduced the Bill, to my noble and learned friend Lord Mackay of Clashfern, who was closely associated with the development of human rights in this country, to the noble and learned Lord, Lord Brown of Eaton-under-Heywood, who was also extremely prominent, to the noble Lord, Lord Cashman, and to a large number of other people here and elsewhere who have contributed, rightly, to the development of a human rights culture.

I am happy to accept the invitation from the noble Baroness, Lady Whitaker, to pay tribute to the work of the British Institute of Human Rights. Much of what is good about the Human Rights Act comes from its everyday application, in which training and guidance by the BIHR and many other organisations have been vital. That training will continue to be applicable to the Bill of Rights, as we want to ensure that the positive enjoyment of human rights in this country continues unabated.

Having, as it were—I hope—cleared away that ground, perhaps I may next refer to the pertinent question raised by the noble Lord, Lord Ponsonby, as to exactly what the timing of the Bill now is. As your Lordships are aware, the parliamentary timetable has in recent days become somewhat squeezed. As I understand it, the Second Reading in another place is now planned for September, so that detailed consideration of the Bill in this House is unlikely before the autumn. It is true that, by then, a new Prime Minister will be in post—we do not yet know who—but, as of today, I am unaware of any relevant change in the Government's plan to bring the Bill forward as I have just outlined.

Lord Foulkes of Cumnock (Lab Co-op): Has the Minister given further consideration to the proposal by a number of committees in both Houses that there should be pre-legislative scrutiny?

Lord Bellamy (Con): Not as far as I am aware, is the direct answer to the noble Lord's question. The original Bill of Rights was not subject to pre-legislative scrutiny as far as I know. However, I would myself like to use the extra time we now have in a process of outreach to your Lordships' House and to other interested organisations—I saw Sir Peter Gross yesterday; I have plans to visit each of the devolved legislatures shortly—to explore and understand all these points and see how far we can narrow the differences between us. I respectfully suggest that there are issues that we need to grapple with here and we need to grapple with them sensibly. This Bill clearly arouses very strong feelings and quite a lot of anxieties, but I hope that we can resolve a lot of them and quite a lot of other problems in the course of sensible and reasoned debate.

At one end of the spectrum, there seems to be an almost entrenched view that the 1998 Act is more than perfect and that the slightest change will bring the whole edifice crashing down, or at least give rise to unacceptable risks. At the other end of the spectrum, which has been mentioned several times, there is the

point of view that we should withdraw from the convention altogether. The latter is not the Government's position, and whatever may be said by someone in their capacity as candidate for the leadership of a political party is not relevant for today's purposes. The position of the Government is quite clear: to stay in the convention and to reconfirm the rights that flow therefrom that are clearly set out in the Bill. From the Government's point of view—

Lord Carlile of Berriew (CB): Would the noble and learned Lord be kind enough to help Members of your Lordships' House, Members of another place and, above all, the public by informing the remaining candidates for leadership of the Conservative Party of what he has just said so that they get it right during the TV debates that will start tomorrow?

Lord Bellamy (Con): With respect, I do not think that I have any channel of communication with the candidates for the leadership of the Conservative Party, but what I have just said is on the record and may be referred to. That is the Government's position.

As your Lordships have observed, I personally find myself—as do the Government—with cannons to the left and cannons to the right. So in the valley of calm reasoned debate in this House, I would like to explore with your Lordships the centre ground to which this Bill is directed. In my repeat of the Oral Statement on the Bill on 23 June, I used the phrase "constructive balance": balance between the roles of the legislature and the judiciary; balance between the domestic courts and the Supreme Court, on the one hand, and the Strasbourg judges, on the other, having regard to subsidiarity and the margin of appreciation; and balance between rights and responsibilities. To that theme of balance, I add three related themes: constitutional clarity, the separation of powers and reinforcing the fundamentals that underpin human rights.

I will address constitutional clarity first. After 25 years of the Act in operation, it is important, in the Government's view, to restate certain basic principles. These include the following: that the convention rights are an integral part of the domestic law of the United Kingdom; that the ultimate judicial authority in interpreting those rights is the Supreme Court, taking into account our domestic legal traditions in particular; and that the possibility of divergence from Strasbourg is recognised—that is not in dispute; it has always been there, as has been pointed out already. Those basic principles are effectively recognised in Clauses 2 and 3 of the Bill, which are declaratory of the existing position.

It is important that the convention retains a very special and unique constitutional status: no other Act of Parliament provides a machinery where another Act of Parliament, even a subsequent Act of Parliament, can be subject to a declaration of incompatibility under Clause 10. However, when that arises, it is the Government's view that the separation of powers must prevail. At the moment, under Section 3, we have this curious provision whereby the courts can read down the Act to have a different meaning to that which Parliament intended. The Government wish to clear up that constitutional muddle, if I may put it that way, and put the responsibility for bringing the legislation in question into line with the convention back where it belongs—that is to say, the legislature that first enacted the legislation in question.

Baroness Donaghy (Lab): I apologise for taking up the House's time but just to clarify: the Minister is referring to a balance, but it seemed to me to be a balance between the judiciary and the Executive, and the role of Parliament was not clear in what he was saying. I wonder whether he could clarify that. It seemed to be a power grab for the Executive.

Lord Bellamy (Con): My understanding is that, in these circumstances, any necessary change to the legislation will be brought back to Parliament through the machinery of a statutory instrument, and required to be laid before the House by affirmative resolution. There is every ability for Parliament to determine what should then be done, so it is a balance between the legislature and the judiciary, and not, in the Government's view, between the judiciary and the Executive, but let us explore that point further in due course.

Secondly, public authorities remain bound by the convention, as is set out in Clause 12. The main change here is in relation to this question of "positive obligations"; that is a conceptual issue which is being addressed in Clauses 5 and 7. Essentially, the underlying issue is: should human rights law under the convention develop a kind of de facto legislative or quasi-legislative content, with potentially serious implications for public expenditure or giving one policy objective priority over another, or are those kinds of decisions for the elected Members of the legislature? Where does the balance lie between the electorate, the whole process of elections, and democracy, on the one hand, and, as it were, judicial interventions on the other hand? That is, in my submission, a conceptual issue, which we should in due course grapple with. That is going to be, and is, the issue of the separation of powers.

Finally, in this brief response I draw attention to a third theme, hardly mentioned today, which is the reinforcement in the Bill of the Government's commitment to freedom and human rights in the widest sense: freedom of speech under Clause 4, jury trial under Clause 9, the protection of journalists' sources under Clause 21. There are many points that could be made, but I hope that that brief and admittedly high-level summary at least helps convey why the Government argue for the constructive balance that the Bill aims to achieve. It is not, in the Government's view, weakening human rights; it is enhancing public confidence in the whole structure. One has to realise that not everybody is as convinced of the value of the Act as it now stands as are some of the noble Lords who have spoken today. This will, in the Government's view, enable greater public confidence to be maintained in the human rights structure. This is not a new issue—

Lord Thomas of Gresford (LD): To what would the Minister ascribe this lack of public confidence? Is it the sayings of the Lord Chancellor, or of Suella Braverman? Why is there a lack of public confidence in human rights in this country?

Lord Bellamy (Con): There is, as far as one can tell, an important part of public opinion that is very doubtful about the role of this legislation and the Strasbourg court in our constitutional settlement. Why that is the case is not for me to speculate, but it does seem to be difficult to say that it is not the case that there are sections of the public that have less confidence in this legislation than Members of this House.

Baroness Chakrabarti (Lab): I am grateful to the Minister for the patience and courtesy with which he is responding to this debate, but I am concerned about one very important element. The Minister said that the Government's position is that we stay in the ECHR and that we are committed to it; that is the Government's position, which cannot be overturned by a leadership candidate. But what if that candidate happens to be the current Attorney-General of England and Wales and legal adviser to Parliament and the Cabinet? That is not any old candidate, is it? Ms Braverman surely speaks for the Government, as their Attorney-General. In due course, would the Minister address my question about all these recent powers in the police Act, Nationality and Borders Act and so on, which were justified to us from that Dispatch Box by Ministers who said, "Don't worry: there is the Human Rights Act as the safeguard, and these powers will have to be exercised in a manner compatible with that".

