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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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

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

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

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

House of Lords

Tuesday 1 November 2022

2.30 pm

Prayers—read by the Lord Bishop of Southwark.

Introduction: Baroness Lea of Lymm

2.37 pm

Dr Ruth Jane Lea, CBE, having been created Baroness Lea of Lymm, of Lymm in the County of Cheshire, was introduced and took the oath, supported by Lord Blackwell and Baroness Noakes, and signed an undertaking to abide by the Code of Conduct.

Oaths and Affirmations

2.42 pm

The Earl of Effingham took the oath, following the by-election under Standing Order 9, and signed an undertaking to abide by the Code of Conduct.

Lord Roborough took the oath, following the by-election under Standing Order 9, and signed an undertaking to abide by the Code of Conduct.

The Earl of Minto took the oath, following the by-election under Standing Order 9, and signed an undertaking to abide by the Code of Conduct.

Education: Philosophy

Question

2.44 pm

Asked by ***Baroness Bennett of Manor Castle***

To ask His Majesty's Government what assessment they have made of the use of philosophy to improve the development of critical thinking and problem-solving skills at all educational levels.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, the Government agree that critical thinking and problem-solving skills are important. Our knowledge-rich national curriculum stimulates these skills in the context of solid subject content. Cognitive science suggests that knowledge and skills are partners, and that attempts to teach skills without knowledge fail because they run counter to the way our brains work. While philosophy is not on the national curriculum, schools have the flexibility to teach it if they want to.

Baroness Bennett of Manor Castle (GP): I thank the Minister for her Answer. It presents philosophy as a voluntary subject—one available to few but not to all. Given the quality of our public life and public debate, does she not think that enabling people to see both sides of an argument and to take a philosophical approach could be a step towards improving the quality of public life?

Baroness Barran (Con): The noble Baroness is right that philosophy is not on the national curriculum, but citizenship is. It equips pupils with exactly the skills she sets out—namely, to research and interrogate evidence, to debate and evaluate viewpoints, to present reasoned arguments and to take informed action.

Lord Bird (CB): Does the Minister agree with the work of the Philosophy Foundation, which is already working in our prisons and schools to sharpen people's thinking? We are lost if our children do not know how to think correctly.

Baroness Barran (Con): I am not familiar with the work of the Philosophy Foundation, but I absolutely welcome all those charities working in our prisons and our schools to support our children.

Lord Morgan (Lab): My Lords, is it not significant that philosophy is a compulsory subject in French lycée and the basic structures of French education? Is that not reflected in the different levels of public service in both countries? I declare an interest: my wife is French.

Baroness Barran (Con): It is difficult to make direct comparisons. I would certainly say that the level of public service in this country, both formally and informally through all our charities and volunteers, is of the highest standard. Many of the basic elements included in the teaching of philosophy are in not only our citizenship curriculum but our religious education curriculum.

Baroness Garden of Frognal (LD): My Lords, when I was at a French primary school many years ago, philosophy was taught at all stages in French schools, as the noble Lord just said. I do not think it did us any harm. With today's students apparently really reluctant to discuss anything with which they disagree, might it be time to introduce philosophy into schools to broaden minds? It could be difficult to find teachers, but surely the plethora of PPE graduates coming into Parliament could be encouraged to go back and teach one of their many subjects in schools?

Baroness Barran (Con): In a serious vein, we know that our schools have tremendous responsibilities in terms of catching up and supporting children, particularly disadvantaged children, following the pandemic's impact on them. The Government have made a commitment not to change the national curriculum. We need to make sure that the curriculum works for our children.

Lord Leigh of Hurley (Con): My Lords, I declare an interest in that my daughter is studying philosophy at university. Much as I welcome the thrust of the Question, philosophy is of course open to all students who seek to read it at university. I note that the Philosophy Foundation says that students, by studying philosophy, develop analytical, critical and problem-solving capabilities, so are we not lucky to have a Prime Minister who studied philosophy at university rather than, say, law?

Baroness Barran (Con): I could not agree more with my noble friend.

Baroness O'Neill of Bengarve (CB): My Lords, I think I have an interest to declare as the only surviving professional philosopher in the House. When I joined your Lordships' House there were four of us, but the others are no longer with us. So much for the interest. My question is: does the Minister think that what we might call the A-levelisation of philosophy teaching in schools has, on balance, been beneficial, or not?

Baroness Barran (Con): If the House will forgive me, I am not sure I am entirely familiar with the term "A-levelisation", but what I do know is that many more students are studying philosophy—almost twice as many in our universities—than are taking the A-level, so whatever we are doing at A-level is equipping our students to choose philosophy as an option later on.

Baroness Blower (Lab): Is the Minister aware that many primary schools in England follow a course and teach philosophy for children and that they achieved some very interesting results? Would she be interested in meeting some of these practitioners to discuss how this functions in a primary setting?

Baroness Barran (Con): I would be absolutely delighted to meet the teachers that the noble Baroness recommends. She will be aware that the disciplines of critical thinking are throughout our curriculum, including in the early years and foundation stages.

The Lord Bishop of St Albans: My Lords, it is not only about critical thinking; we need to have a place where those ideas can be exchanged, which is about free speech. I understand that the University of Cambridge has recently appointed a philosophy professor, who is teaching classes in free speech. Does the Minister think this is something we need in all our universities, and should it start in our schools as well?

Baroness Barran (Con): The right reverend Prelate will be aware of the legislation we were debating in Grand Committee only yesterday afternoon on the importance of free speech in our universities. The Government think that is of critical importance, as is academic freedom, but of course, it needs to start in our schools, and I have seen many fantastic examples of teachers engaging with children and giving them those skills and the confidence to debate.

Baroness McIntosh of Hudnall (Lab): My Lords, I should declare an interest as I have a degree in philosophy—but I am not sure what that says about the value of such a thing. I may no longer be very familiar with synthetic a priori or logical positivism, but what I do know is that philosophy teaches you never to be sure that you are right. Does the Minister agree that our public discourse and political culture could really do with a bit less certainty about rightness?

Baroness Barran (Con): The noble Baroness makes a serious point, and there is an important balance to be struck in terms of leadership, sense of direction and the values on which that direction is based. But the openness to listen, change and adjust is needed.

Baroness Uddin (Non-Afl): My Lords, I wholeheartedly agree with and support the noble Baroness, Lady Bennett of Manor Castle. In light of the deeply unwise comments by the Home Secretary in the other place, will the Minister and her department consider how to encourage the promotion of a cohesive society through critical thinking, for the well-being of our future young generations?

Baroness Barran (Con): Research shows that having a consistent core curriculum and a consistent set of values, which we have in this country, are fundamental to making sure that our young people can connect and have a sense of mutual respect and understanding.

Baroness Hayman (CB): My Lords, in addition to the need to develop critical thinking, does the Minister agree that many children are held back by an inability to articulate arguments and to express themselves properly? Therefore, will she add her support to the many organisations that are encouraging public speaking, and debating in particular, in state schools?

Baroness Barran (Con): I am absolutely delighted to add my support. The evidence on the value of oracy beyond simply public speaking is all important and very clear, and the department is working on it.

Lord Forsyth of Drumlean (Con): Following the point made by the noble Baroness, Lady O'Neill, should we not have more philosophers in this House, if for no other reason than we would be better at explaining why we exist?

Baroness Barran (Con): Having once had the pleasure of having tea with the noble Baroness, Lady O'Neill, I know that she is in another league in her ability to explain these complex things, but having a multidisciplinary House is probably a strong basis.

NHS: Nurses

Question

2.54 pm

Asked by ***Lord Clark of Windermere***

To ask His Majesty's Government what discussions they have had with the Nuffield Trust further to their research finding, published on 30 September, that more than 40,000 nurses have left the NHS in England in the past year.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): We welcome the Nuffield Trust publication and the spirit in which its analysis was conducted. Leaver numbers should be seen in the context of overall growth in the

workplace. We are more than half way to delivering on our commitment to have 50,000 more NHS nurses by 2024, with nurse numbers more than 29,000 higher in August 2022 than in September 2019 and more than 9,100 higher than in August 2021.

Lord Clark of Windermere (Lab): I thank the Minister for his Answer, but I think his figures are a little out of date now. A record number of nurses left the profession last year, and we are now 46,000 nurses short. These figures show that the Government's plans for nurse recruitment are inadequate. Retention of staff is the key. In view of the fact that nurses have seen their pay fall by 20% in recent years, will HMG not rectify this and give nurses the pay they deserve?

Lord Markham (Con): With respect, the numbers I quoted are up to date. They take into account the overall increase. We saw 36,000 leavers and 45,000 starters in the last year, so that is an overall growth of 9,000, which shows that the work we are doing to encourage people into the profession is working.

Baroness Chisholm of Owlpen (Con): My Lords, I know how much I, the noble Baroness, Lady Watkins, and the right reverend Prelate the Bishop of London enjoyed our nursing careers; we all trained at the same place. Is there not some way in which we can encourage students to come forward to this fantastic profession so that we can make sure we have a sustainable domestic workforce here in this country?

Lord Markham (Con): I totally agree. I am proud to say that we have 72,000 nurses and 9,000 midwives in training at the moment. There is no cap on the number of people who can join the programme, so that is very much the spirit of what we are trying to do. Key to that was a £5,000 grant each year for nurses to attract them into the profession. It is working.

Baroness Brinton (LD): My Lords, the comment about the figures by the noble Lord, Lord Clark, was entirely accurate. The Minister gave us the truth, which is that the net increase is 9,000, whereas the manifesto promise of 2019 was for 50,000 extra. Does this explain why the Royal College of Nursing reported last week that 75% of shifts did not have the planned number of nurses? When will the NHS see 50,000 extra, on top of the 2019 figures?

Lord Markham (Con): To be very clear, today, there are 29,000 extra, over the 2019 figures. That is more than half way towards the figure of 50,000. I will quite happily write to noble Lords so that they can see the figures clearly in black and white, but I can assure the House that we are talking about increases in nurse numbers. We have achieved a 29,000 increase on the 2019 levels.

Baroness Watkins of Tavistock (CB): My Lords, I declare my interest as a registered nurse and would like to follow on from the noble Baroness, Lady Chisholm. We must grow our domestic workforce in nursing. I do not dispute the figures the Minister has given, but any nurse earning more than £27,000 who trained recently is now repaying 9% towards their student loan, on top of the 20% tax they are paying. I accept that they get a £5,000 bursary a year, but they work extraordinarily long hours compared with ordinary students. It really is essential that we find a way to retain those young nurses who have just trained by doing a debt write-off of their loan after five or six years.

Lord Markham (Con): I totally agree that retention and attracting people into the profession are key. I like to think that we are looking at all these things in the round, taking into account the £5,000 grant, the service they are giving, and their conditions and pay going forward. As ever, this is a moving feast, for want of a better term, so we will keep looking at it to make sure we continue to both attract and retain the domestic and international staff numbers.

Lord Turnberg (Lab): My Lords, have the Government made any assessment of the reasons why so many nurses are wanting to leave, and, if so, what remedies are being suggested by them?

Lord Markham (Con): The Nuffield study was very interesting: of the reasons for people leaving, 43% said retirement, 22% said it was for personal reasons, and 18% said it was due to too much pressure. Again, in quoting those figures I accept that there is work we need to do on this. Clearly, 18% leaving due to too much pressure is something we rightly need to be concerned about. I know that is why we set up the 40 mental health and well-being hubs with a £45 million investment, to look at whether we can address some of those pressures. Most of all, though, I completely agree that we need to recruit as many nurses as we can so that we have as big a supply as possible to ensure that we continue to relieve any pressures that exist.

Lord Kamall (Con): My Lords—

Lord Lilley (Con): My Lords—

Lord Kamall (Con): I apologise to the noble Lord but it is some time since I have spoken in this part of the House. Given that it was Black History Month last month, does my noble friend the Minister agree that we owe a great deal of gratitude to immigrants from the Commonwealth who helped to save our public services after the war? Now that we have left the EU, can he also assure us that we will no longer give priority to mostly white Europeans over mostly non-white non-Europeans, and treat all equally when we want to recruit health and care staff from abroad?

Lord Markham (Con): I totally agree. My noble friend rightly states that we have had a fine tradition, right back to the beginning of the NHS, of recruiting people from all over the world, predominantly the Commonwealth. I am also delighted to say that, since we moved the cap on visas from people all round the world in 2019, the number of those who have joined has gone up from 25,000 a year to 48,000 a year. That is almost double the number and very much the result of what my noble friend said about making sure that we are welcoming people into the profession from all over the world.

Lord Patel (CB): My Lords, shortages of NHS staff, whether they be nurses, physiotherapists, doctors, dentists or community nurses, results in poor service. What plans do the Government have to make primary and community care more sustainable in the long term?

Lord Markham (Con): The plans are very much those that we are doing, which I believe are successful. As mentioned before, it is not just that the number of nurses has gone up by 29,000; we have seen significant increases in doctors and the other medical professions as well. We should remember that we have 200,000 more people working now within the profession than in 2010. That is not to say that we will rest on our laurels; I completely agree that we need to carry on expanding supply to ensure that we properly meet the demand.

Baroness Merron (Lab): My Lords, given that the Minister has previously stressed that nurses should rely on the vocational appeal of their work for their rewards, how does this square with the reasons that he acknowledged exist as to why a record 40,000 nurses left the NHS in the past year alone?

Lord Markham (Con): I am very aware of the Nuffield figures but that 40,000 includes people who have gone back into other parts of the nursing profession. The actual net number as cited by Nuffield is a 27,000 reduction, which is why we have had the growth. However, we should ensure that it is as attractive a profession as possible for people to work and progress in. That is very much what I would like to see.

Lord Lilley (Con): My Lords, can my noble friend explain why we none the less turn away every year more than 20,000 applicants for nursing courses? Why does there appear to be a de facto limit on recruitment at universities for nursing, whereas they are allowed to take an unlimited number for media studies, PPE and other less worthy disciplines?

Lord Markham (Con): I have been assured by officials that there is not a cap, so my only thought would be that, if people are turned down, it is perhaps because they may not have the necessary qualifications. I will check that and, if I am wrong, I will reassure the noble Lord, but my understanding is that there is no cap, and the more the merrier.

Pensions Tax Relief: Employment and Retention

Question

3.05 pm

Asked by ***Lord Davies of Brixton***

To ask His Majesty's Government what assessment they have made of the impact of the annual allowance, used for the purposes of tax relief on occupational pensions, on (1) the employment, and (2) the retention, of members of public service pension schemes.

Viscount Younger of Leckie (Con): My Lords, the Government greatly value the work of all public sector staff, be they NHS workers, teachers or police officers. Public sector pension schemes are mainly defined benefit schemes and are among the most generous available. The annual allowance affects only the highest-earning pension savers, and the Government estimate that 99% of pension savers make annual contributions below £40,000—the level of the standard annual allowance.

Lord Davies of Brixton (Lab): My Lords, I thank the Minister for his reply, but it is worth reminding ourselves that the last Prime Minister promised to stem the exodus of doctors from the NHS. The Prime Minister before that promised to fix the pension tax relief rules, and the new Chancellor, no less, has called the situation a "national scandal". Of course, the annual allowance is a general problem that can affect people across all defined benefit pension schemes, not least senior nurses—this goes back to the previous Question. But does the Minister understand that, given the 10% increase in the CPI this September and given the rules of the NHS scheme, some GPs will be faced with additional tax bills into six figures this coming year? Does he understand the extent of the scandal and that tinkering with the rules will not be enough? Radical action is required.

Viscount Younger of Leckie (Con): I recognise some of what the noble Lord has mentioned. In recognition of the impact that pension tax has on senior clinicians in the NHS, and to improve staff retention, which was part of the subject of the last Question, the Government announced changes to the NHS pension scheme on 22 September. These include changing the pension rules regarding inflation, encouraging NHS trusts to offer so-called pension recycling—the noble Lord will know more about this than me—and implementing permanent retirement flexibilities to allow experienced staff to return to service or stay in service longer.

Baroness Kramer (LD): My Lords, could the Minister go back and look at this, and take it very seriously? We are in a situation where, with £1 of additional income, an individual at a senior level can face something like £30,000 in additional tax liability—and that is just in year 1. This applies to medics who have worked on the battlefield in places like Afghanistan and in our emergency rooms. They have begged to be allowed to work unpaid so that they do not trigger the impact of the pension allowance cliff edge. This is a problem of bad legislation and a lack of flexibility within the schemes, both of which could be rectified with some decent attention.

Viscount Younger of Leckie (Con): I note what the noble Baroness has said, but, on her point about flexibility, one of the actions that we have taken is extending partial retirement; for example, by allowing more NHS staff to take part of their pension while continuing to work and build further pension rights. We have also extended flexibilities enacted in response to the pandemic by suspending the 16-hour rule, which requires some pension scheme members to work no

more than 16 hours per week if they return to NHS employment. So I reassure the noble Baroness that we have taken action, and I am sure that there is more that we can do.

Baroness Altmann (Con): My Lords, I urge my noble friend to go back to the department and look again at the tinkering that has happened to the NHS pension scheme—this will not sort out the problem. The fundamental issue is the way that the annual and lifetime allowances deter extra work and drive early retirement. Although the Government have made commendable efforts to make some adjustments, those underlying problems persist. My noble friend said that this affects only the highest earners, but of course, within the NHS, these are often the most valuable members of staff, whom we need to keep.

Viscount Younger of Leckie (Con): Indeed. The subject of the question was to do with higher earners, but I will broaden my response a little. Public service pensions are a key part of the overall renumeration in the public sector and I acknowledge that it is important to get this right for retention. Reference has been made to nurses. A typical NHS nurse will retire after 30 years with a pension worth over £24,000 per year in today's money. This compares quite favourably to a private sector employee with similar earnings receiving less than £10,000. As I have said, there is more to do, and we will keep this under review.

Lord Tunnicliffe (Lab): My Lords, it is no good the Minister trying to persuade us that this is an attractive package. We know that senior doctors are retiring early, and we should be pragmatic about this. These people represent a very expensive investment—they are assets, and we should sweat our assets. They should not be leaving at the age of 58, 59 or 60, when realistically they should continue into their mid-60s or later, yielding their skills to our society.

Viscount Younger of Leckie (Con): Indeed, it is very important that we look after those at the senior end of the NHS; much has been made of that in the previous Question and this one. As the noble Lord has alluded to, tax relief offered on pension contributions is expensive, costing the Exchequer £67.3 billion in 2020-21, with around 58% relieved at the higher and additional rates. As I mentioned earlier, there are a number of other aspects on which we have taken action, and perhaps there is more to do to be sure that we can retain our very best doctors and senior clinicians.

Lord Sikka (Lab): My Lords, as the Minister just said, the pension tax relief is about £67.3 billion, the majority of which goes to higher and additional rate taxpayers. Could he explain the steps that the Government have taken to eliminate the regressive effects of the tax breaks for the richest?

Viscount Younger of Leckie (Con): This is a familiar angle from the noble Lord, and I have already mentioned a number of the steps we have taken. He will know that individuals can be subject to different tax treatments depending on the type of income they are receiving and whether they are employed, self-employed or working through a company structure. I reassure him that it is very important that we find the best way to reward those at the very top, particularly our senior clinicians, otherwise they might move abroad. We must also look at those at the other end of the scale, particularly at this very difficult time.

Baroness Lister of Burtersett (Lab): My Lords, following on from the Minister's response to my noble friend, the Prime Minister and the Chancellor assured us the other day that those with the broadest shoulders would be asked to bear the greatest burden. Therefore, will the Government look again at the question of higher rate tax relief and the amount of money that has been lost in that, and at whether significant savings might be made through that—leaving aside the problem identified earlier?

Viscount Younger of Leckie (Con): I can certainly take back that message. As the House is aware, we have the Autumn Statement coming up on 17 November. Although I am the first not to second-guess what might be in that, I am certain that the Chancellor and the Prime Minister will be looking at all aspects, and particularly in this respect.

Baroness Donaghy (Lab): The Minister says that his department is doing its best, but it has been estimated that 10% of the workforce in these areas would stay on if something were to be done about the annual allowance. Some people cannot wait to leave; they are not willing to work for nothing. I do not know of an HR manager in the UK who would not give their eye teeth for 10% retention. Can the Minister please put pressure on his department to do something about that?

Viscount Younger of Leckie (Con): Again, I will take the message back to the department. I reassure the noble Baroness that we are taking action to support NHS staff, including those at the top end. The Department of Health and Social Care has commissioned NHS England to develop a long-term workforce plan. This will look at all aspects, including pay at the senior end, as well as the other aspects that have cropped up this afternoon in terms of how we can reward and keep our very best senior people.

Lord Rooker (Lab): Is it still the case, as it was when I was at the DSS from 1999 to 2001, that when Ministers were given any information whatever about pensions—any options, anything at all—they were always given a 30-year timeframe? That meant that there were no surprises of the detailed decisions that might be taken. Along with this Question and the one that is going to follow, there is probably a good case for looking at how our pensions are funded, both private and public, in this country.

Viscount Younger of Leckie (Con): I do not think that there was a question there—but, again, it is a matter that I shall reflect on and certainly pass back to the department.

Defined Benefit Pension Funds

Question

3.15 pm

Asked by ***Lord Moylan***

To ask His Majesty's Government what assessment they have made of (1) the extent of Liability Driven Investment strategies in the management of Defined Benefit pension funds, and (2) the consequences that may arise for (a) His Majesty's Government's ability to issue new gilts, and (b) the management of inflation.

The Parliamentary Secretary, Treasury (Baroness Penn) (Con): Defined benefit pensions use liability-driven investment strategies to protect themselves from adverse interest rate and inflation movements. The Pensions Regulator estimates that 60% of defined benefit pension funds have LDIs. The Debt Management Office's gilt operations are running smoothly, with good levels of demand; its 2022-23 financing remit will be revised alongside the Autumn Statement on 17 November.

Lord Moylan (Con): My Lords, I welcome my noble friend back to the Front Bench. If the pension funds were entering into those risky strategies with a view to eliminating their exposure to interest rate changes, it did not quite work, did it? The Government need to sell gilts to borrow money for their activities. The Bank of England needs to sell gilts to start to reverse quantitative easing and to bear down on inflation. Both those activities were threatened by the sudden discovery of what can only be described as risky and dodgy investment strategies at private pension schemes a few weeks ago. So what I and other noble Lords would like to hear from my noble friend is that those financial positions have now been reversed out of by the pension funds—that they are not pursuing those strategies—so that this does not happen again, and the Government and the Bank can continue with their vital activities.

Baroness Penn (Con): My Lords, LDI strategies can be used as a risk-management strategy for pension funds, and I would expect them to continue to do so. There were specific circumstances which the Bank stepped in to address. But my noble friend is right that it is important that we reflect on what happened to those particular funds in that period and make sure that the Bank of England and the Financial Policy Committee have the right oversight to ensure ongoing stability in these markets.

Baroness Bowles of Berkhamsted (LD): My Lords, a key focus of the IORP directive, which was transposed into the Pensions Act 2004, was to prohibit borrowing so that assets are retained for the payment of pensions and not put at risk of being drained away to third parties. With that prohibition on borrowing, how has that been circumvented, permitting repos and investing in funds that break both the principle and detail of that provision? Is it not dishonest to describe LDI as de-risking when it introduced leverage and derivative exposures of some £1.4 trillion, which is nearly the same as the total pension fund assets?

Baroness Penn (Con): My Lords, the Government do not agree with the noble Baroness's assessment of the situation. Along with the Bank of England and the Financial Policy Committee, we keep a close eye on identifying and addressing systemic risks to improve UK financial stability. In 2018, the committee specifically looked at UK pension schemes' resilience to an instantaneous 100 basis point rise in yields across maturities. The movements that we saw a few weeks ago were greater than that. As the FPC has also noted, it may not be reasonable to expect market participants to insure against all extreme market outcomes, because there can be negative effects to that as well.

Lord Davies of Brixton (Lab): My Lords, I declare an interest as a fellow of the Institute of Actuaries. I am afraid that there will be an alliance of regulators and providers who will say, "Nothing to see here, we can move on". There are questions to be answered about what damage has been done and about what we can do to ensure that it does not happen again. There is so much hidden in the investment policies of pension funds. Can the Government give an assurance that there will be a proper investigation of what happened, with an independent element?

Baroness Penn (Con): My Lords, the Pensions Regulator and other regulators have said that they will want to look at what has happened and learn lessons. I also understand that the Work and Pensions Committee in the Commons is looking at this issue, including any changes to the Pensions Regulator, for example, that may need to be made. The Government look forward to reading the results of its findings.

Lord Lamont of Lerwick (Con): My Lords, is the potential booby-trap in LDIs not the liquidity mismatch between the time it takes to sell the assets of pension funds and the demands of the hedge, which requires the margins to be met on the same day in cash? Is that not a strong argument for the liquidity buffer to be increased? Does it not also pose the question: to what extent did QE force people more and more into these assets?

Baroness Penn (Con): My noble friend is absolutely right about the liquidity mismatch. My understanding is that there was a certain amount of flexibility shown in that; none the less, the Bank of England's intervention was directed to address that specific problem. As for the QE policy, my noble friend will not be surprised to hear me say that that is for the Bank of England and I will not comment further on it.

Lord Bellingham (Con): My Lords, obviously the shadow banking system, which includes insurers and pension funds, is not subject to the same rules as traditional banks, especially when it comes to holding cash reserves against market shocks. Does the Minister agree with Sir Jon Cunliffe, Deputy Governor of the Bank of England, when he wrote to the Treasury Select Committee in the other place recently to say that it is incredibly important that there should be more international checks and balances on non-banks?

Baroness Penn (Con): My noble friend is absolutely right that there can be risks to financial stability from non-banking actors in the financial system and that they are not subject to the same regulations. He is also right that addressing some of these risks cannot be just through domestic action but must also be international action, and that is something the UK is advocating for.

Lord Tunnicliffe (Lab): My Lords, I welcome the noble Baroness, the Minister now, back to her seat and look forward to many one-to-ones. Financial regulators in a number of European countries have taken steps to increase surveillance of derivative-linked funds used by UK pension schemes. That is an attempt to promote international financial stability following the post mini-Budget market turmoil. Having witnessed recent events, does it remain the Government's intention to water down UK regulators focused on stability by introducing a statutory requirement to prioritise competitiveness?

Baroness Penn (Con): I thank the noble Lord, and all noble Lords for their welcome back, but I have to disagree with the noble Lord's interpretation of the provisions in the forthcoming financial services Bill. Financial stability will remain at the core of our system, but I do not think it is wrong to also recognise the importance of competitiveness in that system.

Baroness Kramer (LD): My Lords, the Minister, whom I welcome, said that the Government had handed off to a committee of the House of Commons the responsibility for looking at whether reform of the Pensions Regulator was required. Surely, the Government should be looking at whether reform is required because, very clearly, we have a regulator that neither recognised the embedded risk of strategies that it was allowing pension funds to pursue, nor understood the broader implications. This suggests that change is urgent.

Baroness Penn (Con): If that was the impression the noble Baroness had of my Answer, it was not the one I meant to leave with noble Lords. The regulators, including the Financial Policy Committee, the Pensions Regulator and others, will want to look at and reflect on the lessons that can be learned from the events of recent weeks. In pointing to the Commons committee's work, I merely sought to address the noble Lord's point about a different or more independent set of eyes also looking at this.

Lord Forsyth of Drumlean (Con): My Lords, can it be true that the Bank of England's own pension fund had more than 80% of its assets invested in these highly risky derivative products, which depended on keeping interest rates down? Given that the Bank of England intervened to buy bonds to keep interest rates down, was there not a conflict of interest there? Also, was it not apparent to everyone, if these are the facts, that the system of regulation has failed—failed absolutely—and needs to be looked at again?

Baroness Penn (Con): My Lords, I do not know how the Bank of England's own pension scheme is invested. As my noble friend pointed out, the particular issue around these schemes was liquidity; the Bank of England stepped in to address that issue, which I believe has now been resolved. None the less, we will look at the lessons that can be learned. I pointed to an exercise undertaken in 2018 to stress-test UK pension schemes' resilience, but the movements we saw in the past few weeks went beyond the bounds of those scenarios. We should reflect on that and see whether anything needs to change as a result.

Genetic Technology (Precision Breeding) Bill

First Reading

3.26 pm

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

Refugees (Family Reunion) Bill [HL]

Order of Commitment

3.27 pm

Moved by ***Baroness Ludford***

That the order of commitment be discharged.

Baroness Ludford (LD): My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

Motion agreed.

Ukraine

Statement

The following Statement was made in the House of Commons on Monday 31 October.

"With permission, Mr Speaker, I will update the House on the situation in Ukraine.

This morning, Russian missiles again struck Kyiv and other cities, destroying critical national infrastructure and depriving Ukrainians of water and electricity. Earlier today I spoke to our ambassador in Kyiv, and I heard again of the extraordinary resilience of Ukraine's people in the face of Russian aggression.

At the weekend, Russia suspended its participation in the Black Sea grain initiative, which has allowed the exportation of 100,000 tonnes of food every day, including to some of the least developed countries in the world. Putin is exacting vengeance for his military failures on the civilians of Ukraine by cutting off their power and water supply, and on the poorest people in the world by threatening their food supplies. Over 60% of the wheat exported under the Black Sea grain initiative has gone to low- and middle-income countries, including Ethiopia, Yemen and Afghanistan. It would be unconscionable for those lands to be made to suffer

because of Putin's setbacks on the battlefield in Ukraine. I urge Russia to stop impeding this vital initiative, which is helping to feed the hungry across the world, and to agree to its extension.

Meanwhile, Russia's suicide drones and cruise missiles are killing Ukrainian civilians, obliterating their homes and even destroying a children's playground. A third of the country's power stations were put out of operation in a single week. None of this achieves any military purpose. Putin's only aim is to spread terror and to deprive Ukrainian families of shelter, light and heat as harsh winter approaches. I am sure the House will join me in condemning his breaches of international humanitarian law.

I am also sure that every right honourable and honourable Member will share my conviction that Putin will never break the spirit of the Ukrainian people, and my incredulity at the glaring contradictions in his thinking. He claims that Ukraine is part of Russia and that Ukrainians are Russians, but at the same time he calls them Nazis who must be bombed without mercy.

When Putin launched his invasion, he convinced himself that Russian forces would be welcomed into Kyiv and that Ukrainians would support him or be too craven to stand in his way. He could not have been more wrong. The last eight months have shown the scale of his miscalculation and the barbarity of his onslaught, including the mass rape committed by Russian soldiers in Ukraine. The UK's campaign to prevent sexual violence in conflict is more urgent now than ever and I will host a conference on that vital subject next month. The Kremlin is now resorting to peddling false claims and churning out invented stories that say more about the fractures within the Russian Government than they do about us.

It is reprehensible that Iran should have supplied Russia with the Shahed drones that are bringing destruction to Ukraine, in violation of UN Resolution 2231. On 20 October, the Government imposed sanctions on three Iranian commanders involved in supplying weaponry to Russia, along with the company that manufactures Shahed drones.

Earlier, on 30 September, Putin announced that Russia had annexed four regions of Ukraine spanning 40,000 square miles—the biggest land grab in Europe since the Second World War. Once again, this exposes his self-delusion. He has declared the annexation of territory that he has not captured, and what he had managed to seize he is in the process of losing.

On 12 October, 143 countries—three-quarters of the entire membership of the United Nations—voted in the General Assembly to condemn the annexations. Russia had just four supporters: Syria, Belarus, Nicaragua and North Korea. When those regimes are a country's only friends, it really knows that it is isolated. When 141 countries denounced Putin's invasion in March, some speculated that that was the ceiling of international support for Ukraine. The latest vote showed that even more nations are now ready to condemn Russia, but Putin still thinks that by forcing up food and energy prices, we will lose our resolve. Our task is to prove him wrong.

We will not waver in our support for Ukraine's right to self-defence. I delivered that emphatic message when I spoke to my Ukrainian counterpart on Tuesday, and my right honourable friend the Prime Minister said the same to President Zelensky when they spoke on the phone—the first foreign leader who he called on his appointment as Prime Minister. On Thursday I will attend a meeting of G7 Foreign Ministers in Germany, where I will send a unified signal of our shared determination. This year, Britain gave Ukraine £2.3 billion of military support—more than any country in the world apart from the United States of America. We will provide Ukraine with more support to repair its energy infrastructure and we have committed £220 million of humanitarian aid.

The House will have noted Putin's irresponsible talk about nuclear weapons and an absurd claim that Ukraine plans to detonate a radiological dirty bomb on its own territory. No other country is talking about nuclear use; no country is threatening Russia or President Putin. He should be clear that, for the UK and our allies, any use at all of nuclear weapons would fundamentally change the nature of this conflict. There would be severe consequences for Russia. How counterproductive would it be for Russia to break a norm against nuclear use that has held since 1945 and has underpinned global security?

Nothing will alter our conviction that the Ukrainians have a right to live in peace and freedom in their own lands. If Putin were to succeed, every expansionist tyrant would be emboldened to do their worst and no country would be safe. That is why we stand, and will continue to stand, alongside our Ukrainian friends until the day comes—as it inevitably will—that they prevail. I commend this Statement to the House."

3.28 pm

Lord Collins of Highbury (Lab): My Lords, I reiterate that these Benches are completely at one with the Government in giving full support to the Ukrainian people in their fight against Putin's illegal and immoral act of aggression.

The Russian missiles launched against Ukrainian energy and water systems are part of a deliberate and callous strategy to target civilian infrastructure ahead of winter, causing as much damage to civilians as possible. Therefore, the resilience of Ukraine's energy, heating and water systems is vital in resisting Russia's attacks on that civilian infrastructure.

James Cleverly said yesterday in response to my right honourable friend David Lammy that

"the UK has pledged £100 million to support Ukraine's energy security and to reform, and £74 million in fiscal grants to support Ukraine through the World Bank."—[*Official Report*, Commons, 31/10/22; col. 625.]

All this is very welcome, but he was unable to give a specific answer on the number of generators we have supplied, and promised to find out the details. The reality is that, in such war conditions, practical support and speed of delivery are essential. In addition to detailing the number of generators that we will supply, can the Minister assure the House that we are working with all relevant suppliers to speed up matters? Also, can he tell the House whether such action is being co-ordinated in conjunction with our allies, particularly our European allies?

As we have heard in media reports today, Russia's attacks on infrastructure and the electrical grid have not been limited to the use of drones, missiles and bombs. Europe Minister Leo Docherty said on the BBC this morning that Ukraine faces

"the same threat and same challenge in the cyber domain,"

representing the most extensive compromise of a single Government seen in history. He confirmed that support is provided through the FCDO, with officials saying that it has led the way among allies in providing specialist expertise. Can the Minister tell us whether this support is being co-ordinated with such allies? What assessment has the department made of the implications of escalation of the conflict?

In relation to arms supplies to the Russians, the Foreign Secretary said that the UK will be keeping a close eye on the actions of Iran, and indeed other countries. He confirmed that we would take appropriate action to dissuade them from supplying arms and would react if they do. Can the Minister assure the House that in reacting the Government would work in complete tandem with our allies, such as the US and the EU? On too many occasions we have been slower than our allies to react.

On the important issue of grain exports from Ukraine, the UN-backed agreement has been vital in reducing global food prices. Putin's unjustifiable decision to pull out of this deal will undoubtedly have catastrophic consequences. It comes at a time when many countries are already food insecure, including Somalia, where an imminent famine is feared. This is a cruel and transparent use of hunger as blackmail. Any spike in world food prices will be the responsibility of the Russian Government. Therefore, this agreement must be restored.

The Foreign Secretary said that he had spoken to his Turkish counterparts in the past, expressing our gratitude for the work they have done in securing the grain export deal. However, it was unclear from what he said whether he has spoken to his Turkish counterparts and Turkey's political leadership on the potential for restoring grain flows since Russia's announcement. Have the Minister's department or the Foreign Secretary been in touch with Turkey in recent days? The Foreign Secretary did not address the steps that the UK is considering to mitigate the worst consequences for the developing world if these efforts fail, but I hope the Minister will be able to do so today.

James Cleverly also told the other place that we are supplying a considerable number of air defence missiles, which is very welcome in light of the attacks we have seen. Can the Minister assure us that we are able to keep up with the demand for these missiles with our US and NATO allies? Can he assure the House that we can provide all the lethal and non-lethal equipment that is being requested?

I conclude by reiterating Labour's full support for the Government's actions in respect of Ukraine.

Lord Purvis of Tweed (LD): My Lords, as the barbarity of Putin continues and winter approaches, our admiration for the resilience of the people of Ukraine knows no bounds. The Minister knows that we have supported the government strategy; the support for the Ukrainian Government and people; and the sanctions regime—notwithstanding that we have highlighted areas where we could have gone further and faster on sanctions, as has been highlighted. There is no doubt that Putin wants both malaise and division in the West, and we support the Government in ensuring that that does not happen.

I have a number of questions for the Minister about the direct impact of the sanctions regime on Russia, which he will have heard me ask before. I ask for an update on what the direct impact of our sanctions has been, because they do not seem to have prevented the barbarity continuing in certain areas.

Could the Minister also be specific about what we are saying to our allies in the Gulf and in Asia, India in particular? Have the Foreign Secretary and the Prime Minister raised at the highest levels the concern about the impact of our allies providing neutrality but also therefore de facto support? This is a challenging area for UK foreign policy, but one we need to tackle. It would be depressing if we are so reliant on the Gulf's inward investment and so hopeful for a trade deal with India that it prevents us having very hard conversations with our allies.

As the noble Lord, Lord Collins, indicated, we have seen the grotesque weaponisation of energy, fuel and grain by Russia. Prices have risen already with the 4 million tonnes of shipments that are being prevented from being distributed. As the Minister knows, this will have a disproportionate impact on the countries in east Africa and the Horn of Africa that are already facing famine. What direct measures are we taking to ensure that shipments can be released? What security support might be made available to ensure their supply?

The Minister knows that we have supported the UK's support for Ukraine and we of course supported the resettlement scheme at home. He will also know that we have repeatedly highlighted concerns that this is provided at a direct cost to overseas assistance to countries in need. Figures suggest that the resettlement scheme at home for Ukrainians will be met entirely from ODA funds, which will mean that, for the first time in our nation's history, more overseas development assistance will be spent domestically than bilaterally abroad. That is unprecedented. I hope the Minister will say that this is not correct.

It was disturbing to read Kwasi Kwarteng's tweet in June, posted when he was BEIS Secretary, saying on supplying defence equipment:

"My Department has contributed to the effort by surrendering climate finance and foreign aid underspends."

Countries with which we are seeking to build a diplomatic consensus against Putin are seeing the UK provide support, which is welcome, but at a direct cost for those countries. Just before the start of proceedings this afternoon, I met the deputy speaker of the Malawi Parliament, who raised questions as to why cutting support for young girls in Malawi was a cost of UK support for Ukraine. Surely this is a cost which will do us long-term damage. I hope the Minister is able to respond to these issues. We will not retain moral value in our work for Ukraine if other countries see us cut directly as a cost of it.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, I thank both noble Lords for their statements

[Lord Ahmad of Wimbledon]
of support for the Government's position. As I have said before, it is important to show a unified stance in this House, in the other place and indeed as a country on the continued Russian war on the innocent people of Ukraine.

As the noble Lord, Lord Collins, said in the introductory remarks to his questions, we have seen a continued onslaught, with Kyiv being indiscriminately targeted and the whole reasoning being to target basic energy supplies as winter approaches. On that point, as my right honourable friend the Foreign Secretary made clear, we are in touch directly with the Ukrainian authorities. The new Prime Minister's first call was to President Zelensky, and my right honourable friend the Foreign Secretary has spoken again to Foreign Minister Kuleba. Yesterday, as we were going through the NIP Bill here, during the dinner break I had a brief conversation with the excellent, incredible, brave and courageous ambassador of Ukraine, who was again visiting Parliament. His spirit is inspirational to us all in the face of the onslaught on his country.

To go back slightly, on the specific question which the noble Lord, Lord Purvis, mentioned, of course I am acutely aware of the challenges of the ODA budget. He will have noticed the appointment of my right honourable friend Andrew Mitchell, who is an incredible advocate for development and development spending. At the moment I cannot give the noble Lord a breakdown of exactly what that spend will be, but we are in discussions with the Treasury. He is right to point out the challenges that the ODA budget faces. On a personal note, he will know that I am very much committed, as I have said several times, to the United Kingdom retaining the important place it has on the global stage with regard to development support. I know that Malawi has a particular place in the heart of every Scottish person; I think 43% of Scots have a link with someone in Malawi based on our development support.

On the issue the noble Lord raised about engaging with the Gulf states and India, I can say that my right honourable friend recently returned from India, having been on a conference there where he raised the issue directly with External Affairs Minister Jaishankar, and I know that Prime Minister Sunak has also spoken to Prime Minister Modi. The situation in Ukraine was part and parcel of their discussions, and that will continue. I assure the noble Lord, as the Minister for both India—as was confirmed to me this morning—and the Gulf, that I will certainly continue these conversations as part of my portfolio of responsibilities.

The noble Lord, Lord Collins, also raised the issue of our co-ordination with Turkey. I fully acknowledge, as I am sure do all noble Lords, the important role that Turkey has played on the UN grain deal. Indeed, when I last met with the Foreign Minister of Turkey at the UN General Assembly, we commended Turkey's efforts and the importance of its role continuing. We are working closely with Turkey in that respect. Since the announcement of Russian's suspension there was a UN Security Council meeting only yesterday, and our embassy in Ankara has engaged, as have our teams at the UN in New York, and I know that the Foreign Secretary is very much planning to engage quite directly with his counterpart. Noble Lords may be aware that he is also travelling to the G7, where again these issues will be raised. On the point that the noble Lord, Lord Collins, raised about co-ordination and partnership, the Government hold that closely as a key priority in our response across the piece when it comes to standing up to Russian aggression.

The noble Lord, Lord Collins, raised the issue of energy security, and of course we are working directly to the requirements of the energy ministry of Ukraine and responding to its needs there. The Foreign Secretary will be looking at the issue of the price cap with the G7 partners. On the noble Lord's specific question, I can say that to date we have provided 856 generators to Ukraine and we continue to work closely with Ukraine and alongside our key partners, be they NATO, the European Union, the United States or other allies, to ensure that we continue to be strong and solid in our support for what Ukraine requires.

Both noble Lords raised the important issue of sanctions. To date, we have seen over 1,200 individuals sanctioned specifically by the United Kingdom Government, along with 120 entities. There are quite specific details which I have mentioned before, but because of our sanctions we have seen a direct reduction in the growth of the Russian economy. There has been a disabling effect on Russia's own economic progress, and of course we have seen that through some of the desperate actions that Russia is engaging in as a direct result of the economic sanctions being imposed. Of course, I take on board what the noble Lord said specifically about the need for continued co-ordination but also talking to other partners so that there is an even more united impact and effort to ensure that Russia feels the true cost and the impact of sanctions.

On the issue of grain supplies, the noble Lord is of course correct. However, Russia has again emphasised that this is a suspension, not a termination. About 100 ships were scheduled to go through the Bosphorus into the Black Sea and pick up grain, and a number of vessels are being allowed to return. The issue of course arises for inward vessels and their being part of the UN agreement. We are working in direct contact with the United Nations, which is overseeing this process along with Turkey, and we will update the House accordingly.

I stress again that this is a suspension. Russia called yesterday's UN Security Council meeting, and we believe that the case it presented is unfounded. The Russians forgot to mention one material fact: that the Black Sea fleet is in Ukrainian territorial waters—a basic salient fact missed, or not articulated, by the Russians. That is the fundamental point in all this.

I fully acknowledge what the noble Lord, Lord Collins, said: the grain supply has provided lifelines. We have seen 700 million tonnes, I think, delivered to many vulnerable countries. Coming back to the point made by the noble Lord, Lord Purvis, this includes Ethiopia, Afghanistan and Yemen, so there is real impact from what we are doing.

The issue of the drones provided by Iran was raised. On wider issues, noble Lords will know that the United Kingdom, along with our allies, has taken specific sanctions against Iran on the continuing and prevailing situation within the country, but we note specifically what more can be done, and how we can further limit the impact of such exports to Russia is being considered.

As noble Lords will know, in 2022, UK military support amounts to £2.3 billion: more than 200,000 pieces of non-lethal aid, including helmets, body armour, range fighters and medical equipment. Future delivery includes AMRAAM missiles for use in the US NASAMS air defence system—again showing the importance of co-ordinating with our key allies. We have also provided more than 100 logistic support vehicles, armoured vehicles and a further 600 short-range air defence missiles. There is an extensive programme of support for Ukraine, which is bearing results.

Let us not forget that, in the occupied areas of Ukraine, Ukrainian forces are now making forward moves; they are making progress. That is resulting in the reaction we are seeing in this indiscriminate bombing of Kyiv, in particular.

I assure noble Lords that we will continue to provide updates on a regular basis, and I will continue to update the noble Lords, Lord Collins and Lord Purvis, on the Front Benches, in the usual way.

3.47 pm

Lord Lancaster of Kimbolton (Con): My Lords—

The Lord Bishop of Southwark: My Lords, I welcome the Foreign Secretary's commitment that the United Kingdom should remain one of the leading nations in equipping Ukraine to resist the Russian invasion and occupation of what is sovereign territory. In his maiden speech in July, my friend the right reverend Prelate the Bishop of Southwell and Nottingham linked the Russian blockade with the risk of a devastating famine in the Horn of Africa and east Africa. With the suspension of the Black Sea grain initiative, does the Minister agree that this strengthens the case to restore the overseas aid budget to 0.7% without further delay?

Lord Ahmad of Wimbledon (Con): My Lords, as a man of faith, it is always good to see colleagues giving way to God in any contributions that are made. The right reverend Prelate raises the important issue of the Black Sea grain initiative. Notwithstanding the reduction to 0.5%, the United Kingdom has been very firm in our support and we have worked together with international partners. I do not think that prevents us providing the vital support needed. Within the context of the support the FCDO gives in overseas development assistance, humanitarian support rightly remains a key priority.

Lord Lancaster of Kimbolton (Con): My Lords, the UK has led the way in supporting Ukraine, and I am very grateful to my noble friend for updating your Lordships' House on the current support—much of which, however, is relatively short term. I welcome the addition of 853 generators, as I think my noble friend said, but that will not solve Ukraine's long-term energy crisis. Without getting ahead of ourselves towards the end of the war, is not now the time to be talking to our international allies to try to bring together what would be a Marshall plan for Ukraine for long-term investment? All too often, as we saw in Iraq, we have not got these issues right in times of conflict.

Lord Ahmad of Wimbledon (Con): My Lords, my noble friend speaks with expert insight on these issues, but I assure him that we are focused on immediate, medium and long-term support. The UK has pledged £100 million to support Ukraine's energy security and reform, and £74 million in fiscal grant support to Ukraine through the World Bank. We have also provided guarantees which have unlocked nearly £1.3 billion pounds, $1.5 billion of World Bank and EBRD lending to Ukraine, and the first $415 million of this, and the second $500 million in September, have been deployed through the World Bank to fund key lines of government expenditure. This is done in co-ordination with the IFIs and key partners.

Viscount Stansgate (Lab): My Lords, I understand from the Minister that it was Russia that convened the meeting of the Security Council at which this suspension was made clear. However, in the light of the comments from my noble friend Lord Collins and the right reverend Prelate, it is absolutely vital that the United Kingdom does everything it can in the Security Council to help the Secretary-General renegotiate or restart this agreement for grain, because so much of the world in parts of the Middle East depends on it for its existence.

Lord Ahmad of Wimbledon (Con): I assure the noble Viscount that that is exactly what we are doing. Our excellent ambassador, Dame Barbara Woodward, has emphasised the importance of restarting this initiative. We are working closely with and behind the UN to ensure that the initiative, which is saving lives in some of the most vulnerable parts of the world, is restored as immediately as possible.

Lord Howell of Guildford (Con): My Lords, further to my noble friend's interesting reply to the noble Lord, Lord Purvis, does he agree that, right from the start, the priority has been to prevail not just on the battlefield but in isolating Russia and its war machine from supplies and trade right around the world? Does he agree that our diplomats ought at least to be able to mobilise the other 55 members of the Commonwealth to ensure that they take a stronger position than some of them have against the Russian attack on humanity, on the international rule of law and on the decent standards by which all government has prevailed throughout this world?

Lord Ahmad of Wimbledon (Con): My Lords, I assure my noble friend that the Government are working with key partners, including in the Commonwealth. I sat through the Foreign Ministers' meeting where we negotiated the communiqué. It was the United Kingdom, along with key allies, that ensured the importance of language in the communiqué on Ukraine and made the case for it very strongly. More broadly, as the Minister for the United Nations, I know that our diplomats have done an excellent job. As I am sure my noble friend noted, 143 nations of the United Nations recently voted with Ukraine on the issue of annexation. The engagement and unity being shown on the diplomatic front is being co-ordinated extensively with key partners; we will continue to make the case to other allies as well.

Lord Walney (CB): Further to that question, what discussions are the Government having with allies on what comes next? Specifically, there can be no return

[Lord Walney]
to normal international relations, with Russia in a position of leadership, given the flagrant way in which Putin is systematically breaking humanitarian law and all the rules of warfare to pursue this conflict.

Lord Ahmad of Wimbledon (Con): I agree with the noble Lord's points. I assure him that we are using all our engagements, both bilaterally and through multilateral fora. As I mentioned earlier, my right honourable friend the Foreign Secretary will meet our G7 partners. Indeed, on a more medium to long-term basis, we will once again host the Ukrainian reconstruction conference here in London next year; again, that will be an opportunity to bring a lot of partners together to look at what economic support Ukraine needs. However, the noble Lord is right: we must stand in unity—and there is some unity. I remember that, when we achieved 140 and 141 votes at the UN, we were told that we had reached the pinnacle of international collaboration. Many thought that it could not be reached again, but we did; we reached 143. That shows the absolute abhorrence towards Russia's action against Ukraine across the world.

Lord Campbell-Savours (Lab) [V]: My Lords, do Ministers—indeed, colleagues—genuinely believe that, with 200,000 troops in training and large swathes of Ukrainian territory under tyrannical occupation, the Russian leadership of a brutal Putin, who is systematically destroying infrastructure and murdering the innocent, is going to back off and withdraw? If, behind closed doors, they do not believe it, why do they not at least try to discreetly initiate talks to end the conflict? We need urgently to restore stability to the international economy and end the worldwide suffering in a war that seeks no end and could further escalate.

Lord Ahmad of Wimbledon (Con): My Lords, Russia is not winning. The noble Lord talked about training conscripts. We have seen images: when Russia imposed this conscription on its citizens, they fled to the borders. We have seen reports in the media today of so-called trained people having been sent to the front line with equipment that is not just dated but pretty redundant in terms of its use. That is a sign of real desperation. Of course, Ukraine, with the unity of support, including military support, that we have seen from across the world, is making gains and getting back its territory. I put it to the noble Lord—we have had these exchanges before—that if someone occupies your back garden, then your conservatory and then your back room, are you going to say, "It's okay, let's negotiate"? I do not think so.

Lord Robathan (Con): My Lords, in the light of what is an existential threat not just to Ukraine but to the long-term peace, security and future of the European continent and, I suggest, the world, the Government are to be congratulated on what they have done in giving support and material to the Ukrainians.

However—I will choose my words carefully—does my noble friend the Minister not agree that it is absolutely extraordinary that, after eight months of war and depleting our missile stocks, that we are not spending more money on defence and are not even talking about it? The integrated defence review is out of date. Defence is like an insurance policy: you spend money on it and have to pay your premiums. If you do not pay them, guess what? The insurance policy does not work.

Lord Ahmad of Wimbledon (Con): Again, my noble friend has a lot of experience in the field. I pay tribute to how he has represented our nation. I listen very carefully to his contributions. Not only will I ensure that I take that back to the department but I agree with him: our defence capabilities are a cornerstone of our international presence around the world. We need to have a strong defence at home and when supporting our international partners, as we are doing in Ukraine.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, the Minister will have seen reports that, when she was foreign secretary, Liz Truss's telephone was hacked by the Russians, including her conversations with other world leaders including President Zelensky. In that way, the Russians might have gained important information. What information and advice are now being given to Ministers, particularly in the Foreign Office and the MoD, on the security of their telephone conversations?

Lord Ahmad of Wimbledon (Con): My Lords, I will not comment specifically, nor would the noble Lord expect me to. However, throughout government, it is important that we remain vigilant. That goes for those who are in international-facing roles within the Foreign, Commonwealth and Development Office and the Ministry of Defence. I know from my own experience of visits that I make that appropriate precautions are taken.

Of course, cyber is ever evolving. Today, my honourable friend Leo Docherty also mentioned the support that we are giving to Ukraine around cyber. Increasingly, we have called out cyberattacks, which are not just by individual people or organisations but state-sponsored. We need to remain vigilant. This is an ever-growing threat. We need to ensure that our defences, be they personal, organisational, parliamentary, departmental, or by country —including around national infrastructure —are the best at all times.

Lord Scriven (LD): My Lords, a moment ago at the Dispatch Box, the Minister said that his responsibilities included the Gulf states and that he will be in further discussions with them. What would the Minister expect Gulf states to do differently after the discussions to show progress in their support for Ukraine and against Russian aggression?

Lord Ahmad of Wimbledon (Con): My Lords, we are already seeing progress. Specifically, we have seen certain Gulf states move their positions from abstention to supporting Ukraine's position within multilateral fora, particularly the United Nations. That is down to extensive diplomacy and making the robust case that the aggressor here is Russia. Ukraine's sovereign territory has been impeached. Russia needs to stop the war and withdraw, then discussions can begin.