Baroness Ludford (LD): In further testing the patience of the Minister, and no doubt the House, does he really think that the constant repetition over decades of certain politicians and sections of the press that it was only undesirable people who were getting the benefit of human rights law—criminals and whoever—has had no effect whatever? That and the lack of civic education in schools about the benefits of the Human Rights Act has helped us arrive at this situation. Perhaps there is only a slight silver lining to the pandemic, which otherwise, obviously, has been horrible: that while not being able to visit their relatives in care homes, some people might have realised or had perhaps a glimmer of understanding of the relevance of human rights to protect family life, the right to life and all those other issues.

Lord Bellamy (Con): To take the question from the noble Baroness, Lady Chakrabarti, about the Attorney-General first, we seem have a somewhat unusual constitutional position here. It appears that the convention that all government Ministers speak collectively on behalf of the Government is de facto in suspense when there is a leadership contest going on. I am not really able to comment any further, except to say that it is a very curious position that has arisen. If I may, I will leave that point there.

On the general question of where all this disquiet comes from, I would say that this issue is not new. In 2008, Jack Straw, the very Home Secretary who introduced the Act, commented that it did not seem to have a very good balance between rights and responsibilities. There is no greater doughty fighter for liberty in this House than the late Lord Lester of Herne Hill, who favoured a domestic Bill of Rights. A number of retired judges—Lord Sumption, to mention only one—have expressed concerns. The Brighton declaration, which was effectively brought about by the United Kingdom under the chairmanship of the noble and learned Lord, Lord Clarke of Nottingham, and assisted by my predecessor, the noble Lord, Lord McNally, to whom I also pay tribute, was intended to address this question of exactly how the margin of appreciation and doctrine of subsidiarity worked. It has now taken 10 years for even that modest step to finally come into force. So it is not accurate to say that there have not been rumblings in the background about this Act. The Government's purpose is to try to put the existing Act on to a better footing.

On the important points that have been made in relation to Scotland, Northern Ireland and Wales, it is perfectly accepted that the relevant consents of the devolved Administrations should be sought. We are particularly concerned about the position in Northern Ireland and to make sure that, so far as possible, all those concerns can be satisfied. I am embarking on discussions with the various devolved Administrations in that regard. They do not agree with the Government at the moment; we shall see how we get on, but that is the position and we are well aware of that problem. The convention rights remain embedded in all the devolution enactments. It is certainly the Government's position that what is being put forward is compatible with the Good Friday agreement and that the suggestions in this Bill of Rights do not in any way put the United Kingdom in any breach of its international obligations.

To sum up, once the tumult and the shouting die down, the fact is that the UK remains in the convention. We are taking action to restore or enhance public confidence in the existing framework, to strengthen free speech and associated rights, and to have an open debate about the balance between elected power on the one hand and judicial power on the other. The noble Baroness, Lady Whitaker, referred to Pip in *Great Expectations*. I am sure that Nicholas Nickleby, David Copperfield and Oliver Twist would have greatly welcomed a Human Rights Act had it existed at that stage of the 19th century. I commend to the House the Government's expectation that this Bill will produce a better balanced and enhanced respect for human rights than is currently the case.

5.32 pm

Baroness Whitaker (Lab): My Lords, it may not be often that one is instructed by one's own debate, but I have learned much. I am extremely grateful to all the speakers who have put their wisdom, expertise and conviction to the service of one of the most important discourses of our time, perhaps of any time—one that crosses the boundaries of human nature, cultural concepts and ideas of what justice really consists of. It would be invidious, and would certainly take too long, to go through all the interesting contributions; in any case, as noble Lords have said, these debates will of course continue.

I thank the noble and learned Lord, Lord Bellamy, for his considered and thoughtful response. It opens up more grounds for debate, to which I look forward, not least on my noble friend Lady Chakrabarti's point. When Ministers say that a Bill's proposals will be perfectly all right because they are bound to be compatible

with the Human Rights Act, what will happen if that Act has been substantially amended? But we can leave that for the next round of debates.

I have just one very quick thought. I shudder to think what the noble and learned Lord the Minister would be obliged to say if we proposed the adoption of the United Nations convention on economic and social rights. But anyway, I beg to move.

Motion agreed.

House adjourned at 5.34 pm.

Grand Committee

Thursday 14 July 2022

Airports Slot Allocation (Alleviation of Usage Requirements) (No. 2) Regulations 2022

Considered in Grand Committee

1 pm

Moved by ***Baroness Vere of Norbiton***

That the Grand Committee do consider the Airports Slot Allocation (Alleviation of Usage Requirements) (No. 2) Regulations 2022.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, these draft regulations will be made under the powers conferred by the Air Traffic Management and Unmanned Aircraft Act 2021, or ATMUA. Taking the opportunity of our departure from the European Union, ATMUA created a more flexible set of powers for Ministers to implement slot alleviation measures. We are now able to adapt our approach to best support the UK's own specific circumstances.

We will all have seen the disruption that holidaymakers and other passengers have faced at some of the UK's airports, particularly over the recent Easter and half-term breaks. There have been unacceptable queues, delays and short-notice cancellations of flights. The persistent impact of the Covid-19 pandemic has presented challenges for the aviation sector as it recovers, and there have been difficulties ramping up operations to meet the high levels of demand. Airlines, airports and the myriad other businesses that support aviation operations have struggled to recruit and train enough staff. Many other airports around the world are struggling with similar challenges. There have also been delays due to European air traffic control restrictions, strike action and airspace closures. This has resulted in short-notice cancellations of flights and considerable disruption for passengers.

The Government are doing everything in their power to support the aviation industry and ensure that passengers can fly with confidence over the summer. On 30 June, the Government set out a 22-point plan to support the aviation industry to avoid further disruption so that all travellers can get away over the summer period. One of the key elements of this package is the slot amnesty to which these regulations relate. It offers carriers more flexibility to plan and deliver reliable schedules and it introduced a two-week window, which closed on 9 July, during which airlines were able to offer back 30% of their remaining slots for the summer season. This is a one-off measure to allow airlines to plan a realistically deliverable schedule for the summer, and in particular to reduce the risk of short-notice cancellations and delays. Critical to this will be the sector itself ensuring that it develops robust schedules that it is confident it can deliver.

Ordinarily, airlines must operate slots 80% of the time to retain the right to the same slots the following year; this is known as the 80:20 rule. When the pandemic initially struck, the 80:20 rule was fully waived to avoid environmentally damaging and financially costly flights. Following the UK's departure from the EU and the passage of ATMUA, we were able to introduce a more tailored alleviation of slot rules in response to the pandemic as the situation developed. For summer 2022, our focus is on encouraging recovery following the success of the vaccine rollout, the removal of travel restrictions and the generally positive demand outlook for aviation. After consultation with the industry and consideration of the evidence, we determined that a 70:30 ratio was an appropriate usage requirement for the summer period. This includes an extended justified non-use provision, which helps carriers when they are operating in markets that are still restricted due to the pandemic.

However, in light of the severe recent disruption at UK airports, caused by the persistent impact of Covid and a tight labour market, we consider that further alleviation measures are justified for the current season, which runs until 29 October. On 21 June, we therefore published this statutory instrument, which set out our plan to offer carriers the two-week window when they can hand back up to 30% of their remaining slots per airport for the current season. This is a critical measure to allow airlines and airports to take stock of what they can realistically deliver. This has been our message to the airlines and airports, and the entire aviation sector; they must be able to provide the certainty of a deliverable schedule. There is no point in continually announcing short-notice cancellations when they suddenly realise that they do not have the staff to fly a planned flight.

This proposal was developed following a short consultation with airports and airlines and there was strong support for it, with the great majority of both airlines and airports supporting it.

The draft instrument covers England, Scotland and Wales. Aerodromes in Northern Ireland are a devolved matter, but in any event, there are no slot co-ordinated airports in Northern Ireland, so the Northern Ireland Executive agreed that it was not necessary for the powers to extend there.

One other issue is worth highlighting. If an airline does hand back one of its slots, it can only be one that would be flown at least 14 days after it was handed back. This will mean that we do not end up with lots of short-notice cancellations within that fortnight. Orderly communications with consumers will be essential. We also expect airports to maintain their communications with consumers to advise them on what they need to do in order to ease their passage through the airport.

This is a simple statutory instrument that does just the one thing. I look forward to hearing comments from noble Lords and I beg to move.