Lord Austin of Dudley (Non-Afl): My Lords, the Minister's response to the noble Lord, Lord Hannay, was completely correct. This is not a time not for negotiation but for increasing support for Ukraine so that it can go on to defeat the Russians and free its territory. On sanctions, what assessment have Ministers made of the case for targeted sanctions for those responsible for the arrest, prosecution and detention on trumped up charges of the British citizen, Vladimir Kara-Murza, who is also a leader of the Russian opposition? Will the Minister meet me and other campaigners to discuss this issue?

Lord Ahmad of Wimbledon (Con): My Lords, I will not go into a specific case, but I agree totally with the noble Lord's earlier comments. We need to ensure that we stand firm against Russian aggression. He is also right that Russian aggression is not limited to Ukraine. When noble Lords say that this was about Crimea, what about South Ossetia and Abkhazia in Georgia, and, of course, the Russian people themselves? Our fight is not against the Russian people. Many noble Russians are standing up to Mr Putin and paying the ultimate cost. I look forward to meeting the noble Lord if there are particular issues.

Lord Selkirk of Douglas (Con): Will the Minister accept that there have been a great many repeated attacks on the civilian population in Ukraine and that no Government in the world could be expected to put up with that kind of treatment?

Lord Ahmad of Wimbledon (Con): I totally agree with my noble friend. That is why I am proud of the fact that, notwithstanding the tragedy that is unfolding on the Ukrainian people, the United Kingdom has stood, along with other key partners, as a true friend to Ukraine.

Baroness Donaghy (Lab): Could the Minister answer my noble friend Lord Collins's question? He referred to cyberattacks and asked whether this was being co-ordinated with other allies.

Lord Ahmad of Wimbledon (Con): The short answer is yes, of course. We work with our closest allies to see how we can improve our defences against such cyberattacks.

Lord Marlesford (Con): My Lords, does my noble friend agree that a just end to this wicked war will require the removal of Putin from power? This removal can come only from within Russia, but the date of the removal is getting ever closer as he imposes humiliation, pain and deprivation, and sacrifices the lives of his own people in pursuit of his mad aims.

Lord Ahmad of Wimbledon (Con): My Lords, who leads Russia is ultimately a matter for the Russian people, but what is clear, and should be very clear to Mr Putin when he looks across the international stage and sees who supports him and who voted with Russia—Nicaragua, Belarus, and I believe that North Korea has supported Russia on occasions—is that a person is judged by their friends; Mr Putin does not have many friends left.

Lord Pickles (Con): My Lords, in order to get a compliant population in territory that the Russians occupy, the Kremlin is operating a policy that it describes as "filtration", which involves the forcible kidnapping, deportation and dispersal of Ukrainian citizens, in a clear breach of the Fourth Geneva Convention. Last month, the United States State Department estimated that this involved many thousands of Ukrainian citizens. Does my noble friend have an up-to-date estimate of the numbers involved? Will he ensure that the plight of those kidnapped people, involving many thousands of children, is not forgotten?

Lord Ahmad of Wimbledon (Con): My Lords, on my noble friend's second question, I assure him that the United Kingdom will continue to work with key partners in making the case for those most vulnerable and most innocent, and indeed those being imposed on in this way and taken away from their families. I will write to him on the numbers.

Lord Brown of Eaton-under-Heywood (CB): Can the Minister assure me that, in supplying the heavy weaponry and such other support as we rightly give to Ukraine in resisting cyberattack and so forth, we place no inhibition on the Ukrainians in terms of their reciprocally trying to attack infrastructure behind Russian lines?

Lord Ahmad of Wimbledon (Con): My Lords, the United Kingdom has long recognised the importance of working with Ukraine and ensuring its troops are well trained. Indeed, for many years since the annexation of Crimea, through a programme called Orbital, our Ministry of Defence has been working on specific issues including training Ukrainian personnel, and that will continue. Ukraine is a sovereign nation, and we are a partner and friend to Ukraine. It continues to operate and, indeed, to make gains. The Ukrainians' end objective is a simple one: they want their territory back, and I think that is a noble intent.

Lord Bellingham (Con): My Lords, the Minister will be aware that the rivers Dnieper and Dniester have very large dams along their routes, and Russia has indicated publicly that it wants to attack and denude Ukrainian infrastructure. What assessment has HMG made of possible catastrophic damage to these dams?

Lord Ahmad of Wimbledon (Con): It is interesting that along the routes of those rivers and dams is exactly where the Ukrainian forces are now making gains. This is a desperate attempt to stop further advances and the regaining of territory by Ukraine. It is a further example of the kind of disinformation Russia is putting out, even suggesting, as it did earlier today, that it is the Ukrainians who would seek to destroy those dams. We need to be vigilant about disinformation from Russia, but at the same time very cognisant of the fact that as Ukraine is making gains and regaining territory, Russia is resorting to the most desperate measures.

Baroness D'Souza (CB): My Lords, does the Minister think that American support for Ukraine, particularly armaments, is likely to be reduced after the mid-term elections? If so, where would such support come from?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Baroness is asking me to speculate on the outcome of the mid-term elections, but I will resist such temptation. Ultimately, whatever happens in the United States, it has shown itself to be a steadfast partner to Ukraine and it will make judgments and decisions on how it best supports Ukraine. What I can say is that we work very closely with the United States. It is our closest partner and ally, and when it comes to Ukraine, we stand firm and united in our response.

Baroness Bennett of Manor Castle (GP): My Lords, the Statement rightly expresses horror at missiles destroying critical national infrastructure. Russian attacks are also indiscriminately targeting residential areas and causing significant civilian casualties. I am sure the Minister is aware of the report *Explosive Weapons with Wide Area Effects*, released by the International Red Cross at the start of this year. In it, the IRC's chief legal officer said:

"The extent of civilian suffering and destruction in today's armed conflicts makes it urgently necessary for states and all parties … to reassess and adapt their choice of weapons when conducting hostilities in populated areas."

Does the Minister agree that we need to strengthen international standards, controls and conventions in order to increase the pressure on activities such as those of President Putin and his regime?

Lord Ahmad of Wimbledon (Con): My Lords, I listened very carefully to the noble Baroness. I am sure she will agree that we can raise all the international standards we like, but when it comes to Mr Putin, international standards do not matter to him. He has torn up the UN convention, the very basis on which the UN, of which Ukraine was a founding member, was founded. He has torn up the very sovereignty of a key nation. On raising thresholds, we have a robust scheme and the noble Baroness often asks questions on that, but I think raising international standards will have no effect on Mr Putin.

Public Order Bill

Second Reading

4.09 pm

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

That the Bill be now read a second time.

Relevant document: 1st Report from the Joint Committee on Human Rights

The Parliamentary Under-Secretary of State, Home Office (Lord Sharpe of Epsom) (Con): My Lords, the duty of any Government is to protect the safety and interests of the law-abiding majority. This means working to prevent and reduce crime, giving the police the tools they need and ensuring that those who break the law face proportionate consequences of their actions. Fighting crime and keeping communities safe is at the forefront of the Government's agenda. That is why we have invested £17 billion in policing. It is why we are running a police uplift programme that is well on the way to recruiting 20,000 additional officers, and why we introduced the Police, Crime, Sentencing and Courts Act, which received Royal Assent in April.

While that Act has given the police some of the tools they need better to manage disruptive protests, we were frustrated in our attempts to implement the full suite of measures needed to ensure that the public can go about their daily lives free from serious disruption or harm. The Public Order Bill therefore builds on the Police, Crime, Sentencing and Courts Act to bolster our ability to crack down on disruptive and dangerous tactics of the kind we are seeing deployed all too frequently.

Specifically, the Bill targets acts by a minority of people that cause serious disruption to the hard-working majority, such as those we have seen in recent months that have brought roads to a standstill, blocked emergency services and forced thousands of police officers away from the critical work of protecting their communities. In October alone, the Metropolitan Police made more than 650 arrests in relation to Just Stop Oil activity in London.

When speaking about some of this disruption, Metropolitan Police Commissioner Sir Mark Rowley noted that his force's response over 11 days of protests had been the equivalent of more than 2,150 officer days. That, I am sure noble Lords agree, is a striking number. It encapsulates why it is so crucial that we act. The police perform a unique role in our society; theirs is undoubtedly a job with many different strands. These include public order, but it cannot be right that so much of their time and resources are taken up by tiresome and disruptive stunts that, far from advancing the protesters' cause, serve only to infuriate everyone else.

Peaceful protest is a fundamental part of our democracy. We will never agree on everything, which is why vigorous but sensible debate is something we hold so dear. What we cannot and should not accept is a situation in which the lives and livelihoods of decent, law-abiding citizens are impeded by the actions of a selfish and reckless few. The public are fed up with what they see happening day after day, and who can blame them? It is now up to us, as parliamentarians, to act in their best interests and get this crucial Bill on the statute book.

I will now speak to the measures set out in the Bill. First, the Bill introduces a new criminal offence of locking on, accompanied by a further criminal offence of going equipped to lock on, criminalising the tactic of intentionally causing disruption by locking on to busy roads, buildings or scaffolding. Locking on is as risky as it is disruptive, endangering not only the protesters but the police removal teams. I was therefore pleased to hear the leader of the Opposition confirm last week that his party would press ahead with tougher prison sentences for protesters who glue themselves to roads.

Secondly, the Bill introduces a new criminal offence of tunnelling, being present in a tunnel and going equipped to tunnel, making it clear that the protest

tactic of building and occupying tunnels in order to disrupt legitimate activity will not be tolerated. HS2 has been targeted on multiple occasions with tunnels that have caused enormous cost to the project, with three removal operations alone costing in excess of £10 million. But it is not just about the costs. Tunnelling is dangerous and reckless, endangering not just those who occupy the tunnels but the responding emergency workers. We cannot wait to act until someone is seriously injured or worse.

Thirdly, the Bill establishes new offences for obstructing major transport works and interfering with key national infrastructure, reflecting the serious impact of such acts and our determination to tackle them. I have already touched on some of the disruption to projects such as HS2. HS2 estimates that sustained protester action has led to additional costs to the project of more than £146 million, an amount projected to rise to £200 million by the end of next year. The offence of obstruction of major transport works therefore ensures that all stages of construction and maintenance will be protected from disruptive action, while the key national infrastructure offence will ensure that our major transport networks, energy and fuel supplies are protected.

The new offences in the Bill are accompanied by an extension of stop and search powers for police to search for and seize articles connected to protest-related offences such as locking on and tunnelling.

Lord Bellingham (Con): I absolutely agree with what the Minister says about the police being given these new powers, which are long overdue, but does he agree that once they have them, it is incredibly important that they use them? There have been examples of the police—not the Met but other forces—adopting a "softly, softly" approach that has encouraged the people who have been locking on and causing disruption.

Lord Sharpe of Epsom (Con): I agree, of course, with my noble friend and I am sure we will come on to that subject in some detail later.

In its report on the policing of protests, His Majesty's Inspectorate of Constabulary and Fire & Rescue Services concluded that stop and search powers will improve the police's ability to prevent serious disruption, and we agree. I want to be clear to noble Lords that existing safeguards around the use of stop and search powers, including statutory codes of practice, use of body-worn video to increase accountability and extensive data collection will continue to apply.

Next, the Bill lowers the rank of officer to whom the commissioners of the City of London and Metropolitan police forces can delegate powers to prohibit or set conditions on protests. The rank is being lowered from assistant commissioner to commander. This retains senior level involvement but will allow the most senior officers more time to focus on the challenges that the Metropolitan Police Service faces. It will bring London forces into line with forces across England, Wales and Scotland, whose chief officers can already delegate their powers to the commander-equivalent rank of assistant chief constable. The Bill also extends to the British Transport Police and Ministry of Defence Police existing powers to manage public assemblies in Part II of the Public Order Act 1986.

The Bill contains two other measures, as well as an addition from the other place. First, it establishes a new preventive court order, the serious disruption prevention order, which may be sought either on conviction or following an application by a chief police officer. This is targeted at protesters who are determined to repeatedly inflict disruption. The courts will be able to place conditions on individuals to prevent them engaging in criminal acts of protest and causing serious disruption time and time again. These conditions could include curfews or electronic monitoring but, most importantly, they will be for the courts to decide, not the Government. The threshold for the imposition of these orders is appropriately high and I trust our police and courts to impose them only where necessary.

The second measure provides a Secretary of State with a specific mechanism to apply for an injunction in relation to protest activity that causes, or threatens to cause, serious disruption to key national infrastructure, or to access to essential goods or services. An injunction could also be sought where the protest activity has, or is likely to have, a serious adverse impact on public safety. This does not affect the right of local authorities or private landowners to apply for an injunction but gives a Secretary of State an additional route to act in the public interest where the potential impact is serious and widespread. For example, a Secretary of State could have applied for an injunction on behalf of the various local authorities affected by the recent Just Stop Oil protests that obstructed roads across London.

Finally, on a free vote with cross-party support, an amendment was inserted into the Bill by the other place on Tuesday 18 October. Clause 9 establishes buffer zones around abortion clinics where interference with people accessing or providing abortion services would be an offence. The Government will consider how to implement and deliver this amendment. Noble Lords may have seen a Written Ministerial Statement which I issued last week, in which I indicated that I was presently unable—before introduction—to sign a statement of compatibility with the European Convention on Human Rights. I would particularly welcome your Lordships' engagement on this clause.

I conclude my opening remarks by saying that there are inevitably differences of opinion, which we will come to consider throughout the course of this debate. But I hope all noble Lords recognise that blocking ambulances, preventing cars carrying sick children from passing, or damaging artworks is completely unacceptable, whatever the cause. That sort of behaviour is not only breathtakingly selfish; it pulls the police away from the people and places that need them the most. This cannot continue. I beg to move.

4.18 pm

Lord Coaker (Lab): My Lords, I thank the Minister for introducing this Second Reading. There is no difference between us, it seems to me, on the right to peaceful protest being a fundamental part of our democracy. Many of us in this Chamber, including me, have been part of protests, campaigns and demonstrations. Throughout history, in generation after generation, people have made their voices heard and taken action against the decisions and policies of the powerful.

[Lord Coaker]

Indeed, we have stood and applauded those taking action and protesting in countries around the world, most recently in Iran and Russia.

We are not an authoritarian country, and I do not believe that the Government wish to ban all protests. But the Bill contains a number of provisions that undermine our historic and democratic rights. The Joint Committee on Human Rights said:

"While the stated intention behind the Bill is to strengthen police powers to tackle dangerous and highly disruptive protest tactics, its measures go beyond this, to the extent that we believe they pose an unacceptable threat to the fundamental right to engage in peaceful protest. The right to peaceful protest is a cornerstone of democracy, which should be championed and protected rather than stifled."

The Government's response is to dismiss these fears and say that they are the outpourings of middle-class liberals who are out of touch—or, worse, "tofu-eating wokerati". I had to look up what tofu was.

More seriously, why are the Government doing this? Much of it is in response to the recent protests. Let there be no doubt: we also strongly criticise the serious disruption caused by Just Stop Oil, Insulate Britain and Extinction Rebellion. We have seen behaviour that is unacceptable to us all. Of course vital infrastructure and services on which we all depend need protecting so that others are not put at risk, as we recently saw with an ambulance struggling to get through. That was unacceptable and wrong, as was the dangerous blocking of the M25 or wasting milk, leaving it to low- income cleaners to mop up.

But our contention and belief are that we need to look at the existing laws and powers that the police have to deal with serious disruption and intimidation. Blocking a road or defacing a work of art are already crimes, and we support the continued strict enforcement of these laws and giving the police the confidence to pursue them. The Government should highlight, as the Minister did, the hundreds of arrests of protesters over the last few months. The fear of arrest and actual arrest deter most people, and one wonders what laws would prevent people as determined as those who are protesting at the present time. The Government's Bill will potentially inadvertently criminalise many from a huge law-abiding majority.

Under existing laws, five Insulate Britain members were jailed for breaching M25 restrictions, Just Stop Oil protesters who threw tomato soup were charged with criminal damage, 11 people were arrested for criminal damage at a dairy in the West Midlands, 80 people were arrested at an oil facility near Heathrow for aggravated trespass and 25 people were arrested in central London for obstructing the highway. There is example after example of arrests by our police service using existing laws. Perhaps there should be tougher sentences, as the Minister said, but that should be done under existing legislation, not simply reacting to what is happening and seeing whether any more laws are needed.

The Bill contains a number of new measures, many of which were not supported by the police inspectorate, including the creation of protest banning orders, as we call them, and locking on. The so-called new threat of locking on, including the use of superglue, is not new: if the Minister looks to the Home Office, he will see that it is referenced in the 2006-07 *ACPO Manual of Guidance on Dealing with the Removal of Protestors*. This contains action that the Government suggest should be taken with those who use superglue, as well as pictures reminiscent of those we see today. The Government of the day did not respond to those protesters with new draconian laws.

One of the most worrying new powers in the Bill is to do with stop and search, which is always contentious and controversial, particularly because of its adverse impact on ethnic minorities and other marginalised groups. There is stop and search on suspicion if it is believed that, for example, someone will commit a protest-related offence. But suspicionless stop and search, which is usually reserved for protection against terrorism and the most serious violence, would allow the police to stop and search people without suspicion in a specific place, if an inspector or an officer of higher rank "reasonably believes" that a protest offence may be committed in that area. This would allow the police to stop and search not only completely peaceful protesters but also anyone in the vicinity of a protest, including unknowing passers-by. If Parliament Square were so designated, anyone—people going to work, shoppers, school students, parliamentary staff or tourists—could be stopped without reason. Is that where we want to go? Unacceptable.

Part 2 of the Bill deals with serious disruption prevention orders—or, as we and many others call them, protest banning orders. These can be applied both on conviction and without conviction; people can be banned from a particular place and banned from being with certain other people; and they even include, as the Minister told us, electronic tagging. Such an order can be applied when someone has been convicted of a protest-related offence, but also otherwise than on conviction where a person has on two separate occasions carried out activities causing serious disruption to two or more people or has contributed to others doing so. A chief police officer can apply for a protest banning order.

Measures such as suspicionless stop and search mirror laws that, as I have said, exist for terrorism or serious violence. Is this really where we want to go in this Parliament with our laws on protest? I suggest that this undermines the traditions this country has had. Of course, we do not want to see the disruption that we see. However, I must say—although this may be unpopular—that sometimes there is a price for democracy, a price for freedom and a price for campaigning, which the authorities may not find acceptable. Of course, that means that protesters should not get in the way of people going to hospital or be overly disruptive, but the price of democracy allows people to protest—and we play with that at our peril.

Indeed, when this proposal on protest banning orders was first suggested, the Home Office itself rejected it on the grounds that it essentially takes away a person's right to protest and would likely lead to legal challenge. It was not the "tofu-eating wokerati"—I cannot resist quoting that phrase again—but the police inspectorate which said,

"however many safeguards might be put in place, a banning order would completely remove an individual's right to attend a protest. It is difficult to envisage a case where less intrusive measures

could not be taken to address the risk that an individual poses, and where a court would therefore accept that it was proportionate to impose a banning order."

There are many other areas beyond the two I have highlighted which we will need to debate in Committee, around tunnelling, various restrictions on protests around major infrastructure projects, and so on. I remind this Chamber that it was the last Prime Minister but one—I cannot keep count—Boris Johnson who himself said, about a major infrastructure project, that he would lie down in front of the bulldozer that sought to build the third runway at Heathrow.

These are broad, sweeping and vaguely defined powers with low thresholds that we will need to debate in Committee. We have seen totally unacceptable actions by protesters: defacing buildings and works of art, pouring out milk and causing serious disruption to the everyday lives of so many. However, many of these protesters have been charged under existing laws, and some will remain undeterred whatever the law. The answer to such protests cannot be the introduction of ever more draconian laws undermining the legitimate right to protest. That is why we oppose so much of this Bill: it cannot be right that laws reserved for terrorists and the most serious violence are to be applied to protesters. As the JCHR said:

"The right to peaceful protest plays a crucial role in any healthy democracy. We are concerned that the Government are proposing further sweeping restrictions on peaceful protest … This latest raft of measures is likely to have a chilling effect on the right to protest in England and Wales. They threaten the overall balance struck between respect for the right to protest and protecting other parts of the public from disruption. The Bill also risks damaging the UK's reputation and encouraging other nations who wish to crack down on peaceful protest."

I could not have put it better myself. The Bill goes too far in rebalancing the interests of protests and legitimate ways of action: it rebalances that in the interests of the authorities far too much. It deserves real criticism in Committee, and it is going to get it.

4.28 pm

Lord Paddick (LD): My Lords, I remind the House of my experience in public order policing: I was an advanced trained public order senior officer attending specialist pass-fail week-long initial training, table-top exercises over numerous weekends, and two-day practical exercises every six months involving more than 100 officers and petrol-bombing and operating under a hail of missiles. I was also the gold commander for numerous real-life public order events.

Let me say up front, as the noble Lord, Lord Coaker, has said, that our view is that protesters unreasonably blocking ambulances taking patients to hospital, for example, should be arrested and, in particularly serious cases, they can, they should and they have been sent to prison by the courts. This can be done now, and it has been done recently, under existing legislation. As the noble Lord said, damaging artwork is also a criminal offence under existing legislation, for which someone could be sent to prison.

Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services, which I will shorten to HMIC, as fire and rescue are not relevant to this Bill, conducted an inspection of public order policing at the request of a former Home Secretary—whichever one it was—who wanted evidence to prove that new legislation was necessary to deal with modern-day protests. There were five proposals on which HMIC, the Home Office and some police officers agreed that the law could be changed, four of which have already been enacted through the Police, Crime, Sentencing and Courts Act 2022. The fifth and only outstanding proposal agreed to, with reservations, by HMIC, which the Home Office initially thought was too controversial to include in the Police, Crime, Sentencing and Courts Bill introduced to this House, was increased stop and search powers for the police in relation to protest. I say that HMIC had reservations, but let me quote from its report, which said:

"Throughout the ten forces we inspected, we found that police views on proposed additional powers relating to protest were strikingly different. At one end of the spectrum, an officer we interviewed described the current legislation as providing 'an arsenal' of weapons for the police to use, including many appropriate for use in the context of disruptive protests. Consequently, that interviewee, and many others, saw no need for change. Arguing against the proposal for a new stop and search power … another officer stated that 'a little inconvenience is more acceptable than a police state'. We agree with this sentiment."

That is HMIC agreeing with that sentiment, although we on these Benches also agree with that sentiment, and I personally, based on my experience, agree with that sentiment.

The other proposed legislative changes in this Bill were not asked for by the police, not considered by HMIC and, together with the new stop and search powers, not initially included in the Police, Crime, Sentencing and Courts Bill. So where did they come from, and what gave the Home Office the courage to introduce the stop and search powers and the other measures as amendments to the PCSC Bill in Committee in your Lordships' House?

Insulate Britain had engaged in a short but reckless campaign of blocking roads, including motorways, around the time of the 2021 Conservative Party conference. The then Home Secretary made a speech saying she would introduce even more draconian laws in response to the Insulate Britain protests. That is why these measures were added to the already questionable erosion of people's right to protest in the original Police, Crime, Sentencing and Courts Bill after it had passed through the Commons.

Apart from making those who dangerously blocked roads liable to a sentence of imprisonment, which this House eventually agreed to, the remaining measures, which deliberately target climate protesters, and the new stop and search powers were rejected by this House. Now here they are again, in the Bill before us. We on these Benches, who the current Home Secretary described, along with our Labour colleagues, as

"Guardian reading, tofu-eating wokerati"

believe, following that comment, that this is a culture wars Bill that further erodes people's right to assembly, free speech and peaceful protest.

The Explanatory Notes for the Bill produced by the Home Office offer an alternative explanation for the measures in it, saying:

"Recent changes in tactics employed by certain protesters have highlighted some gaps in current legislation"—

recent changes in tactics, such as locking-on as practised by the suffragettes, who chained themselves to railings, or tunnelling, as practised by those protesting against

[Lord Paddick]
the Newbury bypass in 1996. If memory serves me, the noble Lord, Lord Blair of Boughton, was in charge of the policing for that situation, so no doubt we will hear about it in a moment. Then there is obstructing major transport works—like those who protested against the second runway at Birmingham Airport in 1997. To say that this Bill is necessary to fill gaps in legislation because of these so-called recent changes is not only factually inaccurate but laughable.

On the new stop and search powers, HMIC's inspection report talked about

"the potential 'chilling effect' on freedom of assembly and expression in terms of discouraging people from attending protests where they may be stopped and searched".

Black people, in particular, many of whom feel that those in Parliament do not represent them, and for whom peaceful protest is even more important, are the most likely to be impacted. As HMIC says:

"Such powers could have a disproportionate impact on people from black, Asian and other minority ethnic groups."

Why does it say that? Because you are seven times more likely to be stopped and searched by the police using "with suspicion" powers, and 19 times more likely to be stopped and searched by the police using "without suspicion" powers, if you are black than if you are white, and both "suspicion-led" and "suspicionless" powers are included in the Bill.

If that is not bad enough, the Bill proposes serious disruption prevention orders, something considered by HMIC and the Home Office and rejected. The HMIC inspection report states that other police officers

"regarded such banning orders as a disproportionate infringement of the right to freedom of expression and peaceful assembly. One senior police officer believed that banning orders would 'unnecessarily curtail people's right to protest'. Another commented that a protest banning order is 'a massive civil liberty infringement'. We also heard a view that 'the proposal is a severe restriction on a person's right to protest and in reality, is unworkable'".

Those are the views of police officers.

The Home Office initially discounted the proposal, saying that it would take away a person's right to protest and that banning people attending peaceful protests would very likely lead to a legal challenge. It added that it appeared unlikely the measure would work as hoped because a court was unlikely to impose a high penalty on someone who breached such an order if the person was peacefully protesting. HMIC concluded:

"We agree with this view and that shared by many senior police officers".

We on these Benches also agree with this view. Even if I were sitting on the Cross Benches as a completely independent expert with a wealth of experience in public order policing, instead of, as I do, sitting on the Liberal Democrat Benches as an expert with a wealth of experience in public order policing, I would still oppose the provisions in the Bill—and in almost every case I would be supported by the majority of serving police officers, His Majesty's Inspectorate of Constabulary and Fire & Rescue Services, and many in the Home Office. We should oppose the provisions in the Bill.

4.38 pm

Lord Blair of Boughton (CB): My Lords, I refer to my interests in the register. However, my personal interest in the policing of public order long predates my need to be in the register. The first demonstration I helped to police was a march protesting against the Shah of Iran, which shows both the circularity and the differences of history. As the noble Lord has just said, my last major foray into the policing of protest was as the commander of the long policing operation concerning the construction of the Newbury bypass in the 1990s. It was there, of course, where the figure of Swampy came to public notice, together with the tactic of tunnelling as a form of protest.

I am grateful to the Minister for a briefing on the Bill last week. This will not be a long speech because, as I told the Minister, in contrast to the noble Lords, Lord Coaker and Lord Paddick, I am very much in favour of the Bill's provisions. There are three reasons for that. First and foremost, the current tactics of locking on and tunnelling are extremely hard to prevent and time-consuming to overcome. The current law is inadequate. Secondly, it is now apparent that many members of the public are becoming extremely irate and beginning to take the law into their own hands, which is almost never a good idea and puts the police in both an invidious position and a very bad light. Thirdly, as a citizen rather than an ex-police officer, I am concerned that this form of protest is so irritating that it will damage the fast-growing consensus over the need for action to tackle climate change.

I will follow the passage of the Bill carefully through your Lordships' House, but I expect to be most interested in the provisions governing injunctions sought by Secretaries of State, over which I have some concern. I return to the building of the Newbury bypass to underline my concern about the need to protect the operational independence of the police. I am disappointed that the noble Lord, Lord Howard of Lympne, is not in his place; I have told him what I am about to say, as some of it is about him.

The site of the Newbury bypass was eight miles long. From Whitehall, the almost complete disruption caused by protesters at the start of the building operations, which lasted quite a few days, obviously looked like an ideal moment for the use of the newly legislated and excellently drafted offence of criminal trespass, which the noble Lord, then Home Secretary, had recently placed on the statute book. On day two, I was very clearly informed of the noble Lord's dismay, no doubt expressed with his customary courtesy, that I was refusing to use his legislation. No less august a figure than an assistant inspector of constabulary was sent to convey the message in person. He was a bit less than courteous.

I was glad to find that, on the inspector's arrival, he changed his mind and agreed with me—otherwise, it would have been an inglorious end to my nascent career. I was forcing the contractors—the builders—much against their will to fence and put security personnel around whatever part of the eight miles they were going to start work on first, instead of selecting different sites simultaneously, and thereby leaving my officers to chase protesters all over many miles of Berkshire

and Hampshire countryside. They very reluctantly did so. We then used the legislation and very useful it proved, much to the chagrin of one Swampy.

Policing protest is difficult; policing a banned protest is far more difficult, which is why police so rarely seek to have to do so. I think the provision on injunctions by Secretaries of State needs most careful consideration during Committee, because the distance from Whitehall to the ground where the action is happening can be very far.

4.42 pm

The Lord Bishop of St Albans: My Lords, I think many of us in this debate will have a feeling of déjà vu. No matter how many pieces of legislation come through here granting the police additional powers, it seems that they are never enough. It seems we are always one more public order provision away from solving the problem.

Along with other noble Lords, I want to support the police and the rule of law. We are grateful for all the police do; they stand in our place and, very often, have to take very difficult decisions. But we already have the Public Order Act 1986, which grants the police powers to place restrictions on protests and to prohibit those which threaten to cause serious disruption to public order. We already have the Criminal Justice and Public Order Act 1994, which introduced the offence of aggravated trespass. We have the offence of obstruction of a highway and the Protection from Harassment Act 1997, which allows for civil injunctions to prevent protesters demonstrating in a way which causes harm or harassment. As recently as last year, remarkably extensive powers, including on noisy and disruptive protests, were granted in the Police, Crime, Sentencing and Courts Act 2022.

Surely history indicates two things: first, that many protest groups are highly sophisticated and very knowledgeable about their rights and the law around protest, and are better and faster able to adapt than it seems the Home Office is able to legislate; and, secondly, that in attempting to outflank that speed of adaptation, Governments have thrown increasingly and worryingly broadly drawn powers to the police. It is clear, by the very fact that the Government deem this new Bill a necessity, that this is unlikely to succeed. It is hard to see how one more piece of legislation will be any more effective at reducing disruptive protests than the previous many pieces of legislation. It would be very instructive if the Minister could go through those previous powers in some detail to explain to your Lordships' House how often they are used and what their impact has been.

Certainly, the case for new extensive police powers needs to be carefully constructed given the previous history. It is not a small thing to place such significant powers in the hands of the police. Some of what we are discussing today could see someone who has not been convicted of any protest-related offence—despite all the offences and laws which already exist—nevertheless being subject to electronic monitoring and prevented from attending protests, or even encouraging or enabling protests. What seems to be proposed in these serious disruption prevention orders is an incredible set of restrictions which could be imposed on nothing more than a civil standard of proof. It is our duty to look very closely at each of these proposals as the Bill passes through your Lordships' House.

I am not here in any way to make the police's job more difficult. As I have said, I think we all deplore unacceptable demonstrations and the huge amount of money that they have cost the public purse. However, in a democracy—as the noble Lord, Lord Coaker, said—sometimes that is the cost of freedom of speech and expression. It is a huge responsibility to maintain public safety and order and to balance that with the freedoms of expression and association. Not one of us here is under any illusion of the difficulties that we face.

I am sure the Minister will tell us that the powers created here will be rarely used and only in the most limited and exceptional circumstances, but I note what other noble Lords have already said: that many of these powers have not been sought by the police. I am not convinced that a "trust us" approach is sufficiently robust to protect against a possible future Government, or police force, who might on occasion, for other reasons, be tempted to overreach their powers. It is very easy to be complacent over rights and the inherent goodness and propriety of our institutions, and we are fortunate in this country to have been more blessed than almost anywhere else in the world in this regard. But we do not need to look very hard around the world to see rights undermined, slowly at first and then dramatically. Surely it is our responsibility to guard against that possibility. We have concerns about the scope of SDPOs, and I will certainly listen carefully to what others with experience in this area have to say on these provisions.

I briefly mention Clause 9, introduced by amendment NC11 in the other place, on abortion clinic buffer zones. I have serious concerns about this clause as it stands. The term "interferes with" is so broadly defined that it includes seeking to influence, merely expressing an opinion, or attempting

"to inform about abortion services".

I cannot believe that this is proportionate given the existing powers possessed by the police and local authorities, and I am sure that we on this Bench will wish to look again at this clause.

I will listen with interest to the Minister's response, but at this stage I express grave reservations on a number of aspects of what is being proposed. I hope that the Minister will provide rather more robust evidence of why the Bill will be effective where all the previous ones have apparently not been.

4.50 pm

Baroness Chakrabarti (Lab): My Lords, I declare my registered interest as a council member of Justice, the all-party UK section of the International Commission of Jurists.

Noble Lords know that we are not here today to examine the tactical blend of persuasion and nuisance that constitutes peaceful dissent for those who do not own media or energy empires or walk red or green carpets. Sadly perhaps, still less are we here to debate the substance of so many burning issues—the future of our planet being the most obvious.

[Baroness Chakrabarti]

No, we are here to protect the constitutional climate and to scrutinise yet another public order Bill proposed for an overcrowded statute book. Is it effective, transparent, proportionate and even-handed? Is it respectful of the rule of law principles articulated by the late, great, noble and learned Lord, Lord Bingham of Cornhill? We might also reflect on why the Government promote blank-cheque police powers before even beginning to deal with police discipline, found so wanting after Sarah Everard's murder and in the interim report from the noble Baroness, Lady Casey.

The Bill bears closer resemblance to anti-terror law than measures aimed at addressing moments when peaceful dissent crosses a line into significant public nuisance. I commend to noble Lords Sir Charles Walker's speech in the other place against the "machismo laws" he described as "unconservative" and designed for a good headline in the *Daily Telegraph*.

I refer noble Lords first to the concept of thought crime, where otherwise innocent activity is impugned on the basis of imputed intention alone, as in being "equipped for locking on" by carrying a bicycle chain or first aid kit in one's rucksack. Secondly, I refer to suspicionless stop and search, notoriously ripe for racialised abuses of police power and found in breach of the convention on human rights in Gillan and Quinton v UK, brought by Liberty during my time as its director. Thirdly, I refer to using quasi-civil orders such as the infamous anti-terror control orders, once opposed by noble Lords opposite, and the now proposed protest banning orders—that is what they are—issued on a civil standard of proof including, as we have head, against people never convicted of a crime, creating a personal criminal code with harsh restrictions on the liberty of the individual subject.

This is controversial enough when applied to suspected terrorists. But how even more dangerous is it to play cat and mouse with non-violent dissenters, whether historic suffragettes or contemporary pro-democracy campaigners in Hong Kong, Russia or the United Kingdom? Some noble Lords may find the comparisons uncomfortable—as well we all should. But they should look at the analysis of Justice, Amnesty International and Big Brother Watch, which describe these provisions, rightly previously rejected by your Lordships' House, as going further than the law in Russia and Belarus. A Hong Kong lawyer now based in the UK described to me the aptness of comparison with her former home in no uncertain terms just last week. The Bill undermines us as champions of the rule of law internationally, but it also sends a terrible signal to our young people here at home.

Yesterday in the Moses Room, Ministers lamented cancel culture in universities. Today, via unfortunate proxies, perhaps on the Benches opposite, the resurrected Home Secretary wages culture war: not no-platforming and hurt feelings but police batons and prison terms. She further proposes a new and unprecedented power for herself: directly to intervene operationally in public order, in a manner previously reserved for the police and criminal courts on the one hand and those directly affected and civil courts on the other. Thus this sensitive area of policing will be more politicised than ever, with tub-thumping Ministers playing to the populist gallery, not just with conference and Commons speeches but in court. The Home Secretary pleads redemption for herself but incarceration for those who plead for the planet, against poverty, and even for free speech itself.

Hypocrisy is not mere tactical error. When it invades our statutes, it threatens the legitimacy layer: that which protects law-based order in which civilised society endures. An unelected House that does not stand for rights and freedoms becomes even and ever harder to defend.

4.57 pm

Lord Beith (LD): My Lords, this legislation is unnecessary, dangerous, largely unwanted, and futile. It is unnecessary because existing powers are so widespread—we have been told that so many times by the Home Secretaries who introduced them. It is dangerous because it contains, for example, search powers without reasonable grounds for suspicion which will be used discriminately and will create tension with innocent members of the community. My noble friend argued earlier how widely unwanted this legislation is among those who actually have to carry it out: serving police officers. It is futile because protesters will always look for new ways to get into the media, to get their headline and to insist to society that something has to be done about what it is that they care about. Today it will be locking on but it will not be tomorrow; something else will be devised and we will be here again, trying to devise inappropriately specific legislation to try to stop protest, which is a natural part of society.

This legislation will be used by authoritarian regimes to validate their own oppressive legislation. From Belarus to North Korea, I can imagine the statements that will emerge. So why do we have it? It is a political gesture designed for headlines, not for effective policing in a free society.

I will look at some specific concerns about it, and here I agree with the noble Lord, Lord Blair, that there is reason to question the advisability of giving the Home Secretary the power and the responsibility to seek injunctions against specific protests, which risks turning a local protest into a national issue and undermining the ability of those on the spot to deal with the situation effectively.

I question the provision of Clause 7(7) which allows the Secretary of State to add to the list of key national infrastructure by statutory instruments. This could create an enormously wide area of scope for the powers in the Bill. I question the powers given to the British Transport Police, a force that is not locally accountable. Clause 16 would allow the transport police to ban a demonstration or even a one-person protest in the station entrance. Even if it was a protest against the closure of the station, the power would be granted to them to do that.

It gets particularly serious when we look at the stop and search powers, which are truly alarming. If you live or work near a site where a protest might take place—note that it does not have to be taking place or to have taken place—do not, whatever you do, carry anything with you, because you may be the subject of a random search which could cover anything the officer believes might be used in pursuit of the process. If you

are with a friend to whom this happens, do not, whatever you do, question the police officer about what he is doing, because then you will fall foul of Clause 14 and be regarded as obstructing the police officer. This clause appears to criminalise even the kind of questioning which was encouraged after the dreadful Sarah Everard case, when people were told in such situations to question whether the police officer had the authority to approach the person at all.

Other speakers have referred to the serious disruption orders or protest banning orders reversing the burden of proof. We should not be contemplating that. The legislation contains limited exemptions for actions taken

"in contemplation or furtherance of a trade dispute",

and there are good reasons for that. The right to strike and regulated picketing are fundamental rights, but if the law is capable of recognising that, why are the same principles not being applied to other equally legitimate protests? We rightly protect the right not to lose one's job or be paid inadequately, but what about the right to warn that we are destroying the life chances of our descendants by our neglect of climate change and what is happening to the planet? These are major issues which have a similar justification and validity.

I turn to Clause 9, inserted in the Commons. I speak as someone who has always wanted the law to afford a degree of protection to the unborn child—I say that to explain where I am coming from—but I am not a supporter of some of the protest tactics which have taken place around clinics, particularly in the United States, but to some extent in this country. When I look at Clause 9, I see understandable references to intimidation, harassment and threatening behaviour, and I am prepared to consider whether the law needs to be strengthened to prevent those things.

However, I cannot support a clause which criminalises a person who "seeks to influence", provides information or "expresses opinion." This is the most profound restriction on free speech I have ever seen in any UK legislation, and I cannot support it if it remains in its present form. Indeed, I think it will be grasped as a precedent by the free-speech deniers, and the words and language will be applied in other areas when other legislation is brought forward. It is clearly incompatible with the European Convention on Human Rights, and the Government cannot certify the Bill in its present form for that reason. A lot else in the Bill appears to be incompatible with the European Convention on Human Rights, and I believe it will give rise to more litigation than improvement in effective policing. Most police officers will tell you that their problem in dealing with these situations is not the state of the law, it is whether there are enough of them on the spot able to deal with it, properly commanded, advised and controlled. It is that which the Government should address, not this futile legislation.

5.03 pm

Lord Hope of Craighead (CB): My Lords, I have to say that I am in two minds about the Bill. One must give credit to the Government for trying to find a solution to some of the most pressing public order issues that they face.

Climate change concerns us all, and there are many people who feel so strongly about it that they wish to join demonstrations to protest at what they see as a lack of action to deal with it. That is their right, as Articles 10 and 11 of the European Convention on Human Rights—that is, the right to freedom of assembly and the right to freedom of association and assembly—make clear. But some of the tactics now being used give rise to real concern as to whether what they are doing interferes too much with the rights of others to do as they wish. We have seen how members of the public are reacting to what is being done, which itself is a cause for concern.

The questions are: has the balance shifted too far? On the other hand, are the offences being created too broadly described? Are there sufficient safeguards against violations of the protesters' convention rights?

Then there is the problem about abortion, which has just been mentioned: the intimidation that those who wish to obtain an abortion in a clinic or other suitable place are likely to face on their way in because of the increasingly vocal gatherings of those who object to the process. Of course, those who object to the process have the right to enjoy their rights under Articles 10 and 11 too, and the right to freedom of expression, but has the balance moved too far in their case, too? Clause 9, based on the concept of buffer zones within which such conduct is prohibited, could offer a solution, but we need to consider carefully whether the detail in Clause 9 is a proportionate response to the undoubted and serious problems that it seeks to address.

My conclusion is that the way the Government are seeking to deal with the issues in the Bill is open to serious objection and in some ways misconceived. The powerful response by the Joint Committee on Human Rights underlines this point. Its conclusion is that the Bill is an unacceptable threat to the fundamental right to engage in peaceful protest; that must surely be taken very seriously. This is not the occasion to go into detail but it is clear that many of the provisions in Part 1 are in need of amendment before they leave this House; and Part 2, about disruption prevention orders, may need to be removed altogether, as the committee argued. This is on the ground that, given the powers that the police already have—that is, the existing laws—these provisions are disproportionate and amount to an unjustified threat to the right to peaceful protest.

The fact is that we live in a country where we are free to do as we like unless it is prohibited by law and where the police, on whom we depend for preserving law and order, do their job largely by consent. These are freedoms that we interfere with at our peril. The Joint Committee has warned that the new stop and search powers in Clauses 10 and 11 risk exposing peaceful protesters and, indeed, other members of the public to intrusive encounters with the police without sufficient justification. Surely, we do not want to disturb the balance any further than we absolutely have to; nor, I think, do the police. Giving them powers that they do not really need and that are almost certainly wider than can reasonably be justified is not the way to go. Here too, getting the balance right when addressing these issues is so important.

I wonder whether it is sensible for the Government to legislate, as they seek to do in Part 1, by singling out locking on and tunnelling for special attention. I recognise

[Lord Hope of Craighead]
the problems, but there is already a huge range of legislation that confers power on the police to control public protests and assemblies: causing criminal damage, obstructing a police officer, obstructing a highway, endangering road users and so on. These existing offences are defined by the purpose or effect of the activity rather than the method by which it is carried out. Directing attention to the method, as Part 1 does, rather than to its purpose or effect, may be good box office but it requires a high degree of precision if it is not to criminalise activities that have nothing to do with the protests.

There is another problem too, which has already been hinted at. We have to accept that the protesters will not go away. If you close off one method of protesting, they will soon find another that is just as—perhaps even more—damaging or disruptive and more difficult to police. The fact that the other method is not expressly proscribed will encourage them to resort to it until it too is proscribed. Surely it is better to concentrate on purpose and effect, as the existing laws do, when defining public order offences.

Well intentioned the Bill may be, but there are many defects in it. I do hope that the Government will listen very carefully in Committee and accept the corrections that will need to be made. As I suggested, it is a question of striking the right balance in the right place. That is what the public interest requires and what, in its present form, the Bill fails to do.

5.10 pm

Baroness Fox of Buckley (Non-Afl): My Lords, I will be opposing the Bill but I want to make some broader observations first.

Recently, one commentator wrote that it feels like a class war has broken out on the streets of London. Working people, fighting for their right to do their jobs and attend to their daily business, are being hindered in doing so by catastrophising eco-warriors. Each of their nihilistic stunts seems aimed at causing maximum chaos to the public. Hugely infuriating delays and total inconvenience are indeed their tactics.

Then there are their aims, which seem misanthropic, to say the least. They include that society should cease all production of fossil fuel energy in the middle of an energy crisis. While millions are worried that they will not be able to afford to keep the heat on this winter, here is a minority movement demanding that the Government produce less energy. When allies of the protesters warn that they may alienate the public, they miss the point because the whole movement is not interested in the public. The protesters do not care whether they alienate or inconvenience ordinary people. That is the point: to grind us down until we give in to their demands.

I recently engaged with some superglued activists. When I pointed out how desperate the locals were in just wanting to get to work, and pleaded with the activists to let them through, I was told by one activist that it was shocking that so many were driving to work as a single person in an empty car. Another, more generously but patronisingly, explained, "We're doing this for their good", but then added, "We tried persuading people. It doesn't work. They just won't listen." That is the problem: these activists are explicitly anti-democratic. Some compare their tactics to those of the suffragettes; they have a bit of a nerve because those heroines did not have the vote. However, these Extinction Rebellion types do but, because they are not winning at the ballot box, they bully instead.

Noble Lords may gather that I have little sympathy for these protesters, but I do not want popular revulsion at their tactic to lead to anti-democratic laws either. When I witness the desecrating vandalism of great works of art—saving the planet by trashing the best of human civilisation—it is tempting to say, "Lock them up and throw away the key". I certainly find myself cheering when I see London's citizens dragging protesters off the roads and screaming abuse at the selfish road hoggers, but it is dilemma. I am keen on direct action but, obviously, vigilantism is a result of a collapse in public order, which is a problem.

One clip shows an exasperated workman shouting, "Where's the police? What are we paying our taxes for—to have our lives inconvenienced by these idiots? This is wrong." That man is right to be exasperated, and to ask where the police were and what we pay our taxes for. The question we face here is: what has gone wrong that means the authorities are not sorting this problem out? The Minister claims that these protests are taking excessive hours and resources from the police. Well, you could have fooled me. The police seem slow and reticent; as someone said earlier, it is "softly, softly". As someone pointed out to me, if you want swift, hard-line police intervention, post a gender-critical tweet and they will clamp down on you as a hate criminal before you can draw breath.

The Government said that we need the Bill and these new offences to solve things, but why would it make any difference when the police will not use the laws they already have to solve things? All the complained -about tactics could be dealt with by criminal offences already on the statute book, but they are not being dealt with. Why are those laws not being used effectively? I think we have a broader policing crisis. The Bill is not a "culture wars" Bill, as some have claimed; it is a weak, defensive invasion of the political authority by the Government in tackling this policing crisis.

Instead of action, we get performative legislation that is just as attention-seeking as those dousing London's finest architecture in orange paint. Both sides are saying, "Look at me, I'm doing something". It is also a con to tell the public that these laws will be narrowly targeted at nuisance protesters. In fact, they are so broad and all-encompassing that anyone's right to protest or dissent on any issue is being put in jeopardy. Perhaps you might take at face value those very specific new offences such as locking on or tunnelling, although three years in prison for

"being present in a tunnel"

seems a tad disproportionate.

However, consider the possible uses of Clauses 19 and 20, with their serious disruption orders or protest banning orders. These can be doled out to anyone who has been on more than one protest over the last five-year period—that certainly counts me in. If you are issued with one of these orders, you can be banned from going to a particular place, associating with

particular people, encouraging someone else to go on a demo, using the internet in a particular way— that is to say, you can be punished by the state for retweeting an advert for a protest. You can also be issued with an electronic tag for up to 12 months using GPS data technology, allowing the police to monitor your whereabouts for 24 hours a day. That extreme level of surveillance for individuals is aimed at explicitly innocent people who have not committed a crime.

We should not allow these anti-democratic laws to be passed just to allow the Home Office to paper over the cracks of policing failures. This was the point made by Conservative MP Sir Charles Walker, already quoted, in a scorching speech in the other place in Committee. He said that

"the Government's attraction to SDPOs"—

serious disruption prevention orders—

"demonstrates our own impotence as legislators and the impotence of the police as law enforcers to get to grips with the laws already in place and to enforce them."—[*Official Report*, Commons, 18/10/22; col. 581.]

This impotence is now being covered up by creating unnecessary laws, and it seriously threatens reputational damage to the rule of law, which is already fragile.

Finally, no matter how much we despise protesters, we must have consistency in lawmaking. So why have so many on the Opposition Benches been celebrating the Government's acceptance of amendments banning protests around abortion clinics? As a long-standing pro-choice campaigner, I believe that it is totally vital that women are able to safely access reproductive healthcare services. If they are being obstructed or harassed, we have public order laws to deal with this, and we should deal with them harshly. However, as we have already heard, Clause 9 criminalises and bans seeking to influence, advising or persuading, attempting to advise or persuade, or otherwise expressing an opinion.

Many of us may feel little sympathy with people who are viewed as anti-abortion cranks. However, as Big Brother Watch notes, this sets a precedent that will inevitably lead to attempts to prevent speech, expression, information sharing and assembly in relation to other controversial and unpopular causes. It is also worth noting that at least five councils with PSPO buffer zones around abortion clinics have banned silent prayers. This institutes a law of genuine thought crime and betrays any commitment to religious freedom, and we should totally oppose it.

In conclusion, I support the right to protest for all, not just the protesters I admire but those I despise as well.

5.17 pm

Viscount Hailsham (Con): My Lords, I rise to speak briefly in support of the Bill—briefly because I want to focus on the main purposes of the Bill and on the principles that underpin it.

I acknowledge that there are major concerns that have been expressed by many of your Lordships, as well as in the House of Commons, about the constraints that the Bill undoubtedly imposes on the right of individuals to protest or to express their views. I hope that Ministers will be sensitive to those criticisms when the Bill is considered in Committee and on Report. That said, I do think that the Bill in its essential respects is a proportionate and necessary response to a growing problem.

The truth is that democratic societies have always accepted that there is a balance to be struck between the rights of an individual to protest and the rights of other members of society not to have their lives unreasonably disrupted by such actions. The rights to free expression, assembly and association are important, but they are not absolute in the sense that they can be exercised whatever the consequences for other people. Thus, in the context of free speech, society has long accepted limitations, such as in the law of defamation in civil law. In criminal law, there are many more illustrations: the most recent are the prohibitions on the use of racist language or language likely to cause distress or put minorities at risk. I suspect that many of those who protest in the way that this Bill has sought to address would support those particular restrictions.

Some constraints have also been placed on the right to demonstrate. My noble friend the Minister and the noble Lord, Lord Beith, referred to Clause 9, regarding buffer zones to prevent demonstrations around abortion clinics, which was debated in the House of Commons on 18 October. I agree with the majority in the House of Commons that buffer zones should be created, but I accept that it is undoubtedly a serious restriction on the right to free expression and the right to assembly. My own feeling is that the buffer zones get the balance right and are certainly justified by Articles 10(2) and 11(2) of the convention—but I accept that this is a matter on which there are, reasonably, competing views.

I turn directly to Clauses 1 and 8, which address tactics much favoured by the present generation of protesters, such as locking on, tunnelling, and the obstruction of major transport works and of key national infrastructure. In my view, the restrictions imposed on such activities by the Bill are clearly justified. Locking on, disrupting the highway and interfering with rail travel impede and often prevent fellow citizens going about their daily business—going to work, taking their children to school, shopping, visiting elderly relatives and keeping medical appointments. In such circumstances, the activities of the protesters will frustrate the essential work of the emergency services. These consequences, in my opinion, are a wholly unreasonable interference with the rights of others, and the disruptive consequences are intended. I regard such actions as profoundly selfish and to be roundly condemned.

So too is the promotion of strongly held views by acts designed to impede the normal requirements of an interdependent state, or acts designed to frustrate policy objectives duly approved by properly constituted institutions, often elected. I have in mind, for example, tunnelling to frustrate HS2 or the blocking of fuel supplies to promote specific climate change policies. I regard these actions as an abuse of freedom. In my view, they are wrong in principle. As the noble Lord, Lord Blair, said, they divert police resources from more pressing demands. They often provoke citizens to take the law into their own hands, which undermines the basis of a civil society. They also display a fundamental contempt for democratic and representative government. So I am firmly behind the purpose of the Bill.

[Viscount Hailsham]

Some of the opposition to this Bill relies on historical analogies—on the suffragettes, whom the noble Baroness, Lady Chakrabarti, referred to, on the actions of the ANC in apartheid South Africa, and on the civil disobedience now going on in Iran. Of course, there are many other cases that can be cited, both historical and contemporary. But we should be very careful not to use such examples as justifying similar action in the United Kingdom.

Our democracy is by no means perfect. Many of its defects were identified by my father when he wrote and spoke about the "elective dictatorship". Incidentally, he would have been deeply shocked by some of the actions and much of the conduct of Mr Johnson—not something that he would have expected from a Conservative Prime Minister. However, we live in a society in which policies can be changed by elections, by a change of Government, through discussion and by the force of public opinion.

Our task in Parliament is surely to identify the correct balance between the right of individuals to protest and the right of others not to be unreasonably interfered with. Many of the critics of this Bill suggest that the constraints on free speech and the right to protest go too far. Although I think that the underlying purposes of the Bill are correct and should be supported, I hope, as I have said, that the Government will be sensitive to the detailed criticism of the Bill that has been and will continue to be expressed in this place.

There is always a danger, which I accept, that when seeking to address issues of public order Governments will go too far. Powers once given are hard to withdraw. Such powers will often be abused. I agree with the right reverend Prelate the Bishop of St Albans who made precisely that point.

Also, I have to say I treat with great caution recent policies coming out of the Home Office, especially when they were fashioned at a time when Miss Patel was the Home Secretary, although I have to say I treat with equal caution policies that have the authority of the present Home Secretary. I am amazed that, when Attorney-General, Miss Braverman should have advised that the doctrine of necessity justified a breach of recently made treaty obligations with the European Union. Surely it is a case of providing a legal argument, however bad, in order to provide cover for a previously determined policy outcome.