Baroness McIntosh of Pickering (Con): My Lords, I thank my noble friend for bringing forward the regulations before us, which I broadly support and welcome. I have a number of questions relating directly to the instrument and to the current situation. I understand that when a passenger buys an airline ticket, the simple measure of paying airport tax shows the airport and the airlines the number of people travelling on that particular day—so I am confused about why the

[Baroness McIntosh of Pickering]
numbers travelling seem to come as a complete surprise. I declare an interest: when I met and married my husband, he was an airline man and worked for a number of years with Delta Air Lines, Singapore Airlines and BOAC. As part of his responsibilities he was also director of Gatwick Handling.

Is one of the problems that airports and airlines are not themselves responsible for the ground handling operations, so that there is no joined-up operation from the moment that a passenger arrives at the airport and checks in their luggage? One word of advice, having married someone in the airline business, is to travel with hand luggage only so that, if you are offloaded, leaving the aircraft is a much simpler exercise. But I understand that for families and people going away for a long period that is not possible.

Do the Government have any plans to review the fact that ground handling operators are separate companies that are perhaps one step removed from the companies that passengers are paying for their services? I know that the airlines, airports and the Government are saying that they are doing all they possibly can to ensure a better experience than what we have been seeing since the May bank holidays earlier this year, but there still seem to be issues. How long does it take to train and give security clearance in particular to those working airside? I accept that we must take that extremely seriously, because that is where we are most vulnerable to a breach of security.

I welcome this amnesty. I offer a word of sympathy to the airlines and airports, which have probably been the hardest hit, alongside the hospitality and retail sectors. People were laid off. Willie Walsh said this week that, at the height of Covid, during the lockdown, only 2% of flights were operating. They had to grasp that situation and, given their ongoing overhead costs, save money as best they could, and obviously a lot of people who were in those positions have found work elsewhere.

Heathrow has asked for a moratorium on ticket sales for departures before 12 September. I pay tribute here to Simon Calder of the *Independent*, an expert in this field who does an enormous amount of work and is very helpful in advising passengers. He said that, after that announcement was made, when he tried to buy tickets—possibly yesterday—he found that a number of airlines were still selling tickets for before the magic date of 12 September. If that is the case, what comeback will there be? Those passengers may or may not read the newspapers and may or may not be aware of the issue. I have a further question on the impact of the amnesty. I want to establish whether, if an airline cedes a slot, it will recover the slot on the due date and there will be no economic loss to it.

I am one of the lucky passengers. I travelled during the May half-term. Although Ryanair may not be everyone's favourite airline, I understand that it has the best figures for the fewest cancellations and the reliability and promptness of its flights. That week alone, it was estimated that between 2% and 4% of total flights were cancelled within a week of departure, compared with the normal rate of around 1%. Some 200,000 consumers were impacted by short-notice cancellations, as we are told in paragraph 7.4 of the Explanatory Note. It is not acceptable that 2.3 million passengers have been affected by delayed flights—approximately 43% of passengers arriving at or departing from UK airports. Given the importance of airports to the local economy in which they are based and to the national economy, that is obviously unacceptable.

Finally, paragraph 7.5 says that there will be 14 days' notice when slots are ceded and that airlines are required to notify passengers of the cancellation of each flight at least 14 days before the date of the flight. Can my noble friend tell us what will happen if the airline fails to honour that commitment? It clearly is not happening. Anecdotally, a member of my family was caught up in this when they were actually in a taxi going to Heathrow airport. Having had a British Airways flight cancelled, she was then reallocated an EasyJet flight. When she was an hour from the airport, she was informed that that flight also was cancelled. So what redress will there be and what compensation will be given?

This is a deeply unfortunate situation in a major part of the economy, which is trying to do its level best to emerge as best it can from Covid times. I would like to think that one solution might be to consider ground handling operations being more hands-on with those closest to them. However, I hope my noble friend will give me the reassurance I am seeking for those passengers who have had less than 14 days' notice, and, importantly, tell me how the airlines are required to inform passengers of a cancellation.

Baroness Randerson (LD): My Lords, I thank the Minister for her explanation, but I have to comment that there is something surreal about this SI. It talks about a lack of demand at a time when almost all airports, especially our largest—Heathrow and Gatwick, and one or two others—are struggling to cope.

The Government announced a grand plan of 22 points—this is one of them—and the Explanatory Memorandum talks of

"intervention to facilitate advance planning for a robust and reliable flight schedule."

There is certainly a long way to go to achieve that, because it does not happen at the moment.

1.15 pm

There are some misconceptions in the Explanatory Memorandum. It talks about "prolonged reduced demand", and there is evidently not prolonged reduced demand. At the moment, government intervention and the situation at airports are artificially holding down demand. Anecdotally, I can point to several conversations that I have had with contacts, friends and relatives over the past couple of weeks in which they have said, "I'm not flying this summer. I would normally do so". So demand has returned and recovered, certainly in the leisure market, but it is not being catered for.

I always smile when I read Explanatory Memoranda that try not to mention Brexit. This one does its best at paragraph 7.3 by talking about

"wider challenges to the UK labour market".

The point is that Brexit is the wider challenge to the UK labour market, which means that there is likely to be a long-term labour shortage. So my first question

to the Minister is: what progress has there been on the Government's attempts to speed up the training and recruitment of additional workforce? The stories coming out of our airports are truly dire at the moment.

The impact of the Government's efforts in the short term has been, as I said, to suppress demand to ensure that customers have a better experience, and I understand the good intention behind that. As a result, Heathrow is cancelling a percentage of flights and seats sold. Yesterday, there was a similar story in the *Evening Standard* about Gatwick. I am told today that Heathrow has specified the flights to be cancelled, which include Emirates flights. The Emirates airline is complaining loudly about this and has coined the memorable phrase "It's Airmageddon". It is very bad news for the aviation industry and for Britain that such a phrase is being used about our major airport.

I will be interested to hear the Minister's explanation of how Heathrow has the right to specify the flights to be cancelled. I understand it having the right to say to airlines, "You must work within certain parameters", but how can it choose a particular airline? How will that impact the aviation market, because it will distort it? We have had conversations in the past about the distorting effect of the slot process and how we can avoid that. Is it within the terms of the legislation that Heathrow can specify the flights to be cancelled?

My final point is that the two-week timeframe the Government gave the industry for cancelling slots seems very short. Is the Minister satisfied that the decisions were made with due care and attention, rather than in some kind of scramble by the industry to divest itself of some flights to fit the Government's criteria? I would be particularly grateful for an answer about the Heathrow situation.

Lord Tunnicliffe (Lab): My Lords, since it seems fashionable, I declare an interest as a British Airways pensioner after a 20-year career in BOAC—that is how old I am—and BA.

The chaos at airports in recent weeks is indicative of a Government who have lost their grip. In recent days, Heathrow has asked airlines to stop selling summer tickets, data has shown that one in every 14 flights from Gatwick was cancelled last month and the chief executive of Menzies, which provides check-in and baggage services, has laid the blame squarely at the feet of Ministers. But this issue has not crept up overnight. The Government have had months to resolve it, yet—unbelievably—I am told the Transport Secretary did not hold a single meeting with aviation bosses during Easter or the jubilee weekend, despite the chaos at airports across the country. The only reason the Government are now bringing forward this instrument and facilitating the mass cancellation of flights is that they have been slow to act. By introducing these regulations, Ministers are conceding that airlines are not able to meet the pre-Covid demand that is now returning. Ministers cannot escape their responsibility.

I always try to make my interventions in debates such as this fairly small because the impact one has is somewhat limited, but at the end of the day this is an important event and a national disgrace. One way or another, the airline industry has failed to operate. The Government have offered the view that their 22 points published on 30 June would solve the problems. I decided to examine the 22 points to see what the Government have promised to do and whether they have done it.

Points 9 to 14 are about supporting passengers. This is desirable, but it is not what we want. Passengers do not want support; they want to fly on time, and that is what we must concentrate on. Points 15 to 22 are about recruitment and retention. Once again, they are worthy but too late to make much impact this summer, so I go back to points 1 to 8.

Point 1 sets out "expectations", but does not actually say who is supposed to do what. Point 2 is these regulations. As I read the 22 points, it is the only one that requires any legislative action.

Point 3 says:

> "We have strengthened industry-government working, by establishing a new weekly Strategic Risk Group, chaired by ministers and attended by airline, airport and ground handler CEOs to ensure they are prepared for summer and can meet the schedules."

"Weekly" presumably means that there have been at least two meetings. Can the Minister affirm whether that is true? Crucially, did the chief executive officers actually turn up? Most importantly, what did the meetings achieve? What new initiatives or co-ordination that was lacking were achieved?

Point 4 is about establishing

> "a weekly Summer Resilience Group with airline, airport and ground handler operational directors to help them work through their pinch-points in the aviation system as they emerge and work collaboratively on solutions."

Again, how often has this group met? Was it attended by the operational directors of each of the appropriate companies? What did it decide and what points were overcome?

Point 5 says:

> "We have established a joint Home Office and DfT Ministerial Border Group to identify and prepare for high levels of demand at the UK border."

I was somewhat surprised by this, because I rather assumed that was the sort of thing Ministers would do routinely. Nevertheless, it is promised. Has this border group actually had any outcome?

Point 6 says:

> "We have worked with the major airlines and airports to get weekly updates and assurances to government that they can run their schedule of summer flights."

Have the airlines met that demand? Are the Government getting weekly updates? What picture do those weekly updates present? Is the information that is submitted published in any public domain material?

Point 7 says:

> "We are working with international partners, neighbouring countries and EUROCONTROL, to ensure that disruption is minimised through coordinated planning and cooperation across airspace boundaries."

My recollection is that that is what these organisations do all the time. I find it difficult to see how that will have any impact.

Point 8 refers to a discussion of the ground handling market.

[Lord Tunnicliffe]

Although we will not oppose the instrument, on the grounds that we want the Government to bring forward a wider message for the efficient use of new slots, I hope the Minister can use this debate as an opportunity to bring forward a real strategy to solve this crisis.

Baroness Vere of Norbiton (Con): I am grateful to all noble Lords for their contributions to today's debate. I hope to get through as many of the questions as I possibly can. I think I can do them all, but if not, as ever, I will pop a letter in the post and try to provide a bit more information.

My noble friend Lady McIntosh of Pickering raised the airport tax with me beforehand and we discussed it. The airline knows when someone books a ticket, so it knows that it has people who are about to fly, but many people book tickets many months ahead. I suppose that the airline thinks that it will be able to meet those obligations many months ahead, and then it turns out that it cannot. That is where short-notice cancellations come in. We know that there is a significant amount of data in the sector; obviously a lot of it is commercially sensitive, but we are fortunate in that it is shared with the department in certain circumstances so that we can scrutinise what is going on.

I was interested in my noble friend's intervention about ground handling and operations. That was one of the things we pointed out specifically in our letter to the industry with the CAA, which we sent at the beginning of June. We were absolutely clear with the sector that we need a realistic schedule. This is one of the things that today's regulations will help to provide. People need certainty.

The second point that we put in that letter was that we wanted all airports to have airport partner working groups. This was particularly to address the issue that my noble friend identified: to make sure that airports are not caught short by a lack of staff in ground-handling operations that they did not know about. We asked them to do that; we also asked them to focus, again, on passengers with reduced mobility, as there have been some dreadful stories of people being left on aircraft. But in all that, there should be no compromise on safety and security. Of course, we also said that all passengers must be informed of their rights and compensated where appropriate.

1.30 pm

I am probably going to say this quite a few times this afternoon, but this is a private sector. The Government are not going to go in and start requiring that sector to do certain things because it looks like a good idea right now. We are doing as much as we possibly can. However, it is a private sector and we expect the private sector to sort itself out. If we can help, we will, which is what the 22-point plan is about and where we can remind the sector of things it should be doing—for example, the airport partner working groups—then we are very happy to do so.

In that vein, the noble Baroness, Lady Randerson, mentioned training and security clearance. There are two facets to this. The first is that background checks are required, which the industry does. You have to be able to prove five years of your employment history to work in the sector and we enabled the use of HMRC employment history letters, which are helpful in that regard. The second thing we said on the industry background checks, because it can obviously sometimes take time to confirm someone's employment, is that training can start during that period; previously, I think we were prevented by EU law from training starting while background checks were ongoing. We recognised that training could start—obviously, certain elements of it would not have been able to start, but at least the basic elements could.

There is a second lot of checks, which are those done by Her Majesty's Government. Those include UK security and vetting, where there is no backlog and all applicants are being turned around in a few days, so that is not an issue. We have done what we can; the airports and airlines have not also stepped up and been able to recruit the people, given that there are no other barriers than them essentially being able to attract the right people, pay them the right amounts and give them the right terms and conditions. Clearly, that is something they will have to look at but, again, it is not for government to get involved in that. If the sector decides it wants to shoot itself in the foot by not providing a good service then it will, and others might then enter the sector and provide a better service. We shall see how that pans out.

My noble friend Lady McIntosh of Pickering and the noble Baroness, Lady Randerson, mentioned Heathrow. One of the journalists—I think it was Mr Calder—that the noble Baroness mentioned said that airlines were still selling tickets in that period. Yes, if the cap had not been reached there was no rationale for people not to sell them then. But on the more general situation at Heathrow, it is clearly a very important airport and has its own relationships with its airlines. I have seen the back and forth with Emirates and I should imagine that Emirates is extremely irritated. Heathrow will have to manage its relationship with Emirates, and all the airlines, because other airports are available.

At the end of the day, there are other options and an airline that felt particularly aggrieved might decide to take another option. Again, we are not going to get involved in that. We have no lever with which to get involved to shape how Heathrow Airport manages its business. It has decided to act as it does, which it is within its right to do as the owner of the airport. You cannot just turn up; you have to have a booking. It will be interesting to see how that develops.

Obviously, we all want to see everything go back to normal and our hugely successful aviation sector get back on its feet, but this is not unique. My noble friend talked about half term. I think she said 2% to 3% of UK flights were cancelled; it was 11% in the Netherlands. This is not unique to the UK. However, I reiterate what my noble friend said: I too travelled at that time and had no trouble at all. Not all airlines, airports or times of day are affected. We should therefore make sure that people do not get overly concerned or anxious about the situation.

On short-notice cancellations, there are usually emails and texts—the normal ways one communicates with airlines. I thank both noble Baronesses for raising the

14-day period. We originally proposed seven days, but following the consultation that was increased to 14. That is beneficial for all concerned in terms of planning, and it benefits consumers. If a flight is cancelled within 14 days, the airline loses its right to alleviate that slot, so this is quite a useful lever.

I know it does not feel like it, but there is still reduced demand for aviation globally. The shortage of staff globally—this affects the States as well—is putting a dampener on demand, but some people are still choosing not to travel. The Government are trying not to suppress demand but to manage supply. Our number one concern is getting a schedule that is deliverable. By putting this regulation in place, we will improve the deliverability of the schedule and of whatever supply is out there. I very much hope that all the demand can find an appropriate flight, but I do not know whether that is the case as we have not seen exactly what will happen.

The noble Lord, Lord Tunnicliffe, talked about the Government's plan for aviation. We have a very capable Aviation Minister who has been working in the sector for a number of years and there are a number of strategic documents out there that set out very clearly what the Government are looking for, such as *Flightpath to the Future*. We have done all sorts of consultations recently on consumer policy reform. We are also working very hard on the longer-term skills element of this, in terms of how we encourage people into the aviation sector. My honourable friend the Aviation Minister is at the heart of these 22 measures. Although the noble Lord, Lord Tunnicliffe, is disappointed that the Secretary of State has not met somebody this summer, I assure him that the Aviation Minister is all over this and has been since the beginning of the year. We have been working on this for months. Obviously, these regulations do not come from nowhere; we have been working on them for a very long time.

The noble Lord asked about some of the elements from the 22-point plan. Point 3 refers to the strategic risk group. It is an important group and yes, very senior attendees from the aviation sector turn up. He reckoned that it could have met at least twice. I assure him that it has met five times and will continue to meet during the summer. I will write to him if I can get any more information about the outputs from those meetings; I suspect a lot of the information will be commercially sensitive, but it may not be and I may be able to provide a bit more input. The operational directors do turn up to the summer resilience group referred to in point 4. That group has met seven times to date and will continue to meet over the summer.