We will need to look carefully at, for example, a whole variety of the provisions contained in the Bill, such as the power to stop and search without suspicion, the power that enables courts to make a serious disruption prevention order in the absence of a conviction, the management content of such orders and the power of the Secretary of State, mentioned by the noble Lord, Lord Blair, to seek injunctions. There are serious criticisms to be addressed, and they may require serious amendments. The Joint Committee on Human Rights has identified a number of issues. However, that said, I believe that the fundamental purpose of the Bill is correct, and I hope that in its essential elements it will receive the consent of this House.

5.27 pm

Lord Foulkes of Cumnock (Lab Co-op): My Lords, I am pleased to follow the noble Viscount, although, however tempted I am, I am not going to go down the avenue that he opened up. Instead, I want to pay tribute to my noble friend on the Front Bench, who made a brilliant speech in introducing this debate on our side. It was one of the best I have heard from the Opposition Front Bench. I say so not because of my usual sycophancy, but for two real reasons. First, because it is true—it was a powerful, passionate speech, and I agree with every word of it, which makes my approval of it even better—and, secondly, because he was one of those who slightly raised an eyebrow when some of us challenged this Bill at First Reading. We know that it is not usually done. In fact, it is hardly ever, if ever, done to challenge a First Reading, but some of us felt that there are some provisions in the Bill that are so awful that this House should not even consider them. That is why we took that unusual step, and I am sure my noble friend will understand.

I want now to outline, since we are forced by the Government to consider the Bill, some of the reasons for my opposition. In have been in Parliament for about 43 years, a long time, having served in the other place. I believe that one of our core duties here and there is to protect key democratic rights, now being fought for in Ukraine by the brave people there, and we should not undervalue their importance.

One of them is the right to protest. Some noble Lords who have heard me speaking in foreign affairs debates and asking questions will know that I have highlighted before the various human rights abuses which the brave protesters in Belarus continue to endure. My noble friend Lady Chakrabarti and the noble Lord, Lord Beith, raised the issue of Belarus. I am alarmed to note that many of the proposals in this Bill closely mirror protest laws which are currently enforced by the Lukashenko regime in Belarus. Until we expelled Russia, Belarus was the only country in Europe not to be a member of the Council of Europe, because of its awful regime.

For example, in Belarus anyone who has received a fine for organising a protest or a "related crime" is then forbidden from organising further protests for one year following conviction. The SDPOs in this Bill not only enforce a similarly draconian punishment but will go a step further, preventing not just organising but participating in protests for up to two years, with the potential to renew indefinitely. Furthermore, these SDPOs could be imposed on individuals who have not been convicted of any crime, which could result in a dystopian scenario in which innocent members of the public, as has been said by others, are subject to measures usually reserved for criminals, such as electronic tagging.

Another parallel with Belarus are the new stop and search measures included in the Bill, which would give police the power to conduct stop and search without any suspicion whatever, just because someone is in the vicinity of a protest. This distinctly resembles Lukashenko's law on mass events, which gives Belarusian authorities the power to search any citizen attending a protest and ban them from participating if they refuse

to be searched. We should be very wary of adopting these policies of repression. Belarus's democracy index is the lowest in Europe. Do we want to sink that low?

I am also troubled by the legality of the Bill since, according to Amnesty International and Liberty—well-reputed third sector organisations—the stop and search powers proposed are incompatible with our existing international obligations under, as was said earlier, both Article 11 of the European Convention on Human Rights and Article 21 of the International Covenant on Civil and Political Rights. I am aware that some members of this Government, sadly including the current Home Secretary, have advocated us leaving the European Convention on Human Rights, but surely they cannot also think that we should abandon our commitment to the UN Human Rights Committee.

Let us come to where we are now. I can assume only that the authors of the Bill must believe that the current powers are insufficient. As others have said, that is completely wrong, for in just under 30 days of mildly inconvenient protests by Just Stop Oil there have been more than 600 arrests—54 protesters were arrested on 4 October alone. That does not seem to be a toothless police force.

The police agree with this. As others have said, His Majesty's Inspectorate of Constabulary and Fire & Rescue Services is on record saying that measures equivalent to the protest ban orders

"would neither be compatible with human rights legislation nor create an effective deterrent"

and that

"a little inconvenience is more acceptable than a police state".

Surely that is a very powerful argument.

My final issue with the Bill is that, even if it was necessary and the measures were not indicative of the authoritarian creep we have come to expect from this Conservative Government, the vagueness of the wording will target far too broad a range of individuals and behaviours. I imagine most of us agree that carrying a bike lock or some glue in the vicinity of a protest should not be considered a crime. Similarly, criminalising a paramedic who is supervising the safety of a protester seems both dangerous and totally unethical.

This is not a Bill designed to curb the actions of a few disruptive protesters. It goes much further than this and seriously risks harming a liberty that, in this Government's own words, is unique and precious. These are the worst aspects of the Bill. I believe we should oppose the Bill at every opportunity, and I intend to do so.

5.34 pm

Baroness Hamwee (LD): My Lords, who is this Bill addressed to? I know how I would answer that question, and my noble friend Lord Paddick has already referred to culture wars. I have no doubt that the Government have identified the audience to which they want to appeal, but that audience is not the potential offenders. If the Government are seeking to deter offenders, is this really the way to go about it? Is it not obvious that many lockers-on and serious disruptors seek publicity? Well, they will get it. Portraying oneself as a victim, even as a martyr, is a well-known tactic. Increased media coverage consolidates this; it is a big bonus.

Will these measures be divisive? Will they confirm some people's views that the measures are an unnecessary sledgehammer; in other words, will the measures mean increased support for the protests and provoke more extreme forms of action? The noble and learned Lord, Lord Hope of Craighead, mentioned unintended consequences.

Some tactics used by some protesters do not appeal to me. I have been inconvenienced and had an immediate reaction—"This is simply not on"—but I have to remember that we are in a country where views can be made known, by the protesters in question and by me, by an accident of history. On one side of my family, I am only three generations away from being geographically in a country where my family would have experienced great brutality—I probably would not have been born—and, on the other, only two generations away from a regime that still exists now. These are extreme examples, but noble Lords will be well aware of contemporary examples too. It is an accident of history for us all that we are in the UK, and how precious—a word that has been used but deserves repetition—it is to be able to make our views known. That was not something I appreciated when growing up, although I went to the same school as the Pankhurst sisters. Suffragettes have been mentioned, and I thought about them because there is such a whiff of cat and mouse in the circularity of some of the measures in the Bill.

I support what has been said and will be said about these precious freedoms, and oppose the Bill on the grounds that have been well described—including that the statute book is hardly silent on the actions the Bill covers—but also because I just do not think it will achieve the objective of deterrence.

5.37 pm

Lord Anderson of Ipswich (CB): My Lords, in the case of Tabernacle v Secretary of State for Defence, the late, lamented Lord Justice Laws said:

"Rights worth having are unruly things. Demonstrations and protests are liable to be a nuisance. They are liable to be inconvenient and tiresome, or at least perceived as such by others who are out of sympathy with them. Sometimes they are wrong-headed and misconceived. Sometimes they betray a kind of arrogance: an arrogance which assumes that spreading the word is always more important than the mess which, often literally, the exercise leaves behind. In that case, firm but balanced regulation may well be justified."

That comment, itself both firm and balanced, is the lodestar by which I judge this Bill. The Public Bill Committee in another place heard detailed evidence of the disruption to transport networks and key national infrastructure caused by recent protests, including against projects given clearance to proceed after a prolonged and painstaking democratic process. HS2 said it spent £126 million to the end of March this year in removing protesters, including from a 25-tunnel network under Euston station where the protesters were using lock-on devices underground. National Highways pointed to incidents in which hours of gridlock had been caused by people gluing themselves to lorries, roads or infrastructure—for example, at Dover—and evidence was given of disruption to fuel distribution nationwide and to thousands of air passengers because of attempts to stop a flight from Stansted seeking to deport those whose legal rights had been exhausted.

[Lord Anderson of Ipswich]

This sort of organised and highly disruptive behaviour is a breach of the delicate compact, referred to by the noble and learned Lord, Lord Hoffmann, in the case of R v Margaret Jones, by which civil disobedience on conscientious grounds is accommodated by the community for as long as the protesters behave with a sense of proportion and do not cause excessive damage or inconvenience.

If the current arsenal of criminal offences and powers to seek injunctions is not adequate to the task and could be usefully expanded—a question on which the Minister will have to make the Government's case, and on which I will be interested to hear the vast collective experience in public order policing of the noble Lords, Lord Hogan-Howe, Lord Blair and Lord Paddick, even if their opinions do not coincide on every point—then it seems that we have a duty to do something about that. However, two important elements of the Bill seem, on any view, excessive: the no-suspicion stop and search power in Clause 11 and the serious disruption prevention orders, which it is proposed to entrust to magistrates. Neither power is without precedent in our law but I question whether the precedent of exceptional measures targeted at terrorism, gang violence and sexual harm are appropriate ones to follow here.

On no-suspicion stop and search, the Government rely in their human rights memorandum on the Roberts case on the Section 60 power. I accept that many of the same safeguards that attend this highly unusual power are present in the Bill, but would our courts accept the proportionality of a no-suspicion power to search for bicycle locks and handcuffs as easily as they accepted, in Roberts, the life-saving Section 60 power to search for bladed instruments and other offensive weapons? That seems far from evident.

The characterisation of the proposed SDPOs as protest banning orders is potentially confusing. They do not ban protests, peaceful or otherwise, but they do perpetrate a more subtle mischief. They are expressly unlimited in their content, as in Clause 21(7), and renewable indefinitely—unlike TPIMs, the equivalent restraints on suspected terrorists. They are backed up by the whole sinister apparatus of tags, curfews and reporting requirements. The central estimate of the Government's own impact assessment is that 400 persons per year will be restrained by such orders, 200 of them otherwise than during sentencing after conviction. If passed into law, they would prevent or inhibit principled, conscientious and even, under Clause 20, wholly law-abiding individuals exercising their fundamental right to participate in lawful protests. Is that the kind of country we want to live in? It would not be Belarus, but I would not want to live there.

I hope we will also look positively on numbers 1 to 11 of the amendments drafted by the Joint Committee on Human Rights in its rather moderate report, which there does not seem to have been much time to debate in the other place or to address in the Government's brief written response. Perhaps I may end with questions on three issues arising from those proposed amendments.

First, the concept of serious disruption runs through the whole Bill and needs, to quote the evidence in another place of the West Midlands Police,

"as much precision … as possible".—[*Official Report*, Commons, Public Order Bill Committee, 9/6/22; col. 58.]

Why should some definition of it not be given in the Bill? The Joint Committee has made some useful suggestions.

Secondly, a reverse burden of proof has in the past been held to be compatible with the presumption of innocence only if it can be read down, using Section 3 of the Human Rights Act, so as to impose an evidential rather than a legal burden on the accused. Is that how the Government read the various requirements that the Bill places on defendants to prove a reasonable excuse? Will the so-called Bill of Rights, which would remove Section 3, be taken out of cold storage, and what will be the position if it is? What is the objection to reframing those clauses so that the absence of reasonable excuse is an ingredient of the offences themselves?

Thirdly, the Government have shown themselves keen in other contexts to specify matters to which judges should have regard when exercising discretions. Hard-pressed magistrates are given huge responsibilities under the Bill in relation to the public interest defence and, if we pass them into law, prevention orders. Why would we not want to remind those magistrates in the Bill of a factor that is nowhere mentioned in it, and that it will be only too easy for them to overlook: the importance in a democracy of the right of peaceful protest?

5.44 pm

Baroness Bennett of Manor Castle (GP): My Lords, I should perhaps declare an interest as a regular tofu eater. I would be very happy to share some of my recipes with the noble Lord, Lord Coaker.

My noble friend Lady Jones of Moulsecoomb will be leading for the Green group on the Bill. My role here is a supporting one but, since I was listed to speak first, I have to set out a very simple position: protest is not a crime. I note that, as many noble Lords including the noble Lord, Lord Paddick, and the right reverend Prelate the Bishop of St Albans have said, in effect that is what your Lordships' House already concluded in its strong and effective action on the then Police, Crime, Sentencing and Courts Bill earlier this year. The House then expressed its opinions in the strongest possible terms, yet here we are again.

Listening to today's debate, it really struck me that there has been a great deal of discussion about locking on. We have heard from a number of noble Lords who have been in a position of policing instances where it has occurred. I am not sure that there are many Members of your Lordships' House who have been on the other side of this.

I speak here not from first-hand but second-hand experience because, at the Preston New Road fracking site a couple of years back, I acted for a couple of hours as a welfare support for a locked-on protester. This was a young woman who, by the time I was speaking to and supporting her, had been in that position for 17 hours, with her arm locked in a tube outside that fracking site, to stop the lorries getting through. I invite your Lordships to imagine—it may be hard for the House to imagine this—what it is like

in the dark and cold, with the fear of scrambling at 1 am or 2 am to lock yourself on in the middle of a path that lorries go down, and to remain there by your own choice for hour after hour because you believe in the principle and the cause. That, of course, was and is the cause of preventing the beginning of a new fossil fuel industry in the UK. It was in defence of a local community vehemently opposed to fracking at the Preston New Road site. Even as I stood there, with the sound and smell of the angle grinders very close to that young woman's arm while the police cut her out, the overwhelming majority of vehicles going past were tooting their support.

The issue we are talking about, fracking, is of course one on which, just last week in the other place, my honourable friend Caroline Lucas encouraged—and got—the Prime Minister to say that we will keep the fracking ban. It is one case among very many. Many Members of your Lordships' House have mentioned the suffragettes. So often, people have behaved according to their principles in a way perceived at the time as transgressive. They put their bodies and freedom on the line and, looking back now, we say, "Weren't they brave? Didn't they help to deliver us the society that we have today?".

However, as I said, my role today is very much a supporting one so, for the rest of my speech, I will focus on Clause 9 and speak in very strong terms in support of it. As I am sure most Members of your Lordships' House already know, its provisions will introduce buffer zones around abortion clinics. The clause was brought into the Bill following a free vote in the Commons of 297 to 110, a majority of 187. That is definitive: we often hear in this House that we are the unelected House and should not go against the Commons. Here, we have a clear expression of a view from the Commons that I hope your Lordships' House will uphold.

It is clear that we need blanket buffer zones around all abortion clinics. No other approach is workable and existing legislation does not allow what is needed. We are talking about enabling women to access, and healthcare professionals to provide, a lawful and confidential health service without harassment or intimidation. Many noble Lords will have received—I would be delighted to forward it to anyone who has not—the joint briefing backed by the Royal College of Obstetricians and Gynaecologists, the Royal College of Midwives, the BMA and a number of medical providers, among others.

It is worth thinking about why we are where we are. We are seeing the importing of politics that has caused enormous damage in the United States of America. From what has happened there, it is already evident that ending legal abortions does not stop abortions; it just makes them more dangerous. Making access to abortion more difficult increases the risk of dangerous, even deadly, abortions occurring.

In some of the commentary on this, it is worth saying that this clause restricts the location of where protests happen but does not stop protests. So, if anyone says, "You were just talking about protests against fracking", I say yes, but this is a different case study. It stops protests from happening in a location where one would cause great distress and harm.

Perhaps not everyone has seen what happens in some of these protests. There are displays of graphic images of foetuses and there are large marches that gather outside clinics, hassling women, patients going into the clinics and members of staff. Indeed, some patients are followed down the street, which is unacceptable. Some patients attending for abortion care are vulnerable, and they may be feeling stigmatised or fearful about losing their privacy. Of course, a significant number are under 18, some have mental health issues, and some are at risk of honour-based or gender-based violence.

Perhaps this issue does not get as much coverage as it might, but 50 clinics and hospitals have been targeted in the last five years. Only five—10%—are now protected with public spaces protection orders, which are only a stopgap. They create a postcode lottery and—I declare my position as a vice-president of the Local Government Association—impose a significant cost on local authorities choosing to bring in such orders, which need to be renewed every three years.

Clause 9 follows leadership in other parts of these islands. The Northern Ireland Assembly passed a Bill for buffer zones in March, and the Scottish Government have expressed support for a Bill to introduce them there. Every year, more than 100,000 patients are treated by a clinic that has been targeted by these groups. In the last five weeks, at least 15 clinics have been targeted, including some based in hospitals, GP surgeries and residential areas. I strongly urge the House to keep Clause 9.

5.53 pm

Lord Frost (Con): My Lords, it is a pleasure to follow the noble Baroness, Lady Bennett, particularly today. I fear that we are probably not destined to agree on very much in our debates in this place, but I hope that she will not be too embarrassed to hear that I agree with her on the importance of free debate and protest, even on unpopular causes. It is important to maintain that, and it is a principle through which I look at the Bill.

I support the general principle of the Bill. It seems unarguable that there have been changes in the methodology of protest, from a range of campaigners, that deliberately aim at the disruption of everyday life. We have seen that in many ways, as noble Lords have mentioned. But the Bill includes new and significant powers, of a novel kind in some cases. Noble Lords may remember that I resigned from the Government last year rather than support the then "plan B" measures and restrictions on civil liberties that would have come with a further coronavirus lockdown. From the experience of the pandemic, we have seen just how easy it is to create, expand or distort powers for purposes that were not originally intended. So we have real-life experience of this, and we should keep that in mind—it has not been said much in this discussion so far, but we all lived through it.

So if we are to avoid such problems, it is important to be clear—I think and hope that the Government are—about what we are trying to achieve. I suggest that the correct principle is that the right to protest and persuade is fundamental and must be protected, but intimidation and anything more than incidental disruption of the rights of others to go about their

[Lord Frost]
lawful business, particularly with novel and aggressive tactics, ought not to be allowed. We must apply this principle whatever the circumstances, whether it is fracking, an abortion clinic or anything else. My worry about some aspects of the Bill is that this principle may not be fully followed.

I will make three brief points. First, Clauses 1 to 8 of the Bill create a series of specific powers that would certainly stop some of the disruptions that we have seen over the last year or two, such as blocking the Dartford bridge, oil refineries and so on. I am certainly willing and ready to accept the Government's judgment that extra powers are needed to deal with those situations. However, in line with the principle I set out, it is important, as the Joint Committee on Human Rights notes, to look carefully at the drafting, which may be a bit loose, and to avoid the risk of inadvertent consequences. It is also not clear that the powers would stop some of the things that we have seen, such as blocking roads in central London, throwing paint over paintings and so on. As has been said, existing powers cover those situations, and they should be used with more determination than we have seen so far. Otherwise, the risk—I hope we will not get into this situation—is that next year, we will have another Bill creating specific offences of throwing paint over a painting and so on. We need to avoid that, and the authorities need to be determined to use the powers that they have, with new powers being limited to specific, defined and novel situations.

Secondly, like others, I have concerns about Clause 20, on SDPOs made "otherwise than on conviction". I think—and, again, our experience in the pandemic is part of this—that it is fundamentally unacceptable in a free society to restrict individuals' free movement or right to protest, to free speech, to carry particular items and so on, without them having been convicted of an offence in a court of law. I find it particularly problematic that people should have to wear electronic tags without conviction—where people have been caught and convicted, that is a different matter. But Clause 20 is quite widely drawn and carries the risk of making it too easy for the authorities not to worry about actually catching and convicting but simply to use an SDPO. It seems to carry the risk of a slippery slope for the convenience of the Executive. I note that, in their response to the JCHR, the Government do not make a very strong defence of this provision. If there is a defence, I would like to hear it—perhaps the Minister could say more on that at the end.

Thirdly, as the Minister noted, Clause 9, on abortion clinics, was added in the other place and was not part of the Government's original thinking. I am a little surprised that the Government allowed it to be subject to a free vote, because the issue is clearly not about abortion services themselves but about the right to protest and persuade. Here, the distinction I made between persuasion and intimidation needs to be maintained, and I am not sure that Clause 9 does that. I have no difficulty with subsections (3)(c) or (3)(d), but it cannot be right for this Parliament to make it illegal if someone, for example, "seeks to influence", "persistently … occupies" or

"informs or attempts to inform",

in subsections (3)(a), (3)(b) and (3)(f), respectively. That is true whether it is in the vicinity of an abortion clinic or anywhere else.

I sense, from comments made by Ministers here and in the other place, that they feel that they are on uncomfortable ground and are looking for help on this subject. I am sure that there will be amendments in this area and hope that the Government will give them a fair wind.

Finally, the Government themselves note that Clause 9 is incompatible with the ECHR. Many commentators and the JCHR argue that the same is true of other areas of the Bill. I do not know about that. For me, that is interesting but not decisive; I do not base my concerns on that argument. I believe that this Parliament should be able to protect the civil liberties of people in this country without outside help. Its record over the last two to three years has been, shall we say, mixed in this respect. To conclude, I hope that the Government will look carefully at these points of detail of specific concern and make it easier for those who think—as I do—that we should be able to wholeheartedly support a more carefully worked-through and acceptable version of the Bill.

6 pm

Lord McAvoy (Lab): My Lords, there seems to be a litany of problems with Clause 9, but I will pick up on just a few. First, I want to make it absolutely clear that I support the view that it is unacceptable for women to face harassment or intimidation of any kind. If people are found to be doing this outside abortion clinics, they should be dealt with swiftly, and support should be provided to victims. It is important to be clear that we already have laws which provide wide-ranging powers for authorities to keep public order and to protect women from harassment and intimidation, including outside abortion clinics. These include police powers to protect women who are harassed and intimidated and to take action where protests result in serious disruption. Indeed, that was the conclusion of the Government themselves: a former Conservative Home Secretary stated in 2018 that

"legislation already exists to restrict protest activities that cause harm to others … and I am adamant that where a crime is committed, the police have the powers to act so that people feel protected."—[*Official Report,* Commons, 13/9/18; cols. 37-38WS.]

Although this amendment was added to the Bill in the other place, I know that the Government still reiterated the position that there was enough legal protection for women in that position. The Home Office recently said that

"the Government expects the police and local authorities to use their powers appropriately."

Therefore, what is the purpose of this clause? The police already have the powers needed to deal with harassment where it occurs. The only discernible difference seems to be that we are now also criminalising those who offer to support women in that position—often very vulnerable women—and criminalising quite a peaceful process.

I need to stress that I quite understand that proponents of Clause 9 are seeking to protect vulnerable women entering abortion clinics. It is absolutely the case that women experiencing crisis pregnancies can often be

under a great deal of pressure and are therefore deserving of our support. However, the pressure can also cause many women to feel that they have only one option: to terminate the pregnancy. Volunteers outside abortion clinics recognise this fact and are simply trying to help women to find out what help is available. People like that should not be sentenced to prison for six months—that is what this clause does, according to my reading of it. Are those in support of this clause really in favour of criminalising people who seek to help women with housing, protection from domestic abuse, the provision of clothing or a variety of other financial and legal support?

The Be Here For Me campaign is a testimony to the value that this help can provide. One mother who benefited from this help was quoted as saying:

"You don't have to disagree with abortion to see that simply offering alternatives should be legally permissible. The day that I turned up to my abortion appointment, a volunteer outside the clinic gave me a leaflet. It offered the help that I had been searching for … there are hundreds of women just like me who have benefited"

from support. That may be only one instance, but it is a clear example of how people can be helped.

We cannot start using blunt instruments such as this clause to criminalise innocent volunteers. If we make it illegal to hand out a leaflet with offers of housing or support, we embark on a slippery slope that could lead to bans on other leaflets with which we disagree. Who among us would condone such a policy being imposed on the Members of the other place during an election? Yet that outcome becomes a possibility if this clause becomes law. Let us strongly oppose Clause 9, and let the Government get the message here from what seems to be all sides of the House, so that they consider how they can protect the ability to offer valuable help to vulnerable women when they need it most.

6.06 pm

Baroness Jones of Moulsecoomb (GP): My Lords, I felt that this debate was moving quite fast, and I realised that this was because many of us have been here before: this is actually a zombie Bill that the Government have dragged out of its grave because they do not like opposition at all. That is the real problem we are facing with the Bill. As we have heard, the powers are there already, and the Government really do not need the sort of repressive powers in the Bill that are worthy of Russia, China or Iran. Noble Lords probably know exactly what I am going to say now.

There is no doubt in my mind that we should vote against this legislation—again—to protect the right to freedom of expression, the right to freedom of assembly and the right to protest, which is what we expect in a free society. Of course protest is inherently disruptive; that is its nature. But do noble Lords know what is more disruptive? The fossil fuel companies and extractive industries that are destroying our planet, and the billionaires who are amassing huge claims over the world's resources while everyone else worries about how to pay our energy bills this winter. Then there is the plastic and sewage choking up our rivers, coastlines and oceans. BP has made £7 billion profit in three months, yet we will pay the extra cost of coastal defences and higher food prices for the next three decades. Shell makes £9.5 billion profit in a quarter; our arable land will produce half as much value by 2100. They have billions in the bank; we have a country that swings from drought and wildfires to floods of sewage. Every dollar or pound that the oil and gas companies make equals the world becoming a worse place for generations. That is what real disruption means, and we have a Government encouraging it with tax breaks and licences for big business.

We must think ahead to the chaos that will happen when climate change disrupts the global economic system: these current disruptions will be nothing compared to that. The likes of Extinction Rebellion are polite dissenters compared to what is coming in the next few decades. The clampdown on the climate protesters of today is the foolish reaction of a Government in the pockets of the oil and gas industry. Sensible politicians would listen to Just Stop Oil, because its demand is incredibly reasonable and one that noble Lords have heard from the Greens on these Benches before: no new fossil fuel extraction. Quite honestly, it is a warning of what is to come if the Government refuse to change course.

We cannot stand idly by while this destruction and injustice takes place. No one wants to be a protester; we all have better things to do with our time—that is true for all of us. I have been to a lot of protests—I have sometimes even been to protests where I have watched the police from their side—so I have a very clear view of what protests can be. The police actually do their best, but the Government do not help them by giving us laws that are incomprehensible at times. The protesters and I are desperate: while there are more fun things that we could do, we are desperate because of an economic and political system that has proven again and again that it is detrimental to the vast population of the world and to life on earth.

Protest and non-violent direct action are essential parts of a free country, and the disruption caused is part of the pressure; it is what raises something beyond merely complaining on Twitter to having direct real-world consequences that force our leaders to pay attention. Protesters are supported by millions of people. There were several things in the Minister's opening speech with which I disagreed very strongly, and I actually had to leave the Chamber after the opening speeches so that I did not start shouting across the Chamber. I listened in my office, because I could shout at the screen and not disrupt proceedings here. The Government are creating an attack on nature that people have seen is plain wrong, and they are angry. So please do not say that everybody is against these protests; that is absolutely not the truth.

I have been on protests where it is local people who are protesting and getting out there. One man I stood next to said, "I retired last month and I thought that I would be bird watching, but here I am, standing at the roadside and holding a banner to stop fracking at Preston New Road". Local people do not like fracking—and they do not like HS2. Yes, there have been a few thousand people on protests, but actually there are millions of people who do not want it. The noble Lord, Lord Anderson, talked about a "long and hard democratic process", or something, but actually the Government did not listen to any of the advice that

[Baroness Jones of Moulsecoomb]
said that this was not the section to build first and that we should have built the other, northern section first. It is the Government's fault that we are losing masses of very beautiful and precious places because of HS2. We cannot replace them; it is something much more precious than a railway line that cuts 20 minutes off the average business person's journey.

When people locked on to trees that were due to be cut down by Sheffield Council, when they blocked roads and sat on drills to stop fracking or when they ran in front of a horserace to get women the right to vote, these were all acts of heroism. They brought about real political change in the face of obvious injustice. As the Prime Minister said only this week in response to a question from our colleague Caroline Lucas, the anti-frackers were right—and thank goodness that the Government saw sense on that. I shall give them a small round of applause for that. But while this Government dither and delay on insulating Britain and support a whole new generation of fossil fuel extraction, and while they fail to prosecute the climate criminals and ecocidal maniacs destroying our planet, they instead imprison those of us who sound the alarm and respond to mass injustice with minor inconvenience—and even those who carry a bike lock without so-called "reasonable excuse".

A few other things were said this evening. No artwork was damaged. I cannot remember which noble Lords mentioned that—but no artworks were damaged. They had glass on them, and they were cleaned up; they were not damaged, so please do not repeat that falsehood again. And how dare this Government talk about a shortage of police time or police being used on things they should not be used on? This Government have actually cut tens of thousands of police officers. They have, so please do not argue with that; it is a clear fact. They have also cut thousands of back-office jobs, which of course hindered the police, because then they had to go into the back office and do all the paperwork. So please do not let us hear any more about, "Oh dear, police time". If this Government had done their job, we would now have a police force that could do its job properly.

The noble Lord, Lord Blair, is not in his place, but he said something like, "These disruptions are irritating". I am irritated on a daily basis by some of the things said in this Chamber; that is why I went up to my office, so I did not have to hear them. I am irritated, but does that mean that I can call the police and say, "Please don't do that"? The noble Lord, Lord Bellingham, who is not in his place—and was not on the list for this debate—managed to interrupt the Minister's opening speech. He irritated me—and what options do I have for that irritation?

We have to vote against the Bill again and again, for as long as it takes to show this Government that it is the wrong thing to do.

6.14 pm

Lord Balfe (Con): My Lords, it is always a pleasure to follow the noble Baroness, Lady Jones. I always agree with some things she says, but generally not with that much. Tonight, I think we edge towards more agreement. This Bill leaves me feeling very worried. First, I would ask whether it is really needed. What problem are we trying to solve with this Bill that is not already able to be solved with the powers that currently exist? The second thing that concerns me is what I see as a reflex action towards authoritarianism whenever a problem arises. That does not leave me very happy at all.

Of course, the public are fed up with what they see as anarchism. There are ways of changing the law in this country. Mention has been made of Swampy—but if you go back in history, even at the end of the Second World War there were movements to occupy unoccupied properties in London. There has always been an undercurrent of people who think that the best way of changing the law is to do it their own way—in other words, without the law necessarily agreeing with them. To go back to the 1940s and the housing movement, undoubtedly what they did drew attention in a very strong way to the failings of post-war society properly to address the need for accommodation. I go back that far because I do not want to get mixed up in today's debate, beyond saying that, clearly, there are always people who want to solve problems in their own way and somehow, in a democratic society, we need to make enough space for them to do so without bringing down the whole House.

I am speaking tonight because the convention is that you must speak on Second Reading to intervene in the later stages of the debate. I hope that we will have some very careful debate. One of the strengths of this House is that we do not have a guillotine—we look at the clauses and argue them through, and I hope that the Minister will have enough strength in his department to get some concessions. If he does not, I think there will be a few defeats around for the Government.

Someone asked what I would do in this situation. The only thing that I can think of is that, in my youth, which is a long time ago, we used to have a man called Mr Justice Melford Stevenson. He was well known; he was a stipendiary magistrate, and his basic starting point was "Fourteen days in the cells—oh, and what's the charge?" One of the problems that we have seen, which we saw in Bristol, is that if you have an argument in front of a jury, the jury on occasions listens to the argument and refuses to do what society and the police want. I predict that that will be one of the dangers of the Bill—that, if you eventually get things to court, you may well find that they fall there because of a combination of magistrates who do not really want to go quite that far and juries that most certainly do not want to go quite that far. So we have to look at these things.

I want to mention the Clause 9 controversy. I was thrown out of the Labour Party, I am very pleased to say, but I have not yet been thrown out the Roman Catholic Church; maybe it is a little more dilatory than the Labour Party. I must say that I have always been a supporter of women's rights and of Catholics for a Free Choice, the Catholic organisation that supports abortion. I have had letters and emails over the last few days, from people signing themselves "The Reverend Father so-and-so", asking me to vote against "preventing prayer vigils standing outside or near abortion providers". I have seen some of these prayer vigils—not because I have been on them, but because I was looking at them—and they are not friendly, you know. We have to be very careful. I can see that there is a need to look

carefully at this clause, how it is drafted and what it does in the wider sense of civil liberties, but if I were in the House of Commons and I had a free vote, I would be voting for the clause, because something needs to be done.

One thing that needs to be done and it will, eventually, is that the Catholic Church should depart from its principle of always being exactly 50 years behind the times. Abortion is here to stay. It is not a pleasant thing. I have known a number of ladies who have had abortions. I have never known anyone trot happily down and think, "Oh, this is a solution". It is a very stressful and often sad time. We should realise that that we should respect the rights of women to choose—frankly, it is for women to choose, not elderly priests.

I have a couple of final points as we are getting towards the deadline. I am concerned about injunctions by the Secretary of State. What does that mean? Does it mean an injunction by the *Daily Mail*? I recall a Labour Minister—I shall leave him nameless for the moment—who turned down a very reasonable policy that I brought over when I was a Member of the European Parliament. He said, "I'm sorry, Richard, we can't do that, the *Daily Mail* won't accept it". That was a Labour Minister. I am always chary about putting powers in the hands of politicians, because there is a tendency for them to be leaned on and to make a more authoritarian decision. One thing we are still unravelling, of course, is the indeterminate sentence business, which is a blot on our landscape.

Let me say finally that we have to be very careful in the United Kingdom to preserve freedoms. I see in a lot of the proposed trade union legislation a reflex action—"Don't let's understand, don't let's talk, don't let's get things together, let's just pass a law and make it illegal", whatever "it" happens to be. This is not the way to run a consensual society. The strength of Britain has always been that it is a consensual society, so I ask the Minister to go away after tonight and think very carefully about the clauses in the Bill. Many of them go much further, I would say, then we should go in a civilised and democratic society.

6.23 pm

Lord Hogan-Howe (CB): My Lords, the Bill presents a dilemma that we have faced over many years, as many have said. In a democracy that allows the right to protest, when, if at all, does that protest become unreasonable to the point of causing harm which triggers the intervention of the civil or criminal law? We usually return to the debate when the numbers involved in protest, or their tactics, have started to disrupt people's right to enjoy a good life or a business's ability to trade freely. Presently, the numbers involved in protest do not constitute a mass movement, but I believe they represent a majority opinion in this country that we need to deal with our climate emergency. Ironically, all political parties, including the governing party, agree with the aim of our eco-protesters, but they seem to disagree about how quickly we should address the issue and, in the end, who should pay.

It is against that backdrop that the police service is attempting to find a reasonable line of intervention and enforcement. The police generally do not want to get involved in political matters. They certainly do not want to appear to be preventing people demonstrating for a purpose that has the majority of the country's support. However, the police are asked to intervene when people complain that they cannot exercise their rights because the protesters are exercising their right to protest. Then, there will always be a challenge and the police have to make a decision. Since around 2009, the police have generally taken a relatively passive approach, I would argue, to intervening in public protests. Following the unlawful killing by the police of Ian Tomlinson, a man not attending a protest but caught up in it, the police have followed the general line outlined in the HMI report of the time, *Adapting to Protest*, supported by the Prime Minister at the time, Gordon Brown, and the Government, that the police should police by consent and facilitate protest rather than confront it.

This was further amplified very recently by the Supreme Court decision in 2021, which has not been mentioned today, as far as I am aware, in the Ziegler case. Following protests in 2017 at the ExCel Centre in London, more than 100 protesters were arrested for obstructing the highway and convicted. The Court of Appeal supported that decision but the Supreme Court overturned it. In essence, it said that deliberative or obstructive protests, where there is a real impact on other road users, can still be protected by convention rights and can be a lawful excuse for the purposes of a charge of wilful obstruction of the highway. It goes on to state that when considering whether someone is guilty of breaking Section l37 of the Highways Act, courts should take into consideration a whole range of factors, including how big an obstruction was caused, for how long and what else was happening around them. Crucially, it means that protesting in a way that obstructs road users is not automatically a criminal offence.

That came as a bit of a surprise to the police because obstructing the highway has always been a simple offence—an absolute offence. No intent is required: if somebody obstructs the highway, they get arrested. If they choose not to obstruct the highway, they can walk away. There has never been a need to show intent or recklessness. What this now means is that the police have to assess the whole context of an incident. Intellectually, this position is strong, and over the last year we have seen the police become more adept at carrying out quicker assessments for planned events. The problem arises when, as with many of the protests we are seeing now, there is no notice of the protest. Therefore, the first officers on the scene are not public order specialists. They do their best but they have to make some pretty complex judgments at a time when they are not in possession of all the facts.

We have now moved away from the 2009 criticism of the police, which was that they were doing too much, to the present position that they are doing too little. This really matters. If members of the public are angry about the lack of police action, they may decide, as we have seen, to take their own direct action. While protesters may not always support the way the police carry out their operations, I believe that this is always better than groups of the public coming into conflict. As a result of this context, the police are now arguing for clarity, in whatever direction Parliament gives it, through this legislation.

[Lord Hogan-Howe]

In particular, the police want clarity to understand the meaning of "serious disruption". The noble Lord, Lord Anderson, referred to this and I agree. This will require either a definition or some guiding principles. Some people argue that eventually the courts will decide what is reasonable. That is always the case but it can take years. Officers on the ground need support now. The very reason this legislation is being considered is that there is confusion about where the law stands, so I argue that it is vital to provide better support now in the legislation.

A further reason officers do not really want to get involved is that most of the people on these protests usually have no previous criminal convictions. On most days of the year, they would be supportive of the police and they do not want to come into conflict with them. A really good reason for policing by consent is to make sure that they do not come into conflict just because of confusion about the law.

The second area the police service has concerns about is becoming involved in providing private security to large organisations, particularly commercial ones, which it does not want to do. That is not a matter of principle but one of resources. There are insufficient resources for the service to carry out its primary duty of preventing and detecting crime, not least fraud and cybercrime. If the police are to become involved in policing private space, their resources will be even more stretched. I really think this has to be considered.

I accept that there will be debate on the contentious area of no-cause stop and search. As the noble Lord, Lord Anderson, referred to, Section 60 of the Criminal Justice and Public Order Act 1994 already provides for stop and search without cause in certain defined circumstances. Whether you like it or not, it exists. One area that applies to Section 60 should apply to this power if it is brought in; most people need to know whether they are in an area where this power applies. They need to know whether they are in a Section 60 area or an area of protest where this stop and search power would apply. At the moment, nothing shows that—neither a sign on the street nor anything electronic that might indicate they are in such an area. That could lead to confusion for officers and the public. In both cases, if this power is put in, there ought to be some attempt to find a way of warning the public that they are in an area affected by it—not least, if it is supposed to be a preventive power, as presumably they need to know that they are entering the area and that this power will apply.

Finally, I will touch on a couple of things that have come up in the debate. The police have not taken a position on the issue of abortion protests, but I support the policy. I would only argue whether 150 metres is sufficient. In my view, trying to prey on people at their most vulnerable, when they are about to take a huge decision and have often been receiving medical treatment—I do not think they are in the best position to receive any advice—can be regarded as intimidation. Therefore, I would certainly support some preventive power being put in to prevent gathering around abortion clinics. Why can that advice be given only at abortion clinics? If people feel so strongly, there are other places. It is not good for people to be intimidated at that point.

I do not envy the Government the task of setting the line of intervention. It is a difficult balancing point to find. However, I believe it is the right time for debate. When ambulances are being stopped from their work, airports are unable to function and national infrastructure is threatened, the Government have no choice. They have a fundamental duty to keep the public safe. We should support them in that duty while being careful not to leave a legislative legacy that could be abused by an authoritarian successor.

6.32 pm

Lord Hendy (Lab): My Lords, given the tide of elegant criticism of the Bill this afternoon on principle and in detail, with most of which I agree, I feel somewhat pedestrian in raising a couple of points in a rather narrow compass.

I express my gratitude to the Government in that, if they persist with the offences in Clauses 7 and 8, they will have at least allowed a trade dispute defence. It is quite clear that the offences in Clauses 7 and 8 would be used against trade unionists in a trade dispute, which is defined by the Trade Union and Labour Relations (Consolidation) Act as a dispute about pay, terms and conditions, dismissals and so forth. Clause 7,

"Interference with use or operation of key national infrastructure",

applies to infrastructure in road, rail, air, harbour, oil, gas, electricity and newspaper printing. It is quite clear that disputes in those industries would be caught were it not for a trade dispute defence. The same is true under Clause 8, which deals with key national infrastructure.

However, I suggest that the defence does not go far enough. It should not be an offence at all for trade unionists to carry out the activities of picketing or demonstrating in pursuance—or "in contemplation or furtherance", to use the proper phrase—of a trade dispute. The point goes a little further. The trade dispute defence is not available against the powers given to the Secretary of State to bring proceedings under Clause 17 or in relation to Clause 18, which gives the Secretary of State power to obtain injunctions for causing a nuisance or annoyance. The defence should be available in relation to those powers.

Furthermore, the trade dispute defence is not available against serious disruption prevention orders which do not follow a conviction, under Clause 20. Much has been said about this, in particular by the noble Lord, Lord Anderson. Under Clause 20, serious disruption prevention orders can be imposed on a person by a magistrate if that person has on at least two occasions in the relevant period—five years—done a number of possible things, which are all alternatives. Among them are:

"(iii) carried out activities related to a protest that resulted in, or were likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales"

and

"(v) caused or contributed to the carrying out by any other person"

of such activities related to such a protest.

It does not need a lawyer to elucidate that every general secretary and every member of every national executive committee which has authorised picketing that has caused disruption to an organisation, such as

Network Rail or a train operating company, could be caught by these provisions and have a serious disruption prevention order made against them, unless there is a trade dispute defence. The Government need to think very carefully about the extension of protection to trade unionists carrying out legitimate trade union activities, in compliance with all the rules and regulations under the 1992 Act, to prevent them being caught by these provisions.

Finally, this does not detract from the force of a protection of trade unionists, but the noble Lord, Lord Beith, pointed out that if acting in contemplation or furtherance of a trade dispute is a legitimate protection against these provisions, why is there not a legitimate protection for others pursuing equally legitimate and justifiable causes, such as those identified by the noble Baroness, Lady Jones?

6.38 pm

Lord Horam (Con): My Lords, I do not normally speak in debates on police Bills and bring no particular knowledge or background to this debate. However, I want to say a few words because I am aware, as someone who lives in London, of the sheer irritation—at times, fury—of ordinary people at some of the matters we are discussing. The noble Lord, Lord Hogan-Howe, just now and the noble Lord, Lord Blair of Boughton, earlier made the point that people are so annoyed that there is a danger that they will take matters into their own hands—indeed, they have done so on a number of occasions. Noble Lords will be aware of such instances.

On the whole, I speak on behalf of the proverbial man or woman on the Clapham omnibus. I live in south Fulham, so I am very aware of the views of such people, as the 295 goes past the end of my street. In sum, they are in favour of action on climate change. Although the noble Baroness, Lady Jones, has left her seat, I see that the noble Baroness, Lady Bennett, is still there; I strongly agree with many of the points they have made in the House over the last few months. I was particularly pleased that there was an immediate reversal by the new Prime Minister of the position on fracking. That is entirely sensible and I entirely support it. It is ridiculous to do fracking in a small country such as this, however sensible it may be in the vastness of America.

I think that people broadly support the concerns about climate change which protesters are trying to bring to our attention, but they are also furious at the unreasonable way in which they are protesting. To see if my view was correct, I googled the opinion polls and found that, indeed, 66% of people supported action on climate change or were worried about it, but only 13% supported the methods being deployed by Extinction Rebellion and Just Stop Oil, and 54% opposed those methods either strongly or less strongly. I think that roughly summarises public opinion. Therefore, it is sensible for the Government to respond to that concern and fury from ordinary people with a Bill which, after all, has very narrow, specifically defined powers and is, in a way, an appendix to the larger Bill we discussed previously. In a way, the noble Lord, Lord Hogan-Howe, is right that the Government really have no alternative, when public safety is an issue, to respond in the way they are trying to.

So, why is there opposition to the Bill? First, some say—as the noble Lord, Lord Coaker, and the noble Baroness, Lady Chakrabarti, argued—that there are already sufficient powers to deal with this matter. However, that does not seem to be entirely satisfactory; why else are we having this endless display of problems in London? It was said that there were 30 consecutive days of action on these issues in London alone. It cannot be the case that the police are so bad that they are simply not prosecuting people using the powers they already have; in other words, there is dissatisfaction with the law, and, as has already been said, some aspects of it need to be more clearly defined to help the police. They may be small, incremental changes to existing laws, but none the less, clarity in this area is essential.

The second—and perhaps major—point was put to us all by the lobby group Justice, which circulated a paper that said

"the Bill would serve to give the police carte blanche to target protesters—similar laws can be found in Russia and Belarus."

That is a little over the top, frankly. A comparison with Belarus and Russia is somewhat beyond the pale, particularly at a time such as this. The briefing went on to be specific, saying that the Bill would apply to community festivals, Pride marches, vigils and pickets. Incidentally, I take the point made by the noble Lord, Lord Hendy, and I certainly would not want the Bill to apply to picketing in the way he described. I would be concerned if the Bill were ever to be used in that way, or in what I would call the normal arena of protest—demonstrations, marches and all the rest of it—which we are used to and is part of the traditional British way of life.

However, while people have made that comparison with those countries, I think it is simply not true to argue that that British way of life is extensively compromised by this particularly narrow Bill. First, the people we are talking about are very few in number. There are a small number of people who specifically design disruptive actions of a particular kind. Secondly, they usually give no warning for their activities. By contrast, if you have a march or a demonstration, you have a large number of people and usually have sufficient warning so that the police can understand and police it properly. Those are all distinctions between what we are talking about here and the normal process of demonstration and marching. While it is true that an individual could be banned under the Bill, it is certainly not the case that a whole area of activity—a protest group, march or demonstration—could be banned. That does not follow from the provisions of the Bill.

So, I am concerned about some of the remarks made by the noble Lord, Lord Coaker—who is always worried, rightly, about these things, which I praise and commend him for; it is good that someone is worried about them—and equally by the thoughtful speech of my noble friend Lord Balfe, which I followed with great interest. We should be concerned and watch this with great care. None the less, I think that the common-sense approach here is to respond, as the Government have done, to a specific set of disruptive and damaging actions which, in my view, are counterproductive and do not really bring forward the case they are trying to argue. I not only believe but would forecast that, despite the Bill, Britain will remain a beacon of liberty in the world.

6.45 pm

Baroness Blower (Lab): My Lords, I am pleased to follow the noble Lord, Lord Horam. I have not heard him speak in this House before, and I am sure he has not heard me speak. I think the issue about Belarus is not that the Bill, were it to pass, would immediately transform the UK into Belarus. That is clearly not the case, but if we look at the specifics of some of the provisions in the Bill, we can find a direct parallel with some of the provisions in the legal code in Belarus. I suggest that my noble friend Lady Chakrabarti, the noble Lord opposite and I sit down, have a cup of tea and look at what Justice is saying in this context.

I listened with very close attention to the Minister's opening remarks, and I have listened to all noble Lords who have contributed. Nothing I have heard yet has changed my view that the Bill poses a direct threat to the right to protest and, as such, I oppose it. I declare myself—as did my noble friend on the Front Bench—to be a serial protester, and that I have in the very great number of protests I have attended managed, either through good fortune or by good judgment, not to have been arrested. However, if the Bill were to pass, there is every chance that I could find myself in a rather different position.

I was very grateful previously, and I am grateful now, to have received the briefings from Big Brother Watch, Justice and Amnesty International. While varying in detail and emphasis, these briefings have in common a profound concern that, if passed, the Bill would seriously curtail human rights in this country, not only introducing unprecedented restrictions on civil liberties but severely damaging the UK's reputation internationally. Unnecessary suppression or criminalisation of dissent, which the Bill would clearly do, goes against the very best democratic traditions of the UK. Given that the UK Government have publicly declared a commitment to promote open societies in other jurisdictions and criticised states that curtail the right to protest, the UK's reputation would clearly be damaged by the passage of the Bill.

Criticism of the provisions in the Bill is not confined to Big Brother Watch, Liberty or Amnesty. Many members of the public, even those who may sometimes find protests uncomfortable, annoying or even irritating, recognise that, as the Government noted in December 2021:

> "Freedom of expression is a unique and precious liberty on which the UK has historically placed great emphasis in our traditions of Parliamentary privilege, freedom of the press and free speech."

Members of the public do not, in general, want protest suppressed and criminalised. They want to live in a free and democratic society—the hallmark of which is the right to protest.

On significant issues such as the climate crisis, the public are clearly in favour of the right to protest to protect the planet, all the more so because this Bill, as I believe we heard from the Minister himself, is unlikely to be compliant with the European Convention on Human Rights, in particular Articles 10 and 11 covering freedom of expression and freedom of assembly. It came therefore as no surprise that His Majesty's Inspectorate of Constabulary and Fire & Rescue Services found the measures as previously proposed to be incompatible with human rights legislation. Liberty considers that the Bill would pose a significant threat to the UK's adherence to its domestic and international human rights obligations, while noting that, given the existing legislation already on the statute book, these proposals lack an evidential base to justify their introduction.

The provisions in the Bill relating to serious disruption prevention orders—which Justice, as we have heard from many speakers, has dubbed protest banning orders—and those in relation to locking on and the offence of being equipped for locking on are examples of measures which seem neither necessary nor proportionate. A body of law already exists to give the police powers to arrest individuals who obstruct public highways, obstruct emergency vehicles or breach the peace.

We are only too well aware that public confidence in the police has been damaged in recent times, particularly in the capital. It is clearly important in Britain that we rebuild the relationship between the police and communities. Policing by consent is important. So when Big Brother Watch reports that junior police officers, whom we all hope will remain in the service and have a lifelong career, do not wish to criminalise protest action through the creation of a specific offence of locking on, we should listen to those concerns.

I turn briefly to the expansion of stop and search powers. The noble Lord, Lord Paddick, is not in his place, but he expanded on this in this debate and previously with absolute clarity and deep concern. Justice has profound concerns about the expansion of stop and search on the basis that the existing powers are already problematic; they can be seen as discriminatory on the basis of race and can have counterproductive consequences in fostering mistrust between communities and the police who purport to serve them. Surely that is a significant concern for all. Given that the Home Office has stated that stop and search is ineffective in tackling, for example, knife crime, the Government's claim that extended powers are needed in the context of peaceful protest and lawful acts simply lacks credibility.

In conclusion, I wish to mention the creation in Clause 14 of an offence of intentionally obstructing a constable in the exercise of the constable's powers. Liberty notes that the consequences of such interference —imprisonment of up to 51 weeks, a fine or both—are severe and potentially ruinous. Noble Lords will easily recall to mind that in the aftermath of the brutal attack on and murder of Sarah Everard by a serving Metropolitan Police officer, advice was issued that when a sole plainclothes police officer approaches a person, particularly, but not exclusively, a woman, "some very searching questions" should be asked of the officer and that it is

> "entirely reasonable … to seek further reassurance of that officer's identity and intentions".

It is alas all too easy to imagine that asking such questions could be viewed as obstruction, with the dire consequences that that could unleash.

This is a bad Bill, which we should oppose in order to safeguard civil liberties in the UK.

6.54 pm

Baroness O'Loan (CB): My Lords, there is no doubt that there has been a growing incidence of public order situations recently. We even had a demonstration

in Central Lobby a week or so ago. What I have observed is that no quarter has been given by the protesters, even to those seeking access to hospitals, those trying to pick up their children from school, those trying to go to work to earn the money that keeps this country afloat, those trying to provide services to those who need care to stay in their own homes, and so many others.

Extensive criminal damage has been caused. Just a couple of weeks ago, we saw the spray-painting of the famous sign at New Scotland Yard. The clear message, in attacking this iconic sign at the headquarters of the Metropolitan Police, was that they can do what they like and there will be no real consequences. We have also seen attacks in art galleries and desperate members of the public trying to clear roads as police officers stand by. We have seen protesters jumping on to the roof of police vehicles as police officers stand by.

Such behaviour by protesters is in breach of existing legal provision on many occasions. As has been said, the organisation Justice helpfully provided a list of relevant statutes. The Police, Crime, Sentencing and Courts Act 2022, for example, creates a statutory offence of public nuisance and allows the police to impose conditions on processions and assemblies which are too noisy. The Criminal Damage Act 1971 created offences of unlawfully destroying or damaging property belonging to another intentionally or recklessly, being reckless as to whether any such property would be destroyed or damaged, intending to endanger the life of another or being reckless as to whether the life of another would be thereby endangered. The maximum penalty for conviction on indictment is a term not exceeding 10 years. The Police Act 1996 provides an offence of assaulting a constable

"in the execution of his duty",

an offence carrying, on summary conviction, a penalty of up to six months in prison or a fine. The Highways Act 1980 provides that:

"If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to imprisonment for a term not exceeding 51 weeks."

The Road Traffic Act provides further offences.

These are just a few of the options available to deal with behaviour such as that which we have seen recently. The Joint Committee on Human Rights observed in its June 2022 report that:

"The criminal law and the powers of the police already allow for action to be taken against violent protest and disruptive non-violent protest. We are unconvinced that additional offences are necessary or appropriate."

Why create new offences which would add significantly to the burden of police services in providing training and guidance to officers in how and when to exercise these powers or initiate and manage necessary investigations with a view to prosecution? Why add to the range of offences which may be committed in public order situations in a way which may, as noble Lords have said, be in contravention of the rights which citizens have under Article 9 to freedom of religion, thought and conscience, under Article 10 to freedom of expression and under Article 11 to the right of assembly and association?

All these rights are ensured to us in the Human Rights Act. They are not absolute rights. We accept that there are circumstances in which the exercise of those rights may be limited, but they are rights which all our people have. In circumstances in which we are seeing the limitation of rights in Hong Kong, the US, China and Russia, it is profoundly important that we, as a democracy, protect those rights which are part of our ancient heritage.

The Equality and Human Rights Commission has published its views on some of the proposed offences. Referring to the creation of the new offences of locking on and being equipped for locking on and the obstruction of major transport works, the introduction of new serious disruption prevention orders, the extension of stop and search powers with and without suspicion, and the granting to the Secretary of State of new powers to seek protest-related civil injunctions, the EHRC has said that it considers these offences to be "inconsistent" with the right to protest, noting that the Supreme Court recently determined that this type of protest was protected by Article 11 and that there should be

"a certain degree of tolerance to disruption to ordinary life, including disruption to traffic, caused by the exercise of the right to freedom of expression or freedom of assembly".