The joint Home Office and DfT ministerial border group would not normally meet if there were no problems at the borders—I do not like having meetings unless something is wrong—and our borders normally function incredibly well. The four meetings that have happened this year so far have been used to scrutinise plans and make sure that everything is appropriate.

On point 6, I can confirm that we get data from the major airlines and the airports weekly. Obviously, much of it is commercially sensitive and therefore is not published.

I reassure the noble Lord, Lord Tunnicliffe, and other noble Lords that the Government take this really seriously. We have tried to intervene wherever we can but, at the end of the day, this is a private sector and we will leave it to the private sector to sort this out. We want our aviation sector to be back to its greatness as soon as possible. This regulation is a small step to help the system to stabilise and then, hopefully, to grow.

Motion agreed.

Cat and Dog Fur (Control of Movement etc.) (EU Exit) Regulations 2022

Considered in Grand Committee

1.41 pm

Moved by ***Viscount Younger of Leckie***

That the Grand Committee do consider the Cat and Dog Fur (Control of Movement etc.) (EU Exit) Regulations 2022.

Viscount Younger of Leckie (Con): My Lords, the import, export and placing on the market of cat and dog fur, and any products containing such fur, has been banned in the United Kingdom since 2008. This Government are committed to maintaining this existing ban in order to protect our much-loved cats and dogs—something that I am sure all noble Lords will welcome. I declare an interest as the co-owner of two rather lively black working cocker spaniels.

In 2008, when the prohibition entered UK law, the UK was implementing an EU regulation. The UK was a key supporter of the introduction of this ban on the trade in cat and dog fur while we were a member of the EU. The ban was in response to fears that non-labelled fur from cats and dogs was being sold in the EU. Consumers were naturally concerned about the possibility that they could find themselves unwittingly buying cat and dog fur and products containing such fur. The UK supported and pushed for the ban at the time of its inception, and our position on this remains unchanged. This is why it is so important that we replicate and maintain the ban on the trade in cat and dog fur by ensuring, through this SI, that it is fully operable now that we have left the European Union.

Some may ask why this ban is not being extended to cover the fur of other species. That is not possible through this instrument because it is made under powers contained within the European Union withdrawal Act 2020. These powers are limited to correcting technical deficiencies in retained EU law and implementing the Northern Ireland protocol. This instrument cannot introduce new policy; instead, it ensures that we can continue to maintain a fully functioning ban on the trade in cat and dog fur and, therefore, protect cats and dogs from those who would trade in their fur.

The instrument replicates, clarifies and makes fully operable the ban on the trade in cat and dog fur by replacing references to the European Union, its institutions and its legislation with references to Great Britain. It also makes continued provision for enforcement and clarifies criminal penalties for breach of the prohibition

[VISCOUNT YOUNGER OF LECKIE]
in each of the United Kingdom's criminal law jurisdictions. This will ensure that there can be no doubt about the penalties for breaching this important ban.

Unfettered movement of goods between Northern Ireland and Great Britain is a requirement of the United Kingdom Internal Market Act 2020. The SI recognises this requirement by technically allowing the movement of cat and dog fur between Northern Ireland and Great Britain so that the retained regulation does not conflict with the requirement for the unfettered movement of goods within the United Kingdom.

However, to be clear, I assure noble Lords that this is merely a theoretical access to movement for cat and dog fur. No lawful movement of these goods between Northern Ireland and Great Britain will occur in practice, because it remains illegal to import, export or place on the market cat and dog fur across the whole of the United Kingdom, through the combined effects of the EU regulation in Northern Ireland and the retained domestic version in Great Britain.

1.45 pm

There is no evidence of a trade in cat and dog fur with the United Kingdom. Indeed, the farming of such fur—or of any fur, for that matter—is illegal and has been so in England and Wales since 2000 and in Scotland and Northern Ireland since 2002.

This instrument follows the affirmative procedure as it transfers to the Secretary of State for International Trade a power that sat with the European Commission: the power to derogate for exemptions to the ban for educational and taxidermy purposes. While I understand that many would wish the removal of this power for the Secretary of State to allow for exemptions, we are limited by the powers under which this SI is made. Under the European Union (Withdrawal Agreement) Act 2020 we can correct deficiencies in the existing provisions but cannot make broader changes. Modifying or removing this power would therefore be beyond the scope of this instrument and the powers contained in the withdrawal Act.

I reassure noble Lords and the British public that this Government have no intention of using this power to limit the ban. The European Commission never exercised the power while we were a member state, and we see no reason for this or future Governments to do so.

For the record, the Government shared these regulations with the devolved Administrations in draft, outlining the changes made as part of the SI. We remain confident that there is consensus across the United Kingdom on the need to maintain the ban on trade in cat and dog fur.

I am pleased that trade measures can play such an influential role in helping protect our cats and dogs. This instrument is an important step in maintaining the ban on the import, export and placing on the market of their fur, and products containing such fur. I hope that, with this rather detailed explanation, noble Lords will be unanimous in their support for this statutory instrument and for its critical objective. I beg to move.

Baroness McIntosh of Pickering (Con): My Lords, I congratulate my noble friend on bringing forward this instrument. I am sure everyone would wish to support it—I think the fur would really start to fly if there was any sign of any trade whatever.

I have just one question for my noble friend. It is good to know that there is no evidence of any trade either from third countries or the EU—which is now a third country to us as well. What steps are taken at UK borders—airports, sea ports and indeed the Channel Tunnel—to ensure that there is no fur from cats or dogs in any part of the luggage? Obviously it is quite small and would be quite easy to hide. I would like to put my mind at rest that measures are in place to ensure that no fur is being brought in wilfully by passengers and can pass through untraced.

Baroness Blake of Leeds (Lab): My Lords, I thank the noble Viscount, Lord Younger, for his thorough explanation. I very much support his sentiments and comments around this area. I do not want to prolong the debate but, as we have heard, the instrument makes no change to policy and we welcome the Government's continued commitment to maintaining pre-existing trade measures. I particularly recognise the Minister's comments on how it is possible to use trade measures to make sure that these important matters are implemented, and I echo the sentiment and understanding that the fur trade is an abhorrent and cruel industry, and we have to do everything in our power to make sure that we interrupt any such practices wherever we can.

I have a couple of brief questions. I am sure the Minister will be aware of comments from Cats Protection raising concerns that regulations will be effective only where goods are explicitly sold as cat fur and do not address the problem of real fur being imported and sold as faux fur in poorly labelled goods. It has seen evidence of cases where fake fur used in products and garments such as shoes was in fact cat fur. What assessment have the Government made of that and have they given any consideration to further steps to stamp down on such practices? It cannot be right for UK consumers to be unwittingly supporting this cruel trade due to improper labelling.

On a wider but related note, have the Government considered changing labelling requirements so that any products containing animal fur or other parts of animal origin are clearly listed, so that consumers can be further aware of when they are and are not buying animal products, where they may have come from—both which animal and which country—and how they have been manufactured? I understand the possibilities around this; in the United States, there are detailed labelling requirements under the Fur Products Labeling Act.

I welcome the sentiments and intent of the proceedings today, and I look forward to the Minister's response.

Viscount Younger of Leckie: I thank my noble friend Lady McIntosh and the noble Baroness, Lady Blake, for their brief comments and support for this SI. I will do my best to answer the questions raised. They broadly follow the same theme of enforcement, so I will pick up first on the point made by my noble friend and touched on by the noble Baroness.

There is no evidence of a trade in these products in the United Kingdom. As I mentioned in my opening remarks, it has been banned since 2008. Importers and

exporters must declare that their goods do not contain cat and dog fur. Border Force is responsible for enforcing anti-smuggling controls at UK points of entry and exit to prevent imports and exports of prohibited cat and dog fur and products containing such fur. Where Border Force believes an item has been intentionally described to conceal its true identity and suspects that it is cat or dog fur, it has the ability to detain or seize it and, if necessary, have it forensically tested. I hope that touches on the point about faux fur as a cover for real fur.

Traders found to have breached the ban can be subject to criminal penalties, and this SI provides for the imposition of those penalties and clarifies them in each of the United Kingdom's criminal law jurisdictions. There can be no doubt as to the penalties that can be applied to those found to be trading in cat and dog fur. I have no doubt that UK Border Force is well trained in seeking out such goods, particularly as they can be easily hidden—a point that was well made.