The JCHR has said that the locking-on offences

"risk criminalising actions that fall within the protections of Article 10 and 11 ECHR and contain inadequate safeguards against this",

and that these clauses would allow the police to take pre-emptive action against people planning to engage in lawful protest, which it says would undermine the right to protest. It says that the provisions are

"broad enough to interfere with Article 8 right to privacy and Article 14 rights to freedom from discrimination."

Clauses 17 and 18, which give the Secretary of State the power to bring proceedings and apply for injunctions could, the JCHR says,

"have a chilling effect on the right to protest",

creating a significant risk that large numbers of protesters could be criminalised.

Finally, I will say a word about Clause 9, a late amendment to the Bill in the other place which seeks to create an "Offence of interference with access to or provision of abortion services" and would introduce 150 metre-wide "buffer zones"—also known as "censorship" or "safe" zones—around abortion providers. When "protests" take place, they are typically quiet prayer groups which occasionally display signs or placards. However, participants do not cajole or harass women. There is no interference with access to or the provision of abortion services. Approximately 90% of all clinics and hospitals have not reported either activity as ever having occurred, according to the findings of the 2018 Home Office review. A blanket ban around abortion clinics would be disproportionate, a denial of the right to freedom of expression, it is unnecessary, and it could even be harmful.

The reality is that many of those taking part in these vigils often provide help to vulnerable women. Historically, as a result of expressions of prayer and offers of help, women have been able to avail themselves of practical, emotional and other forms of support of which they may previously have been unaware or were

[Baroness O'Loan]
unable to access. Some women, who may be uncertain but feel forced to terminate a pregnancy because of their fears that they cannot cope, and who might be reassured by what they might hear before they get into the clinic, will inevitably suffer if a disproportionate ban is enforced. Some of these women have never had the opportunity to receive impartial counsel and support as they consider their options.

On 24 October the Minister said that the Bill is generally compatible with convention rights. I regret that I do not agree with him on that point. However, I agree with his comment on Clause 9:

"I am unable, but only because of clause 9, to make a statement that, in my view, the provisions of the Bill are presently compatible with Convention rights".

He was saying that Clause 9 is not compatible with the convention rights.

Current laws already provide wide-ranging powers for authorities to keep public order and protect women and the public from genuine harassment and intimidation, including outside abortion clinics. The Ealing PSPO shows that a nationwide ban is unnecessary and that further measures to ban peaceful demonstrations can have the unintended consequence of harming individuals seeking to express their views. Clause 9 is poorly drafted. It is so broadly worded that it could be used to criminalise people who merely express opinion outside an abortion facility.

In 2018, the Home Office concluded there was no need to introduce buffer zones. The then Home Secretary, Sajid Javid, said that:

"introducing national buffer zones would not be a proportionate response, considering the experiences of the majority of hospitals and clinics, and considering that the majority of activities are more passive in nature."

This position has been consistently reaffirmed by the Government since then, most recently on 27 September 2022.

A June 2021 poll undertaken by Savanta ComRes shows that only 21% of the population support introducing buffer zones around abortion clinics nationwide. A majority support either having no restrictions on speaking about the issue of abortion outside abortion clinics or restrictions in line with current legislation.

Clause 9 is not only not convention-compatible but disproportionate, as police officers already have the powers to intervene. If a vigil is causing harassment or harm, they can intervene under the Public Order Act, the Protection from Harassment Act, and the civil provisions of a public spaces protection order under the Anti-social Behaviour, Crime and Policing Act 2014.

A person guilty of these new offences would be liable, in the first instance, to imprisonment of up to six months and/or an unlimited fine, and in further instances up to two years' imprisonment and/or an unlimited fine. The offences vary from "seeking to influence", advising, persuading and informing, to "persistently, continuously or repeatedly" occupying the area within the proposed buffer zone. We value and believe in free speech—

Lord Davies of Gower (Con): I realise that the nine-minute time limit is advisory but can I ask the noble Baroness to bring her speech to an end, please?

Baroness O'Loan (CB): Yes; I will do so shortly. Surely we do not think it appropriate to criminalise those who seek to exercise their rights to free speech by advising, persuading or informing or even by simply being present, quietly and unobtrusively? This is what happens in places such as Hong Kong, China and Russia, not the UK.

Such a penalty would be imposed in our country on those who seek only to pray and to offer help to women who may be in a desperate situation, and for whom help can be provided. I have met some of these women and their babies. I have seen their joy in the presence of their little ones. This is not an argument about access to abortion or preventing access—that right exists in law. Clause 9 would deprive people from offering help and support to women, for whom such help could be the difference between the choice to terminate the life of their unborn child and the ability to bring that child into the world in a safe place.

The Bill also reverses the traditional burden of proof which lies on the prosecution to prove any criminal offence beyond a reasonable doubt—

Lord Davies of Gower (Con): I must ask the noble Baroness to bring her speech to an end, please.

Baroness O'Loan (CB): I will—I have very little to say. I ask noble Lords to bear with me; this is an important point. That clause is inconsistent with the common-law presumption of innocence and the protections under Article 6.

In conclusion, the Bill, while well intentioned, and probably reflecting a desire by the Government to try to show that they are strong, will deprive people of their historic and indeed ancient rights to protest. This is not what we as a country should be doing. We must not place an additional and unnecessary burden on our police. We need at this perilous time in the world to protect the rights of people to protest peacefully, and to utilise existing laws to deal with those who commit some of the many criminal offences which we have witnessed. We can do this, but the Bill is disproportionate in its effect and would be very damaging to those freedoms and constitutional rights which we have cherished as a people across the centuries.

7.08 pm

Lord Farmer (Con): My Lords, it is a pleasure to follow the noble Baroness, Lady O'Loan. I agree with much of what she said and will be speaking similarly in many respects.

I am largely supportive of the Bill inasmuch as it plugs gaps in legislation to stop serious and dangerous disruption. The country is trying to get back on its feet after a once-in-a-century pandemic, and protesters are constantly refining their tactics to cause as much disturbance as possible.

My main concern with the Bill is the ideologically inspired Clause 9, which has just been spoken about, introduced as an opposition party amendment in the other place. Of those who voted, all Labour MPs registered their support for the right to protest disruptively by voting against the Bill at Second Reading, and all

voted for pro-life protesters' rights to be withdrawn. This is not just hypocritical; it exposes the cultural authoritarianism behind those who claim to want freedom to protest.

Clause 9 is now the most restrictive part of the whole Bill, allegedly to protect women from harassment. Yet it goes significantly beyond banning "harassment" or even preventing "serious disruption", as is the stated intention of the Bill. It bans "protest" for those who hold certain beliefs, and their right to "inform", "persuade", "advise" or even express opinion on the public street.

Martin Luther King once said:

"Every man of humane convictions must decide on the protest that best suits his convictions, but we must all protest."

However, for some, the right to protest depends entirely on what one's convictions are. Pro-life convictions are deemed so abhorrent as to require a blanket ban and withdrawal of rights within certain spaces.

Furthermore, the Bill reduces the threshold of criminality to standards lower than ever before and, as currently drafted, would likely catch a parent, teacher or social worker giving, at the request of a young or vulnerable person, rounded advice to help them make one of life's most difficult decisions.

Instructively, five local councils have instituted buffer zones already. Bournemouth Council has prohibited even the act of crossing oneself in the vicinity, treating even peaceful presence as intimidation. All five councils have banned prayer—even silent prayer, in the case of Ealing—flagrantly violating religious freedom. If prayer is considered a form of "influence", then Clause 9 puts the UK's first "thought crime" into statute.

Such sweeping criminalisation is out of all proportion to action which may, of course, be required to deal with inappropriate behaviour near abortion facilities. Where harassment and intimidation occur, the police already have several different legislative mechanisms to choose from, including the Police, Crime, Sentencing and Courts Act 2022. This empowers police officers to disperse or otherwise prevent those pro-life vigils which risk causing alarm or distress to persons in the vicinity.

A thorough Home Office review in 2018 found that police intervention into pro-life activity is very infrequently necessary and instances of harassment outside abortion facilities are rare. Volunteers are engaged mainly in silent prayer or handing out leaflets offering charitable support to women who would like to be able to continue their pregnancy but feel powerless to do so without financial or practical help. A 2022 BBC poll found that 15% of women were coerced into having an abortion by partners or family members. One of my close relatives became pregnant while still living in her parents' home and was forced to go down that route.

As a society, we are rightly concerned about coercion in relationships and value the role of the voluntary sector in helping to identify cases. Yet, at present, there is active disdain for pro-life charities' role in helping women step away from the people and pressures that are pushing them down the abortion route. One might say that there is cultural coercion: an underlying assumption that abortion is the only plausible route for a pregnant woman in certain circumstances to go down. Where there is potential or actual disability, the medical profession can actively seek to influence a woman in that direction. Is a genuinely pro-choice approach to abortion really served by Clause 9?

My honourable friend in the other place, Sir Bernard Jenkin, supported it on the grounds that women have already agonised about their decision and considered every alternative by the time they arrive at the clinic. I respectfully disagree with this: in a pro-abortion culture soaked in rights rhetoric, many will have discounted the very possibility of going through with the pregnancy. There are plenty of examples from organisations such as Be Here For Me of women who accepted an uncoercive offer of help to continue their pregnancy and have subsequently spoken out in favour of keeping this option open to other women.

The Home Secretary concluded in 2018 that buffer zones would be a disproportionate response. So what has changed? Perhaps it is simply the United States Supreme Court decision to make abortion law the preserve of individual states.

If passed into law, Clause 9 would mark the single most significant shift away from English law's presumption of individual liberty and freedom of expression in the interest of ruthlessly censoring pro-life views. Yes, these fly in the face of our current cultural norms and may be held only by a minority, but that is exactly what our fundamental freedoms of expression are designed to protect.

Where will this end? Banning people from public areas near abortion facilities based purely on their beliefs could lead to any organisation dealing with contentious matters staking a claim for a buffer zone around its premises. A gender dysphoria clinic could seek a buffer zone excluding those voicing concerns about puberty blockers, or a foreign embassy could request a buffer zone near its premises to prevent people speaking out against the regime. What would become criminal is whatever dissent a group wants to prosecute.

The great protests of history show that choosing the time, place and manner of assembly matters deeply. Crowds gathered at Clapham Common for the Sarah Everard vigil last year, as we have heard, to make the point that this must never happen again. In July, a brave Catholic priest launched a three-day protest outside a Hong Kong maximum security prison to demand the release of activists and politicians. Could the message of either of these protests really have been effectively communicated elsewhere?

Blanket bans on fundamental rights rarely meet the requirements of proportionality in rights legislation; hence, as we have heard, the Minister not being able to sign off the Bill as rights-compliant. Clause 9 disproportionately interferes not only with protest but with freedom of speech, assembly and religion. Presented as a small and necessary step to protect women outside abortion centres, it is in fact a giant and unnecessary leap away from our hard-fought civil liberties.

Finally, I understand that this was subject to a conscience vote in the other place. Why? I would challenge the designation as an issue of conscience. This is not about whether or not abortions should take place. This culturally authoritarian clause criminalises

[Lord Farmer]
someone praying silently with their eyes closed. It is both deeply absurd and deeply dangerous. It should not stand part of the Bill.

7.17 pm

Baroness Barker (LD): My Lords, I speak on this Bill solely on the issue of Clause 9 and, in the course of my speech, I will rebut many of the arguments made by the noble Lords, Lord McAvoy and Lord Farmer, and the noble Baroness, Lady O'Loan—this will come as no surprise to her because we have, over the years, exchanged completely opposing views on the subject of abortion.

This is not actually about the subject of abortion; it is about the right of women to access a service to which they are legally entitled and the extent to which other people can frustrate them in doing that. Let us be very clear. Clause 9 is very simple. It would introduce a buffer zone 150 metres around abortion clinics where activities such as harassment, intimidation, the use of loudspeakers, the display of graphic images and handing out leaflets of false medical education when for use for the purpose of influencing a decision to access or provide abortion care are banned. That is it—none of the wild extrapolations that other speakers have made.

I disagree entirely with the Minister's interpretation. He says that this contravenes the human rights of protesters. No, Articles 9, 10 and 11 are qualified rights: they can be limited to protect the rights of others. Let us be clear, the clause does not ban protest. You can hold the views which the noble Baroness, Lady O'Loan and the noble Lords, Lord McAvoy and Lord Farmer, do, and you can pursue them in any manner you like—just not within 150 metres of where people are trying to access a service. You can carry on with your campaigns, as you always do, your disinformation and all of that. You are entitled to do that, just not there. Similar laws are already in place in Canada, Australia and Spain, and they have been upheld as being lawful in superior courts around the world.

The second argument is that the police or councils already have the powers to do this. Well, no they do not. Not even in places where the council and the local policing authorities have sought to implement the law as it stands in England have they been able to do that. What we have ended up with is a patchwork of protection for some people but not for others, with lots of challenges, including local authorities being resistant in times of economic hardship in their budgets to find themselves up in court. All we have got is a point where women have undergone and experienced harm in order for protections to be brought in, and I think that is wrong.

The third false claim is that we are seeking to punish people for something as benignly innocent as silent prayer. Well, no—this clause talks quite clearly about seeking to influence or inform people, of persistently occupying places, and of people trying to prevent people accessing legal services. So let us see what has actually been happening outside the clinics under those headings. We have had people handing out leaflets saying, "The abortion was harder to get over than the rape". We have had people leaving baby clothes in hedges outside clinics, filming women, holding posters saying, "Babies are murdered in here". In one instance, a monk went into a clinic with a camera under his cassock, accompanied by a lady. He was screaming at the clinic staff, using words that I—and most certainly the bishop—would never use, using a loudspeaker to proclaim that a girl who ran past with her hoodie down over her face because she was so frightened was a "baby killer"—leaving her mother to take her to another facility 60 miles away.

That is all the stuff that goes on day in and day out, and the experience that has led the staff to draft this in the way it has been drafted; it is a world away from benign prayer, it really is. I have no problem at all with people who have deeply religious conviction who wish to pursue what they believe to be right and do so in ways that I may disagree with—but I draw a line at them doing it at that point in time, with one specific intention: to frustrate women from accessing a legal service.

We have had absolute years of this, and it has been getting worse. People have been watching all that American stuff, and all those right-wing American foundations that are always going on about culture wars and being silenced. We know that they are funding activity like this across Europe. The time has come to say "Stop", and for us to agree with the House of Commons that we need to take a very specific measure to protect women in a very specific space and circumstance. Let us do that. Let us leave those who disagree to pursue their views elsewhere—but let us give those women the protection they deserve.

7.23 pm

Baroness Gohir (CB): My Lords, I too am a protester. In fact, I attended a protest on Saturday. It was a March for Mummies, about rising childcare costs, which are now more than rent and mortgages. We went to march past Downing Street and ended up outside Parliament. We were loud and we were noisy.

My concern is that, because of its broad powers and broad language, the Bill would criminalise a wide range of behaviours. Depending on the whim of whoever is in power, its powers could be applied to protests such as the one on Saturday if they are regarded as "disruptive"—and who knows what could be regarded as disruptive in five, 10 or 20 years' time? The Government may say that they would not use the powers for those protests; they would be used only for those using extreme tactics. But how do we know that that will happen? We have politicians who break the law, break the rules and think it is acceptable, so how can we trust them? If they are given too much power, I shudder to think what would happen.

If the intention of the Bill were that precise, the language would have been narrower and more focused. For example, it speaks about locking on to any land or object; that could curb protests outside billion-pound organisations, which have resources to deal with protesters using civil action. Why should the police act as security services outside businesses? The noble Lord, Lord Hogan-Howe, raised this as well. Something that has been mentioned time and again today is that the police already have powers to deal with those situations. The noble Lord, Lord Coaker, gave a whole list of examples of where this has been done successfully.

It feels to me as though this Government are using the disruptive tactics of a tiny minority of protesters to target and control dissent from the wider public; to stop them from calling out bad government policies. The law will be used by Governments to target people and causes with which they disagree.

One of the basic tenets of a democratic society is the right to protest. We must think about why people are protesting; it is because they are not being heard. Very different broad groups will be targeted by these powers; minority ethnic groups or women's groups, for example. As women become poorer and their rights come under attack, including sex-based rights, we are likely to see more women marching. We have seen women demonised, lose their jobs or be attacked because they speak about their human rights. Who knows what will happen in the future? Depending on which politicians are in power, those protests could be regarded as disruptive. As we know, not all politicians or even political parties are on the side of women's human rights.

I worry about search powers—suspicionless search powers—which we already know target minority ethnic groups disproportionately. That situation will get worse. I worry about how women will be targeted. For example, police officers may use such powers to sexually harass and target women protesters. Noble Lords may think that far-fetched, but we need only look at the number of police officers who have been involved in rape, sexual assault, misogyny and sexism to see that it is not unreasonable for me to suggest that. Some police officers may deliberately misuse these powers to humiliate women and then justify it using the law. Women would find it very difficult to challenge that. The Minister mentioned the code of conduct and bodycams at the beginning, but they would be useless in those situations.

I am also deeply concerned about the "unlimited fines" mentioned in the Bill. This means protesting will be for the privileged few who can afford high fines. Yet again, the Government are targeting the poor, making it harder for them to complain publicly about policies that affect them. I am troubled by the wide range of activities that could be criminalised because they have contributed to a protest regarded as disruptive. It could be selling something online that has been used to make placards. It could be transporting protesters to a location; transport companies and taxi drivers could be caught up in this. It could be donating online, or just being in the vicinity.

With such broad powers, what moral right do we have to criticise other countries and how they deal with their protests? We may think that we are not like them; we are different. That is why, in our context, this Bill is unacceptable. We will end up with prisons filled with protesters—or perhaps I should say "political prisoners"; after all, protesting is political. Do the Government think this will stop protesters protesting? I think it will probably have the opposite effect. When people are not heard and their right to protest is curbed, they will use more extreme tactics and protest more because they will feel that they have to fight harder to be heard.

Many people have mentioned the suffragettes, but I will mention them again. They locked on to the railings outside 10 Downing Street to be heard, and how we celebrate them now. We Baronesses would not be in this place were it not for the suffragettes.

I conclude by saying that, if this Bill goes ahead, it will stifle legitimate protest, and that is a sign of a failing democracy, not a thriving democracy. The proposed powers are not compatible with a free society.

7.29 pm

Lord Sandhurst (Con): My Lords, in this country, we accept the principle of peaceful assembly in public places as a foundation of our system of participatory governance based on democracy, human rights, the rule of law and the arguing of ideas with which others do not agree. But that is a balance. It requires give and take. Our society acknowledges that such assembly may annoy or cause offence to others who oppose the ideas that a particular protest seeks to promote. As noble Lords have observed, in a democratic society based on the rule of law, political ideas that challenge the existing order and whose realisation is advocated by peaceful means must be afforded a proper opportunity of expression.

However, well-established law in this country protects only the right to peaceful assembly. Peaceful events often cause real but relatively modest disruption. We tolerate and permit that. On the other hand, seriously disruptive protests and invasions of private property do not deserve protection. The courts have rightly held that public authorities are entitled to interfere with protest where there is a legitimate purpose, such as the prevention of disorder and, importantly, the protection of the rights and freedoms of others.

What we are talking about with this Bill is a balance for society as a whole. The right to protest in a public place is not unfettered. It must be balanced against the rights of the rest of society, and those have been held to include the right to move freely on public roads without restriction. So there is an important balancing act to be conducted for us as members of society as a whole.

We therefore have laws that regulate protests and give the police existing powers both to control assemblies and processions and to avoid serious—I emphasise "serious"—disruption to daily life. In this context, hitherto well established in this country, peaceful protests and demonstrations take place. They do so on notice to the relevant authorities. In London, we are told when there are to be major demonstrations and roads will be closed. The public and the emergency services can plan accordingly. There will of course be resulting disruption, but it is on notice and we can take steps to mitigate it. It is, as I said, a matter of necessary give and take.

When that happens, those of us who are protesting and participating in a demonstration, which may be a very large demonstration—some will be surprised to hear that I have marched on a demonstration—make our point. We receive the public attention that we have sought. The rest of London, or wherever it is, suffers a degree of inconvenience, but it is usually manageable and no serious harm is done. That is what is involved in living in a healthy, vibrant democracy.

However, in recent years, certain groups have gone beyond the norm. What they have done has been all take and no give. It is not about the subject matter. Of course climate change is very important, and of course

[LORD SANDHURST]
people must have the right to demonstrate about it—we must all think carefully about how we are going to go forward and what will happen to our children and grandchildren after we have gone—but when protesters sit in the road and block and prevent all passage, they stop fellow members of society going about their lawful business and conducting their lives.

Importantly, such demonstrations, at which this Bill is aimed, are not done on notice. They are done unannounced and secretly. They are deliberately disruptive of society and where they go is far beyond what is acceptable. So what are we seeing? Fellow citizens are now taking matters into their own hands. That risks disorder, as the Metropolitan Police has said. Something has to be done. The difficult question is whether this Bill—all parts of it—provides the right answers. It is plain that we are going to have to look at that very carefully in Committee.

Let me address a few of the clauses. For my part, I do not see a problem with the essence of Clause 1. It is needed. The Bill focuses on what causes "serious disruption" to individuals or organisations. That is reasonable. It is not in accordance with the tradition of protest and demonstrations in our society. A business or organisation that has been invaded should get the protection that is proposed. That is why we have a police force; we are not back in the 18th century. Individually targeted businesses should not have to resort to their own private expense of injunctions and so on to justify themselves. In this democratic society, we rely on a proper police force to intervene so that we do not take matters into our own hands.

There is a place for the provisions related to tunnelling and the other provisions in Clauses 3 to 8, but Clause 9 is a difficult and delicate clause. Health workers and their patients should be spared intrusion of the sort that they suffer. They must be left in peace. The objective is sound. In Committee, we can look to see whether the drafting is as good as it may be.

I have serious reservations about Clauses 11 to 14, on stop and search without suspicion. Powers to stop and search have had an unhappy history in the magistrates' courts—what used to be called the police courts—of this country. They have historically been misused. They alienate sections of society. People are picked on because they are the wrong colour or the police do not like the cut of their jib. We do not want to go back to that. I will look at those provisions with great care and will take some persuading that Clauses 11 to 14 are appropriate and necessary. Moving forward, I, like the noble Lord, Lord Hogan-Howe, am concerned about the wisdom of the injunctive powers in Clause 18.

I shall finish here. As I said, of course people should be free to demonstrate on climate change or anything else of significance, but this must be within bounds. It is not protests and marches in the form we all understand that are targeted by this Bill; it is what is done in the name of protests and how protests are conducted. Notwithstanding my concerns about some of the details of this Bill—and, indeed, the specific provisions to which I have drawn attention, all of which are important—there is a need for new powers to deal with specific types of aggressive protest that really are new to us. The Bill is needed, but it will need careful attention in Committee to consider which provisions are necessary and which should be revised or omitted.

7.39 pm

Lord Skidelsky (CB): My Lords, it is very cold in this House; I wonder what has happened to the heating. It certainly has a chilling effect on debate.

I am not a lawyer like the noble Lord, Lord Sandhurst, nor a policeman like the noble Lord, Lord Paddick. I am driven to take part in the debate because I have become increasingly concerned at the wide powers of surveillance and control being claimed by Governments in the name of public order and national security—powers that, in their structure though not yet in the scale of their implementation, resemble those in countries such as Russia and China.

I recall that George Orwell wrote in 1939 about

> "whether the ordinary people in countries like England grasp the difference between democracy and despotism well enough to want to defend their liberties. One can't tell until they see themselves menaced in some quite unmistakeable manner."

People feel menaced in different ways; I myself have been woken up by one such menacing experience. I hope also to bring some historical perspective to the topic we are discussing.

The traditional aim of public order Acts, starting in 1936, was to prevent violent clashes on the streets. A famous common-law precedent was Wise v Dunning in 1902. Wise, a rabid anti-Papist, whose habit of speaking and dressing in a manner offensive to Catholics in Liverpool had led to fights at previous meetings, was bound over to keep the peace. The principle was clear enough: freedom of speech, procession and assembly must not be carried to the point where it caused violence on the streets.

As most noble Lords have pointed out, we already have plenty of Acts designed to prevent disruptive behaviour. Why do we need more? As the noble Lord, Lord Paddick, said, it is not because many of these measures have been demanded by the police. The noble Baroness, Lady Chakrabarti, suggested an answer that I find extremely convincing. This Bill brings peaceful, if inconvenient, protest and incitement to violence and terrorism into the same legal framework, implying in principle that the first is as culpable as the second. This argument is used to extend the powers of the state in dangerous ways, which have been charted only in despotic systems. That is why I talk about an Orwellian creep and cited George Orwell at the beginning.

I take up just two matters from Parts 2 and 3 of the Bill, consequential on this false identification between peaceful protest and violence and terrorism. The first, which other noble Lords have alluded to, is the extension of the police's stop and search powers. In the past, stop and search powers have been used to prevent only the most serious offending, such as serious violence or reasonable suspicion of terrorism—for example, if people were suspected of carrying knives, guns or explosives. This was seriously open to racial discrimination and was highly controversial, but I can see a justification for the power itself. However, the Bill would extend the same powers of stop and search to the protest context.

Someone can be stopped and searched for being suspected of being linked, however peripherally, to non-violent purposes or conduct. To stop and search someone suspected of carrying a bomb is one thing; to stop and search someone suspected of carrying a bicycle lock seems to me, to put it mildly, disproportionate—and, in fact, mad.

This leads me to my second point, to which I can hardly do justice in a short speech, namely the extremely worrying spread of arrest and detention where there is no reasonable suspicion that the person may be involved in proscribed behaviour, or where there is merely a balance of probabilities—I want to come back to that term—that they might be.

Clause 11 creates a new suspicion-less stop and search power, whereby the police will have the power to specify that, in a particular locality and for a particular period of time, they do not need to have reasonable suspicion—in other words, an objective basis for suspicion based on evidence—that a protest-related offence will be committed, before stopping and searching people for a prohibited object. This is similar to powers contained in anti-terrorist legislation. Let me quote from the public information leaflet issued to explain Schedule 3 of the Counter-Terrorism and Border Security Act 2019:

> "Unlike most police powers, the power to stop, question, search and, if necessary detain persons does not require any suspicion … The purpose is to determine whether a person appears to be, or to have been, engaged in Hostile … activity."

Leave to one side the draconian powers being asserted here; it is surely fantastic to apply the same reasoning and powers to someone who might or might not be carrying a paintbrush.

Almost as bad as suspicion-less stop and search is Clause 20, which authorises serious disruption prevention orders. Many noble Lords have talked about these. They allow a court to ban a person from attending demonstrations and protests for up to two years, not on conviction of any offence but on a balance of probabilities that, on at least two occasions in the previous five years, they have carried out activities related to a protest or caused or contributed to someone else carrying out a protest. Failure to comply with SDPO conditions is a criminal offence, subject to 51 weeks' imprisonment.