Labelling was brought up by the noble Baroness, Lady Blake. Labelling is more linked to Defra policy, so I will write a letter to the noble Baroness, and copy in my noble friend Lady McIntosh, explaining its link to the DIT.

This was not raised, but I want to give some reassurance to the Committee about the future. In May last year, Defra published a formal call for evidence on the fur trade in Great Britain. The evidence gathered will be used to inform future action on the fur trade in Great Britain. The outcome of the call for evidence will be published soon. I am afraid that I cannot give any further details, but it is happening. It is important to mention that as I am on my feet talking about this subject. I hope that I have answered all the questions.

Motion agreed.

Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022

Considered in Grand Committee

1.56 pm

Moved by ***Baroness Bloomfield of Hinton Waldrist***

That the Grand Committee do consider the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022.

Relevant document: 6th Report from the Secondary Legislation Scrutiny Committee

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, these regulations were laid in draft before the House on Thursday 16 June 2022 under Section 23(6) of the Business and Planning Act 2020 for approval by resolution of each House of Parliament. If approved and made, these regulations will extend the temporary pavement licence provisions for 12 months, to 30 September 2023, and will come into effect the day after they are made.

The temporary pavement licence provisions created a faster, cheaper and more streamlined consenting regime for the placement of removeable furniture, including tables and chairs, on pavements outside premises such as cafés, bars, restaurants and pubs. These measures have been popular and very successful in supporting businesses, making it easier for businesses such as pubs, restaurants and cafés to facilitate al fresco dining with outside seating. It is vital that we continue to support the recovery of the hospitality sector from the impacts of the coronavirus pandemic by extending these provisions for 12 months.

I turn to the details of the regulations. The sole purpose of the regulations is to change the four references to the expiry date of these temporary pavement licence provisions in the legislation, as amended, from 30 September 2022 to 30 September 2023. The regulations do not change any other part of the temporary pavement licence provisions, so the process for applying for a licence during the extended period will not change.

Subject to the regulations being approved and made, businesses will be able to apply for a licence under the process set out in the pavement licence provisions in the Business and Planning Act 2020 for the extended period, until 30 September 2023. The regulations do not automatically extend licences that have already been granted under the current provisions, so businesses will need to apply for a new licence if they wish to have one in place during the extended period. Local authorities are encouraged by guidance to take a pragmatic approach in applying the relevant provisions so that it is as convenient as possible for businesses to apply for a licence during the extended period.

As the process for applying for a licence under the extended period will remain unchanged, I will briefly remind noble Lords of this process. All licence applications are subject to a seven-day public consultation period, starting the day after that on which the application is made, and then a further seven-day determination period during which the local authority is expected either to grant a licence or to reject the application. If the local authority does not determine the application before the end of the determination period, the licence will automatically be deemed to have been granted in the form in which the application was made, and the business can place the proposed removable furniture, such as tables and chairs, within the area set out in the application for the purpose or purposes proposed.

Licence application fees will be set locally but are capped at a maximum of £100. Again, these fees are unchanged from what they are for licence applications under the current temporary provisions in the Business and Planning Act 2020. All licences will be subject to a national no-obstruction condition and smoke-free seating condition, as well as any local conditions set by local authorities.

The grant of a pavement licence covers only the placing of removable furniture on the highway. A pavement licence does not negate the need to obtain approvals under other regulatory frameworks, such as alcohol licensing. Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the highway land for anything done pursuant to the licence while it is

[Baroness Bloomfield of Hinton Waldrist]
valid, such as using furniture to sell or serve food or drink supplied from, or in connection with relevant use of, the premises.

2 pm

These regulations will enable food and drink hospitality businesses to continue to obtain a licence to place furniture on the highway outside their premises expediently and as cheaply as possible. As I stated, this extension is considered necessary and vital because it will provide businesses with much-needed certainty to help them recover economically from the coronavirus pandemic, and it will support them in planning for the extended period.

I will explain just how hard the sector has been hit. Evidence from trade organisations and other sources indicates that wider economic pressures faced by the hospitality industry continue, with the sector yet to return to pre-pandemic levels of trading by March 2022, according to the British Beer and Pub Association. I firmly believe that these regulations will provide essential economic support for many food and drink businesses by continuing to enable expanded outdoor capacity for serving food and drink. To support local authorities and businesses with the implementation of the regulations, we will publish an updated version of the pavement licence guidance when the regulations are made.

If these regulations are not introduced, there is a real risk that this will undermine the steps that food and drink hospitality businesses have taken to recover from the economic impacts that they have suffered. We seek to make permanent this measure through the Levelling-up and Regeneration Bill, and failure to extend this measure would result in an unnecessary gap in service and a return to the process under the Highways Act 1980, which would be confusing and costly for businesses and local authorities.

All of us in government have enjoyed al fresco dining at pubs, cafés and restaurants and can see the positive impact that it has on the vibrancy of our high streets. Since introducing a simplified route for businesses such as pubs, restaurants and cafés to obtain a temporary pavement licence, we have heard many examples of local businesses being able to increase their outdoor capacity quickly and at low cost. These draft regulations will allow al fresco dining and drinking to remain a reality for these businesses and provide much-needed continuity and certainty for another year, while we seek to make permanent the measure through the Levelling-up and Regeneration Bill.

I express my gratitude to local authorities for the huge effort that they made in this matter. Their hard work enabled businesses to thrive, while building vibrant high streets, leading to the success of these measures. I commend this instrument to the Committee.

Lord Young of Cookham (Con): My Lords, I thank my noble friend for introducing the statutory instrument and putting it in context. As she said, it rolls forward the existing pavement licences regime for another year, prior to them being embedded in primary legislation in the forthcoming levelling-up and urban renewal Bill.

My noble friend did not mention one controversial issue: smoking. If she did, I must have missed it. This is the background to the controversy about the instrument. When it was initially introduced there was no provision for non-smoking areas associated with pavement licences. There were then very strong representation from a number of noble Lords that, like licences for inside pubs, those for outside should also be non-smoking. There was a debate, and we ended up with a typical House of Lords compromise, which I suspect did not satisfy the Government and certainly did not satisfy me—namely, that provision must be made for non-smoking areas on the pavements. That is in the statutory instrument and is being rolled forward.

I remind my noble friend that a regret Motion was carried in your Lordships' House a year ago on the omission of 100% non-smoking provision in the licence. That should be a warning to the Government that, when the LUR Bill eventually comes forward, there will be similar representations that the legislation should be changed. I say in passing that I am very grateful to my noble friend Lord Greenhalgh, whom we much miss in these debates, for the briefing that he gave me last week.

There has been a significant change since we last debated this, in the form of the Khan review on smoke-free 2030 policies. The Khan review is quite unequivocal on this. It recommends that the Government

"amend the 2006 Health Act to prohibit smoking on all premises where food or drink is served."

It actually goes a lot further, calling for the introduction of more smoke-free outdoor public spaces through a ban on smoking in all outdoor areas, not just pavement licences, where children are present. If the Government are serious about the Khan review and the ambition to make this country smoke free by 2030, they have to take on board the review's recommendations when they draft the LUR Bill.

In the meantime, some local authorities have used the freedom that they have under the SI to introduce smoke-free pavement areas—for example, Manchester and Newcastle. There is no evidence at all that this has had any impact on trade. In fact, the reverse is the case: all the public opinion surveys after the initial ban on smoking in pubs indicated that more people visited pubs when they were smoke free, and 100% smoke free with a pavement licence is much easier to implement than the halfway house we have at the moment. You just have to put up one notice saying "No smoking", and then there are no ashtrays and no two-metre gap between the smoking and non-smoking areas.

My noble friend mentioned that new guidance will be issued in conjunction with this SI. I ask for an assurance that, before that guidance goes out, there is consultation with the Department of Health, which obviously has an interest in this subject. Last year there was an instance where correspondence went out to Manchester from the department—I think it was then the MHCLG—that I do not think had been cleared with the Department of Health and sent a slightly confusing message. While welcoming this statutory instrument, I would be grateful for that assurance from my noble friend that there will be consultation with the Department of Health before the guidance is sent out.

The Earl of Clancarty (CB): My Lords, I spoke in support of these measures when they were first presented two years ago, and I am glad that they have been extended for another year. It is worth emphasising how important the hospitality trade is. In 2019 it was worth £59.3 billion and represented 3% of total UK economic output. From the point of view of levelling up, the trade is important across the whole country. But as the Minister says, hospitality has by no means recovered to pre-Covid levels. This is not just about the pandemic, although that is part of it: we now have the energy and cost of living crisis and the prospect of further rail strikes. But we should not forget what the pub group Mitchells & Butlers said last autumn—that Brexit was still

"an important event for the market"

in terms of workforce shortages, which have run into the thousands for that group alone. This is shades of what the noble Baroness, Lady Randerson, was talking about in the earlier SI on airports. There are also supply and cost of product problems, and transport costs as well. So what measures, alongside this welcome if relatively modest measure, are the Government taking, or considering taking, to help the hospitality trade? The trade clearly needs considerably more help, not least to save more pubs from closure.

Clearly, it is important that pavements can be accessed properly by all users, including those with disabilities. It is worth repeating what I said to the noble Lord, Lord Greenhalgh, two years ago: this is about not just access but predictability of access, so that street furniture is put out as precisely as possible, in the same place as the day before, to enable that access. That is a really important point, which I hope will appear in the new guidance. Will businesses clearly be able to refer to such guidance? Will this be checked after licences are awarded?

We are getting better at al fresco dining in this country. Of course, the weather at present is perfect for it, and I hope that we will enjoy the rest of the summer in this way and that the hospitality trade benefits from this as well.

Baroness McIntosh of Pickering (Con): I too give a warm welcome to my noble friend for stepping into the breach and presenting the regulations this afternoon. I join my noble friend Lord Young in congratulating my noble friend Lord Greenhalgh on all he achieved in his position. We have been extremely fortunate to have him. I do not think a day or a week passed without him making some contribution and he was extremely knowledgeable and skilled in his field, so I look forward to his many further contributions from the Back Benches—for the moment.

I will give a plug and a thank you to the Liaison Committee, which allowed us to do a follow-up report on the Licensing Act 2003, which is like the mother Act of many regulations, including those before us this afternoon. We published the report on Monday and it seems to have been extremely well received. I was fortunate enough to meet UKHospitality at a beer dinner last night, where I was able to discuss it briefly, and I hope we will have the opportunity to discuss our recommendations and conclusions.

One of the witnesses, Kate Nicholls, was in fact from UKHospitality and was extremely powerful. I pay tribute to her for the work that she has done; I think the Government have appointed her as the first ever disability ambassador for hospitality. She will have a great role to play on pavement licences. We are fortunate that we are able-bodied and able to walk around quite freely—if you can pass the crowds on the pavement at the moment. But I think anybody who is hard of sight, or with a disability and needing a mobility scooter, is very mindful of the obstructions that street furniture and other things can cause.

We had a debate on airport slot allocations earlier. I would say that the airline, retail and hospitality sectors have definitely been the most damaged by the Covid crisis, which is still ongoing, so I warmly welcome the provisions that my noble friend has set out today. Looking back to 2003, when I had been an MP for, I think, six years—I am looking at my former Chief Whip—we were full of expectation that there was going to be a café culture and that we would be able to take young children and older family members into cafés to order coffee, wine or soft drinks. That never really took off under the Licensing Act 2003 in the way that the then Government intended.

However, we should pay tribute to the original regulations that my noble friend referred to, which came in in 2020, as she stated. Under the temporary provision, the process for applying for a licence was capped at £100—I think it still is—so everybody knows and the local authorities are onside. Perhaps even more importantly, a licence is automatically deemed granted if the authority does not make a decision on the application before the end of the determination period.

The two things I welcome most warmly in what my noble friend said are, first, the fact that the regulations today will extend the provisions right up to 30 September 2023 and, secondly, the commitment to make that a permanent feature in the levelling-up Bill. I am really looking forward to tackling that Bill as I have many other ideas, and I hope that my noble friend will enter into the spirit of that. With those few remarks, I welcome the regulations before us.

Baroness Northover (LD): My Lords, on behalf of my noble friend Lady Pinnock, who cannot be here today, I can say that we welcome the ability of cafés, restaurants and so on to have spaces outside on pavements. She leads in this area and wanted to make that clear. It has been a welcome development, pandemic or no pandemic. However, my noble friend's particular concern is that businesses should pay rent for these spaces because the spaces are publicly owned and maintained by council taxpayers.

2.15 pm

That links to a point which other noble Lords have made and that my noble friend Lady Janke, who is standing aside because the last SI went through so fast that she did not make it here in time, wanted to emphasise. It concerns narrow pavements and those with pushchairs or wheelchairs, or people with mobility issues. We now have permanent structures being installed in the footway—business extensions, in effect—and

[BARONESS NORTHOVER]

councils do not seem to have the power or resources to remove them, even in conservation areas; for example, my noble friend is very familiar with Clifton in Bristol in this regard. Businesses use lengthy legal processes to resist. Will the Government issue guidance on the duty of local authorities to enforce regulation and restraint? That ties in with what my noble friend Lady Pinnock intended to say about resources, which could therefore be tackled in that way.

I turn to the reason I wanted to speak in this debate, following on from the noble Lord, Lord Young—the Minister may not be surprised to hear this. I want to come on to what I see as the major deficiency in these regulations, which the noble Lord, Lord Greenhalgh, said would be sorted if they were extended; he certainly told me that after the first regulations were put in place. When the regulations were first introduced, the then Minister pointed out that his father, Professor Roger Greenhalgh, a noted vascular surgeon, had a deep understanding of the public health importance of what I am about to say. The Minister shared that understanding of the public health implications of what he was introducing.

Once again, however, the Government have extended these regulations without revising them to require that all pavement seating is 100% tobacco-smoke free. This would have contributed to the Government's ambition to make England smoke free by 2030, an ambition which we are currently on track to miss by seven years. Fewer than one in seven adults now smokes—a welcome development that has been very hard fought for—and people dislike being exposed to tobacco smoke. The ban on smoking in public places was introduced against a cacophony of warnings from the tobacco industry, but not only did those warnings not come to pass; people really liked the fact that pubs, cafés and restaurants had become smoke free. They felt clean and welcoming.

What we have done here is to extend the inside of pubs, restaurants and cafés to the outside. These outside areas are equally public places where smoking should quite simply be banned, with no ifs, buts or exceptions. Research shows that this is popular and some councils are doing what the public want, with 10 councils in England introducing 100% smoke-free requirements. These bans have proved popular, with high levels of compliance, and have not been shown to decrease revenues.

However, as the noble Lord, Lord Young, said, under the current legislation, councils have two options on smoking: to implement the national condition to provide some smoke-free seating, or to go further and make 100% smoke-free seating a condition of licences at local level. It is a more complicated system than a blanket ban and means that non-smokers and children will continue to be exposed to second-hand smoke. The Minister will not need to be told that scientific evidence indicates that there is no risk-free level of exposure to second-hand smoke and that exposure is linked to all sorts of health problems including cancer and heart disease, as the noble Lord, Lord Greenhalgh, acknowledged.

As the noble Lord, Lord Young, said, there is strong cross-party support in the House, as there has been for 20 years, for reducing the harm that tobacco causes and, in this case, for 100% smoke-free pavement seating. As he said, the noble Lord, Lord Faulkner, tabled an amendment, which was passed despite the Minister's party having a heavy Whip on that vote.

As we have heard, only last month Dr Khan published an independent review of smoke-free 2030 policies, commissioned by the Department of Health and Social Care, which recommended the prohibition of smoking on all premises where food or drink is served, as well as a ban on smoking in all outdoor areas where children are present. This statutory instrument is therefore a missed opportunity to implement Dr Khan's recommendations and continues a challenge that was introduced in rushed circumstances.

As we have heard, the current pavement licensing conditions will apparently be made permanent in the Levelling-up and Regeneration Bill. We cannot vote on these regulations because we are in Grand Committee and, anyway, SIs cannot be amended. I therefore urge the Government to amend the upcoming Bill to require that pavement seating is 100% smoke free. If they do not, I and others will put forward an amendment when the Bill comes to the Lords. The best thing would be if those working on the Bill, knowing that it will be amended, sorted it out in advance. That would mean one fewer thing to worry about when the Bill reaches this House. Clearly, the noble Baroness, Lady McIntosh, will raise a number of other issues too—so pick this one off and sort it out. There is always the challenge of whether government is joined up.

I am sure the Minister will know how the tobacco industry has long pushed back on tobacco control. But it was in the UK, because of the cancer registries developed because we had a comprehensive health system, that Sir Roger Doll was able definitively to connect smoking with cancer—something the industry knew well but kept closely to itself. We have had long battles to curb smoking and, through cross-party support, progress has been made. The Department of Health is now very switched on in this area, but the department that deals with local government clearly did not have this expertise. In the pandemic, with the Government needing to restrict the number of people inside premises but trying to ensure that businesses remained viable—all very laudable aims—pavement licences were granted. It is extremely clear that pressure was put on the department, persuading it that there would be an economic hit if these were smoke free. I hope we do not hear that from the Minister today. We tried to ensure that these areas, which are an extension of the inside to the outside, were smoke free. It became clear that the local government department had not consulted the relevant part of the Department of Health until after the proposals had been laid.

There was a certain amount of scurrying around, supported by the noble Earl, Lord Howe, when we pressed the case; we were told that things had to be rushed through. But we are not in a rush now, and we forced the department properly to engage with the Department of Health. What consultation was there over this element of this SI with the Department of Health and, in particular, with the part of it that deals with smoking and public health—not simply a ministerial

write-round? Will the Minister make sure that the levelling-up Bill, when it comes forward, has been updated so that it is in line with what the Government say they want to do on public health and so that the siren voices, which have been so powerful here, do not help to lure staff, adults and children on to the very obvious rocks that the tobacco industry presents to us? I look forward to her reply and, if she cannot for some reason fully reply—I would understand that—to her writing to us.

Lord Khan of Burnley (Lab): My Lords, over recent years, hospitality businesses across the UK have struggled, but the problems they face did not begin during the pandemic. As the cost of living bites, it is important that the Government support local businesses in any way possible. Even minor steps such as these regulations are welcome. Labour therefore does not oppose these regulations to extend pavement licences, but instead calls on the Government to minimise the unintended consequences. That means monitoring the impact on local residents and pedestrian access, particularly for those with disabilities and mobility issues—a point raised by the noble Baroness, Lady McIntosh.

Guide Dogs UK and the RNIB both raised concerns about the shortened timeframe for consultation when the temporary changes on pavement licencing were introduced. The department must work with both groups to resolve concerns. The Government should also work closely with local authorities to enforce safeguards in cases where businesses are blocking pavements and ensure that councils are properly resourced to fulfil their responsibilities.

Aside from the specific provisions of this instrument, Labour wants the Government to bring forward further support to help the hospitality industry, and that includes making sure that people have more disposable income to support local businesses.

Several noble Lords—particularly the noble Earl, Lord Clancarty, and the noble Lord, Lord Young of Cookham—mentioned that the hospitality industry has not recovered to pre-pandemic levels. I have a few questions to follow up on some excellent contributions made by noble Lords in this debate.

During the two years since this has been in place, how many licences have been rejected and what were the main reasons for those rejections? On hospitality and local councils, has there been any feedback between the department and local authorities on what have been the major impacts? That is a very broad area, but I am sure that the Minister could comment on whether the issues are Brexit or pandemic-induced—a point made earlier. The noble Baroness, Lady Northover, made a powerful contribution and added to the point made by the noble Lord, Lord Young of Cookham about the complexities and confusion around smoking and non-smoking areas. I hope for some clarification from the Minister.

The Minister also gave many examples of increasing capacity at minimum cost and short notice. In particular, has the department assessed how much value there has been in footfall to different hospitality sectors and has there been an economic measurement of increased revenue for businesses? Has work been done on that area?

I look forward to hearing the Minister's response. I am sure that in forthcoming proceedings on the Levelling-up and Regeneration Bill there will be many contributions and amendments, but it is a good start to hear the issues raised today.

Baroness Bloomfield of Hinton Waldrist: I thank noble Lords for all their contributions, which have given us an interesting debate on the draft regulations before us today—a meatier debate than I expected at the outset. We have been discussing an essential extension of the temporary pavement licence provisions in the Business and Planning Act 2020 for 12 months to 30 September 2023. As previously outlined, the regulations continue our support for the hospitality sector's economic recovery from the coronavirus pandemic, as well as supporting businesses in times of rising costs and expenses. They are vital to provide certainty for the businesses in their planning for al fresco dining for the next year.

I am grateful to noble Lords for raising a number of important points in relation to how this will operate, and I welcome this opportunity to respond. I have heard loud and clear the contributions of both the noble Baroness, Lady Northover, and my noble friend Lord Young on the issue of smoking and smoke-free areas and I acknowledge that they are both very well informed on the subject. To be fair, I merely touched on the issue of smoking in my opening remarks—certainly not in any great depth.

As they both know, all licences are subject to the smoke-free seating condition, which requires that the licence holder must make reasonable provision for seating where smoking is not permitted. The pavement licence guidance recommends that a minimum two-metre distance should be provided between non-smoking and smoking areas wherever possible. My noble friend is quite correct that local authorities can also apply their own local conditions to licences, and both Newcastle City Council and Manchester City Council have entirely banned smoking in areas that have been granted pavement licences.

2.30 pm

I can confirm that we are working with the Department of Health on that guidance. The Government are carefully considering the 15 recommendations set out in the Javed Khan independent review to support the Government's ambition for England to be smoke-free by 2030. The new tobacco control plan, due to be published later this year, will set out a comprehensive package of new proposals and supporting regulatory changes. I have heard loud and clear your Lordships' request that we consider amending the LUR Bill. All I can promise to do is to take those concerns straight back to the department; it is beyond my pay grade to make any such undertaking from this Dispatch Box.

The noble Earl, Lord Clancarty, and my noble friend Lady McIntosh were particularly concerned about the impact on disabled people and access issues. Ensuring pavements remain accessible to everyone, including the disabled, is a condition of temporary pavement licences. Licences can be revoked where this condition is not met. The pavement licence guidance makes clear that, in most circumstances, 1.5 metres of

[Baroness Bloomfield of Hinton Waldrist]
clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway, and this will continue to apply under the extended provisions.

In framing the guidance, we worked closely with the RNIB and the Guide Dogs association to refine it to ensure that local authorities consider the needs of the blind when setting conditions and making decisions. Local authorities must consider the need for barriers to be put in place to separate furniture from the rest of the footway, so the visually impaired can negotiate around the furniture with ease. We are updating guidance to emphasise to local authorities that extra care should be taken to ensure that national and local requirements on accessibility are still being met.

The noble Baroness, Lady Northover, asked on behalf of the noble Baroness, Lady Pinnock, about the possibility of local authorities charging for the use of the pavements. Unfortunately, the Business and Planning Act 2020 does not give local authorities a specific power to charge ongoing rent for use of pavements. This measure supports businesses by making it significantly cheaper to gain a licence compared to the previous route, while fully funding local authorities' costs for providing this service. We are not looking to impose additional costs on businesses at a time of rising costs.

I know that the noble Earl, Lord Clancarty, was also concerned what else we are doing to help businesses through what is a particularly difficult time, with both rising costs and lack of staff. We believe that these temporary measures benefit businesses by offering a cheaper and faster route to obtaining outdoor eating licences, and this cuts costs for businesses and enables additional seating. Not only do the measures assist in the economic recovery from the effects of the coronavirus pandemic but they support businesses during this time of rising costs. We must not forget the amount of support that we gave the hospitality industry throughout the pandemic, such as the furlough scheme and the Eat Out to Help Out scheme.

The noble Lord, Lord Khan, asked how many licences were rejected. The department does not have that specific data but, anecdotally, refusals are for many reasons, including fire safety, access for disabled people and the lack of safe functioning of the area. We approved 25,382 licences. I hope that has dealt with the questions.

To conclude, extending the temporary pavement licences provisions through the regulations is necessary to support hospitality businesses. This is particularly important when we consider just how badly hit by the pandemic the sector has been, and these temporary pavement licence measures have already been very successful in supporting the sector in its economic recovery. Extending the provisions will enable this success to continue and provide much-needed certainty to businesses in their planning for the coming year. I commend the regulations to the Committee.

Motion agreed.

Committee adjourned at 2.34 pm.