The balance of probabilities means that the court must think that it is 51% likely that the person concerned has carried out such activities. If it thinks that it is only 49% likely, they get off free. What sort of evidence is needed to make that kind of calculation? I would be grateful if that could be explained. The essential point is that Clause 20 allows standards of proof appropriate in civil cases to be used for imposing criminal sanctions, such as electronic tagging, on individuals convicted of no criminal offence.

Any serious analyst of these measures would need to trace not only the growth of novel forms of protest, which is acknowledged, but the way that concepts such as dangerousness and mens rea—guilty mind—have penetrated into the heart of our criminal justice system, creating a large and growing area of law in which you do not have to have done anything criminal to have been deprived of large chunks of your liberty.

It would be very difficult to amend the Bill to make it compliant with the European Convention on Human Rights. I therefore agree with those noble Lords who want to reject Parts 2 and 3 and seriously amend Part 1.

7.47 pm

The Earl of Lytton (CB): My Lords, I believe that it is the duty of the person finishing off the speeches by the many Back-Benchers who have spoken to somehow entertain. I fear that I am going to disappoint. However, I will admit to the fact that Lady Constance Lytton was the younger sister of one of my ancestors—my grandfather—and that, in another part of the family, my great-grandfather Wilfrid Scawen Blunt was imprisoned in Ireland for daring to have the temerity to defend the Irish tenantry against the eviction by their landlords. He went to Kilmainham Gaol, which was a tough old place. I therefore stand before you as tainted goods. I am bound to say that it follows that my sympathy tends towards the last resorts of protest and demonstration, irritating and disruptive though those actions may be.

I can understand what it is like to not be heard or to feel you are not, and even to be consciously ignored or confronted with what might be described as a pitifully limited outcome—targets, policy objectives, pious words, but precious little action. That lies behind some of what we are dealing with in our democratic processes, because it is almost as if that particular process and forum is passing a sector of society by. They do not feel that they have a voice in that, and that is our problem.

My email briefing suggests that the voices particularly of young, worried and committed citizens are not being heard—or, at any rate, not resulting in any appropriate resolve. This might suggest that the current arrangements need to be adjusted to accommodate additional platforms for dialogue and concomitant response, rather than seeking to aggregate powers to the Executive at the price of reduced freedoms for the people. If, as I am told, there are growing barriers of mistrust and disenchantment with party politics, then we have a duty to be more open-minded and take a more positive stance.

It is not as if climate concern demonstrators, for instance, are not amply reinforced by report after report from national and international climate change expert committees, especially if the 1.5 degree global warming target is a train about to leave the station. Even something as basic as the immediate banning of non-recyclable plastics seems beyond our wits to implement, and regulators have not prevented raw sewage discharges into inland and coastal waters. So where are the protections? That is the question that is being asked.

There is a dialogue to be entered into here, and if the place for that dialogue is not to be this Parliament or some other effective platform then the inevitable outcome is demonstration and direct action. Noble Lords posed the question about the degree to which clamping down would result in deteriorating outcomes. I associate myself with that point: better engagement is key.

I accept that the right to demonstrate must be exercised reasonably, but I do not see where the overriding need is for these additional measures. Are they

[The Earl of Lytton]
proportionate and will they be effective? As far as I am aware, there has been little or no post-legislative evaluation of the measures we already have in law, particularly those most recently passed under the Police, Crime, Sentencing and Courts Act. If they are now muddled and confused then we need consolidation and clarification, not to extend things on to the statute book.

The police, with due respect to noble Lords who have that background, may well be happy to have additional powers: what organisation vested with statutory authority and a sense of its own noble purpose would not—but will then doubtless follow it up with a demand for additional resources? But essential need is the test here, not a desire for further aggregation of power. That said, our police forces generally have a very good track record of dealing with demonstrators, and particularly of distinguishing the violent anarchist from the vocal activist. My sense, reinforced by what I have heard in the House today, is that we have enough laws to enable them to do their work and to distinguish legitimate protest from the subversive undermining of society. Adding the measures in this Bill could risk alienating police and people, and indeed dividing society in ways that I suggest are more associated with authoritarian regimes elsewhere around the globe.

I want to be sure that this is not some attempt to snuff out legitimate questioning of government policies, or the Government insulating themselves from difficult questions, but some of the processes in the Bill—the dilution and reversal of the burdens of proof, the blanket application of certain measures and woolly definitions—seem a bit Orwellian in scope and intent. Some of the details and definitions are incredibly vague and open to arbitrary interpretation. The provisions for stop and search without reasonable suspicion are extremely troubling. I am not an expert in this field but my instincts are to reject these provisions, because increasingly oppressive tactics in the name of the state merely engender a similar response from elements of society. I want to break that link.

There is one last thing. Other noble Lords have mentioned that this country has a long tradition of tolerating dissent and responding to justified demonstrations, and an international reputation for freedom of speech, fair lawmaking and justice via an independent judiciary. Perceptions matter. We need to operate proportionately. We speak as a nation in support of basic democratic rights in places such as Hong Kong, for justice in the face of oppression in Myanmar, for women who suffer discrimination in Iran, in support of Black Lives Matter in the United States, and against religious, sectarian and racial oppression everywhere. Yet here, in 2022, we are come to what I can only describe as this disproportionately framed Bill. I simply ask myself: what compels the Government to propose these measures at the expense of trust, long-established custom, and our nation's reputation and credibility on such slender justification?

7.54 pm

Baroness Sugg (Con): My Lords, speaking in the gap, I will be brief and limit my comments to the inclusion of buffer zones in the Bill, which I strongly support. As we have heard, this had a majority of more than 180 in the other place following a cross-party amendment. That included a majority from seven parties voting, including the Conservative Party. The introduction of buffer zones will enable women to access a lawful, confidential health service without harassment and intimidation.

There has been debate about whether tactics have changed over the years. They certainly have around abortion since the 2018 Home Office report that many noble Lords cited. We have seen training sessions and literature provided by American extremist groups, and the protesters' presence is indeed spreading. Like my noble friend Lord Balfe, I have seen these protests, and they are far from friendly, quiet or impartial. We have heard some examples of the so-called peaceful protest that women are subject to. I would add to that forcing pamphlets on patients containing not charitable support but wholly incorrect medical information, including false claims that abortions cause breast cancer, alcohol or drug abuse, or suicide. They offer extremely unsafe so-called abortion "reversal" pills. I am happy to share these leaflets with noble Lords ahead of Committee.

Existing powers are evidently not enough. Current legislative tools designed to deal with persistent harassment are insufficient. They take too long and cost too much, and putting in a local buffer zone often just pushes protesters to another clinic without one. The powers do not work and women are being intimidated on a regular basis. Things need to change.

I have three questions for my noble friend the Minister. Given the overwhelming majority from the other place, can he confirm that the Government are committed to delivering buffer zones in this Bill? Some noble Lords raised concerns around the breadth of Clause 9, though it would only be an offence to seek to influence or interfere in

"any person's decision to access, provide, or facilitate the provision of abortion services",

rather than more broadly or for any other clinic. But I agree that the definitions may need to be revisited in Committee, as long as the clause continues to deliver the legitimate aim of preventing the harassment of women accessing medical care. Can my noble friend confirm that work is ongoing in the Home Office to ensure that any final iteration of Clause 9 is proportionate and compatible with convention rights? Finally, can he agree to meet me and other interested Peers in the coming days so that we can make progress on this issue ahead of Committee?

7.57 pm

Baroness Ludford (LD): My Lords, my noble friend Lord Paddick said in November last year when broadly similar powers were introduced into the police Bill:

"With the greatest respect to the Government, this is yet another example of 'What wizard ideas can we think up in line with the Home Secretary telling the Tory party conference she was going to get tough on protesters?'"—[*Official Report*, 24/11/21; col. 982.]

Here we are with a sense of déjà vu, again.

We have had a very interesting and useful debate this evening, with almost no unqualified support for the Bill. In a debate on this Bill in the other place, the Conservative MP Sir Charles Walker called the proposed serious disruption prevention orders

"absolutely appalling because there are plenty of existing laws that can be utilised to deal with people who specialise in making other people's lives miserable."

Sir Charles went on to read out a list of public order laws that already exist to tackle disruptive protests. This list bears repeating:

"obstructing a police officer, Police Act 1996; obstructing a highway, Highways Act 1980; obstruction of an engine, Malicious Damage Act 1861 … endangering road users, Road Traffic Act 1988; aggravated trespass, Criminal Justice and Public Order Act 1994; criminal damage, Criminal Damage Act 1971 … public nuisance, the Police, Crime, Sentencing and Courts Act 2022"

and

"the Public Order Act 1986 that allows police officers to ban or place conditions on protest."—[*Official Report*, Commons, 18/10/22; col. 580.]

The noble Earl, Lord Lytton, sensibly suggested a degree of consolidation to provide clarity and assessment of the existing laws. That seems a wise idea.

My friend in the other place, Wendy Chamberlain MP, a former police officer, said on Report that

"the police do not need this Bill to respond when protests cross the line."

She also noted:

"Policing by consent is one of the greatest attributes of our country, and it is something that I am passionate about. The Bill undermines that."—[*Official Report*, Commons, 18/10/22; cols. 590-92.]

So when the Minister says that the Bill gives the police the tools they need, which I think he said in his opening speech, we on these Benches do not agree. We certainly do not need these broad, unclear, illiberal measures. My noble friend Lady Hamwee said how precious our freedoms are and the noble Baroness, Lady Bennett of Manor Castle, said that protest is not a crime.

I am not saying that all those we have witnessed protesting in recent years, months and days are angels. Those who obstruct an ambulance or commit criminal damage do the protest cause no favours and should, if appropriate, be arrested and prosecuted. The noble Baroness, Lady Jones of Moulsecoomb, referred to the tomato soup on the Van Gogh painting. When I saw that, I did not know the painting was covered by glass and I do not know whether the protesters knew it was covered by glass.

Baroness Jones of Moulsecoomb (GP): They did.

Baroness Ludford (LD): Okay, that is fair enough, but what I did not like was the tweet from Just Stop Oil saying, in effect—I cannot remember the exact words—who cares about art when the planet is in danger? That struck a very harsh note with me; many of us do care about art. What I support are peaceful protests which avoid both violence and deliberate damage.

The noble Viscount, Lord Hailsham, made a powerful speech, but I am afraid it failed to convince me that the existing powers are inadequate. I normally agree to a very large degree with the noble Viscount, but not really on this occasion. As my noble friend Lord Beith said in last November's debate on the police Bill:

"It seems to me that political considerations have taken precedence over all considerations relating to making good law and, indeed, policing protest satisfactorily and effectively."—[*Official Report*, 24/11/21; col. 985.]

He wisely warned both then, and again today, against getting into trouble by trying to turn into general law attempts to deal with very specific cases. The noble Lord, Lord Frost, and the noble and learned Lord, Lord Hope of Craighead, made similar warnings that next time it will be some other inventive method and we will have to legislate for that.

The noble Lord, Lord Blair of Boughton, said that climate protesters risked damaging their cause, and I have felt that on various occasions recently. Indeed, it is so but that is a public relations matter, not a criminal issue. I hope that will make some of them reflect on the value of what they are doing. If they are alienating some of their potential audience, the message is not effective.

Getting the Balance Right?, the March 2021 inspection report from Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services on how effectively the police deal with protest, which has already been referred to, not least by my noble friend, wisely said that

"legislative reform will not be a panacea for the problem of disruptive protest".

My noble friend Lord Paddick explained how HMIC had rejected many of the proposals now in the Bill. In fact, as in so much of what the Home Office supervises, the challenge is not so much new laws but sufficient, well-trained operational capacity. Perhaps that will be a theme of what was to be the dinner break business on asylum processing. HMIC also called for

"a greater understanding of human rights law among the police".

That might have come in useful during the anti-monarchist protests in the run-up to the Queen's funeral, when there was a heavy-handed response at times. Certainly, some were in very bad taste but whether they were a breach of the law is another matter entirely.

The HMIC report emphasises the value of working with protest organisers, commenting that most collaborate with the police to make sure that protests are safe. It notes:

"Courts have repeatedly emphasised that a degree of temporary interference with the rights of others is acceptable in order to uphold freedoms of expression and assembly".

The police are ahead of the Government here. HMIC reported on the value of police liaison team officers in reaching agreement on an acceptable level of disruption. This should not be underrated.

In regard to the expansion of stop and search, including without suspicion, the Home Office itself acknowledges in its equality impact assessment on the Bill that the expansion of stop and search

"would risk having a negative effect on a part of the community where trust and confidence levels are relatively low."

We know that this is talking about young people and especially young black men. That is a very serious matter if it is going to create a more negative relationship with the police.

The noble Lord, Lord Anderson of Ipswich, applauded the JCHR's suggestion that serious disruption be defined and I think the noble Lord, Lord Hogan-Howe, agreed with him. The noble Lord, Lord Anderson, also wanted careful examination of the proposed reversal of the burden of proof requiring the defendant to show that they had a reasonable excuse for, for instance, locking on. This seems in strange contrast to an offence such as obstruction of the highway, where it is for the prosecution to prove that the defendant did not have lawful authority or excuse for their actions. Perhaps the Minister could explain this reversal of proof.

[Baroness Ludford]

The noble Baroness, Lady Chakrabarti, my noble friend Lord Beith, the noble Lords, Lord Balfe and Lord Sandhurst, and others warned particularly against politicising policing through government injunctions under, I think, Clause 20. That was a particular concern that ran throughout the debate.

The Minister said in his opening remarks that serious disruption prevention orders have an appropriately high threshold. Other speakers, such as the right reverend Prelate the Bishop of St Albans, did not agree that the balance of probabilities was an appropriately high threshold. Some obstructive activity has to be tolerated in a free society. In its report on the Bill, the Joint Committee on Human Rights recalled:

"The European Court of Human Rights has recognised that public demonstrations 'may cause some disruption to ordinary life' but that 'it is important to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed in Article 11 of the Convention is not to be deprived of its substance."

The Government have provided no compelling justification for the introduction of the new expansive powers in the Bill, criminalising ordinary, peaceful, if disruptive, behaviour. The JCHR also stresses—it has been another theme in this debate—that:

"The UK is rightly proud of its history of respect for political protest and is critical of other nations who fail to show the same degree of respect for the crucial importance played by protest in a democratic society. Introducing our own oppressive measures could damage the UK's international standing and our credibility when criticising other nations for cracking down on peaceful protest."

The noble Lord, Lord Foulkes, pithily summed this up as "authoritarian creep" and the noble Lord, Lord Balfe, reminded us that sometimes protest tactics that make us uncomfortable change opinion and get the law changed. I hope the new Government will show concern about their international image and reputation and be persuaded that the Bill is unnecessary and unjustified. As the right reverend Prelate the Bishop of St Albans said, we need evidence of how this Bill can succeed when its predecessors have self-evidently failed if the Government want this new Bill.

8.09 pm

Lord Ponsonby of Shulbrede (Lab): My Lords, the noble Baroness, Lady Ludford, opened by pointing out that there has been no unqualified support for this Bill and, in fact, the vast majority of speakers have expressed their strong opposition to it. Looking at recent examples of protest, we have seen problematic actions such as protesters pouring milk out on to supermarket floors during a cost of living crisis, leaving the mess for cleaners to sort out, but we have to balance that against the bravery of girls and women protesting in Iran for access to basic rights and fundamental change in their society.

I believe we need to see this debate in the round. Protest covers a range of behaviour. We need to get the balance right between the democratic right to protest and the ability of vital services to run, and we do not believe the Bill does that. We do not believe the Bill will be effective at what the Government claim to want to achieve. It includes powers that range from vague to extremely problematic.

On existing law, throwing a tin of soup at a publicly accessible work of art is already an offence—those demonstrators were charged with criminal damage—so how is the Bill relevant to that behaviour? In what way will it impact or deter it? The answer to managing protests surely cannot be to continuously introduce ever more draconian layers of laws on top of each other. Surely it is to use existing law well and to ensure proper training and support for police forces, which have to tackle genuinely problematic and illegal behaviour.

I ask the Government to provide, on the record, clear details of existing protest laws, what activity is already criminal and what existing powers the police have. It would be helpful for the Government to provide a complete list and make this available to the whole House. I was attracted by the view from the noble Earl, Lord Lytton, and the noble Baroness, Lady Ludford, that maybe the Government should move to some consolidation of all these existing powers.

The Government claim that one of the aims of the Bill is as a deterrent, but is there not a risk that the people who worry about it will be local campaign groups wanting to use their voice against, say, a local library closure or the cutting down of local woods? They are the people who may be deterred, but it will not deter, for example, the Just Stop Oil protesters. As we heard from the Minister, there were 650 arrests in October alone, but of course they are seeking to get arrested as part of their campaign. They are knowingly breaking the law. In what way will the provisions in the Bill change that behaviour?

Another concern is an overreach of powers. Key concerns are the suspicionless stop and search powers and the serious violence reduction orders. Suspicionless stop and search equates peaceful protest with powers currently used for terrorism and serious violent crime. It targets peaceful protesters and passers-by. If a protest is occurring in a town centre, the Bill gives the police the right to stop and search any member of the British public, without any grounds for doing so, as they walk through their local town centre. Hard cases make bad law. The Bill is not confined to the actions of a small number of protesters. It impacts on basic rights of the British people, and these are powers that should be taken out of the Bill.

Many of the powers in the Bill are vaguely drafted, with low thresholds. Again, hard cases are not an excuse to pass bad laws and hope that they will be well interpreted. This House will carefully scrutinise the language and the thresholds in the Bill and will expect powers to be clearly defined and necessary. We do not believe the Bill currently meets this test.

I turn to abortion buffer zones. In a free vote, the Commons voted on a cross-party basis to add Clause 9 to the Bill. As the noble Baroness, Lady Sugg, pointed out, this included a majority in the governing party. The aim is to prevent the kind of behaviour we have seen where both patients and staff have been subjected to harassment and intimidation when they access medical care or go to work. I pay tribute to colleagues on all sides who have worked on this issue for years. I understand that the Government are raising some concerns about the drafting of the clause. On the Labour Front Bench

we look forward to working with the Minister on a cross-party basis to support Clause 9 and ensure that it delivers the protections intended.

I return to stop and search. There are various powers to stop and search a person where you have a reasonable suspicion that they are carrying prohibited items: offensive weapons, fireworks, drugs and other items. There are also specific stop and search powers related to terrorism. We have heard about the 1994 Act Section 60 stop and search without suspicion, which is related to terrorism. We have heard a number of noble Lords equating this power with the new powers sought in the Bill. The extension of stop and search in the Bill equates peaceful protest with measures currently used against violent crime and terrorism. We believe this is problematic, and we will oppose suspicionless stop and search as the Bill gets to later stages of its consideration by this House.

I was interested in what the noble Lord, Lord Hogan-Howe, said about making sure that people are properly informed when they are in an area where there is likely to be suspicionless stop and search. That was an interesting point that we may well seek to take forward. A number of noble Lords—the noble Lord, Lord Skidelsky, the noble Baroness, Lady Ludford, and my noble friend Lady Chakrabarti—pointed out the racial inequality likely to result from further stop and search powers. I thought that was a powerful point too.

I turn to tunnelling. These powers are new in the Bill, in that they were not considered by the House in the PCSC Bill, and we will want to look at them carefully. I understand the points made by the noble Lord, Lord Blair, about the difficulty of tunnelling.

Further, the Labour team in the House of Commons raised the issue of injunctions, as the Government may be seeking injunctions and politicising making them on certain individuals. It was interesting that the noble Lord, Lord Sandhurst, raised this as a possible problem. It seems to me undesirable for politicians to get involved in this sort of decision-making, which should rightly rest with the police.

We believe the Government have a responsibility to protect our historic rights to peaceful protest and to safeguard our national infrastructure, including our NHS, from dangerous and seriously disruptive protests. This Bill fails on both counts. It is too widely drawn and targets peaceful protesters and passers-by. It also fails to include the sensible measures that councils, the police, businesses and the NHS need to prevent dangerous and seriously disruptive protests. The Labour Party is clear that in a democracy freedom of speech, freedom of assembly and the historic rights to protest run alongside the rights of people to go about their daily lives. It is in this spirit that we look forward to scrutinising the Bill.

8.18 pm

Lord Sharpe of Epsom (Con): My Lords, I thank all noble Lords for their contributions throughout this debate. I will endeavour to respond to the points that have been made. For the record, I refute the assertion that this is some sort of battle in the culture war, not least because I am fond of tofu.

The noble Lord, Lord Ponsonby, has just asked for a list of the various Bills. I commit to write on that, and will obviously study *Hansard* carefully. If I miss the specific questions of any other noble Lord, I will also write on those, but I will endeavour to get to all of them.

A number of noble Lords, including the noble Lords, Lord Coaker, Lord Paddick and Lord Beith, and the noble Baronesses, Lady Chakrabarti, Lady Jones and Lady Blower, have argued that the Bill will have a chilling effect and cause peaceful protesters and bystanders at protests to be criminalised. I respectfully disagree and say that that is not the case. The right to protest peacefully, as my noble friend Lord Sandhurst just noted, is a fundamental part of democracy and that will never change. Protesters can continue to have their voices heard but, as my noble friend Lord Hailsham noted, they will not be allowed to wreak havoc on the lives of others while doing so.

At this point I would like to quote the chief constable for Essex Police, Mr Harrington, who said recently that

"concerns about the climate—however real—cannot justify actions that seriously disrupt and endanger the lives of others".

I would agree with that, much though I share the concerns of those climate protesters. I think most of the House shares those concerns and the Government, as has been argued on many occasions in this Chamber, are doing a lot of work on the subject.

A number of noble Lords brought up the fact that they believe the Bill to be incompatible with the European Convention on Human Rights. We have been clear that we believe the measures in the Bill are compatible with the ECHR in the main, with the exception of Clause 9; namely the rights to freedom of expression, assembly and association. However, these rights are not absolute. They do not extend to wreaking havoc on the lives of others.

Several noble Lords, including the right reverend Prelate the Bishop of St Albans, the noble and learned Lord, Lord Hope, the noble Lords, Lord Paddick and Lord McAvoy, and my noble friend Lord Frost have argued that there are existing powers for the police to use and that the Bill is therefore unnecessary. I respectfully say that recent events demonstrate that this is not the case. As helpfully explained by the noble Lord, Lord Hogan-Howe, we have seen instances where the current legal measures are insufficient to prevent serious disruption or to hold disruptive protesters to account, even in cases where disruption has incurred unjustifiable costs of over £10 million.

In response to the point made by the noble Lord, Lord Paddick, about new and evolving tactics by protesters I will this time quote chief constable Chris Noble from the NPCC, who said:

"There have been some very novel … and highly disruptive tactics; that is reflected on the contents page of the Bill".

He subsequently said that protesters

"are very aware of some of the legal gaps, inadequacies and shortcomings".—[*Official Report*, Commons, Public Order Bill Committee, 9/6/22; col. 5.]

It is worth pointing out that Chris Noble leads at the NPCC on protests.

[Lord Sharpe of Epsom]

I turn to the arguments made by noble Lords including the noble Lords, Lord Coaker and Lord Paddick, the noble Baroness, Lady Chakrabarti, and the noble Lords, Lord Beith and Lord Anderson, regarding the stop and search powers contained in the Bill. Stop and search powers will enable the police to proactively tackle highly disruptive protest offences by searching for and seizing items which are made, adapted or intended to be used in connection with protest-related offences, such as glue, chains and locks. Stop and search can also act as a deterrent by preventing offenders carrying items for protest-related offences in the first place, because of the increased chance of being caught.

Concerning the suspicionless powers, we believe these are necessary and reflect the operational reality of policing these protests. In the fast-paced context of a protest, it can be challenging to assert the appropriate level of suspicion needed for a suspicion-led search. In addition, the use of suspicionless stop and search is not inconsistent with the right to engage in peaceful protest, as it would be targeted only at preventing the guerrilla tactics employed by some. HMICFRS has also recognised the need for the police to be granted suspicionless powers to stop and search for articles connected with protest-related offences and, at the Bill's oral evidence session, HM Inspector Matt Parr reaffirmed his support for these measures.

I also seek to assure noble Lords that existing safeguards for the stop and search powers that are already in place, such as body-worn video and PACE codes of practice, will continue to apply to stop and search powers provided for in the Bill. It is worth pointing out that the Home Office publishes extensive data on the police's use of stop and search, in the interests of accountability, and will expand this publication to the use of the new powers provided for in this Bill.

I turn to the concerns about the serious disruption prevention orders raised by noble Lords, including the noble Lords, Lord Beith, Lord Coaker, Lord Paddick, Lord Foulkes, Lord Anderson, Lord Hendy and Lord Skidelsky, the noble and learned Lord, Lord Hope, the noble Baroness, Lady Chakrabarti, and my noble friend Lord Frost. Noble Lords have raised particular concerns about the orders made "otherwise than on conviction". Serious disruption prevention orders are a proportionate way of dealing with those who cause serious disruption and misery to others. I assure the House that they cannot be arbitrarily imposed on innocent individuals.

SDPOs are used only where there is evidence of two or more instances where the individual has been convicted of a protest-related offence, breached a protest-related injunction or committed, caused or contributed to another specified protest-related activity. Importantly, it is for our independent judiciary to decide whether to impose an SDPO. They are to be used only where the courts find clear evidence that an SDPO is absolutely necessary to prevent an individual engaging in prohibited activity. The threshold for the imposition of these orders is therefore appropriately high, and I trust our police and courts to impose them only where necessary.

I turn to the arguments made by the noble Lords, Lord Anderson and Lord Hogan-Howe, regarding the inclusion of a definition of "serious disruption" in the Bill. As noble Lords will be aware, no two protests are ever the same and being too prescriptive risks the ability of the police to respond to fast-evolving protest tactics, while also risking the exploitation of loopholes by those intent on causing as much disruption as possible. The notion that courts and the police interpret terms in English and Welsh law is a principle that we have long relied on to ensure that those who enforce the law are not limited by instances that a definition will not be able to capture. Nevertheless, I recognise that a clear definition could bring benefits and I recognise the strength of feeling expressed on this issue today, so I will reflect further on it. I will write to the noble Lord, Lord Anderson, on his other two questions, if that is acceptable.

Throughout this debate, many views have been expressed by noble Lords regarding the insertion of Clause 9 by the other place. As the Minister there said, Clause 9 is a "blunt instrument", and the Government believe that it would not be proportionate in its current form. However, I note that the proponent of the clause, the Member for Walthamstow, accepted that it would need to be refined in this place. I therefore stress that this measure will not prevent people expressing their views; it will prevent protesters doing so only near women accessing abortion services.

Furthermore, as noble Lords will be aware, Clause 9 meant that the Government were unable to issue a statement of compatibility with the European Convention on Human Rights upon the Bill's introduction to this House. However, the Government accept the view of the other place that the existing powers are inadequate to deal with the problem—but we cannot accept Clause 9 in its current form. However, I am happy to say yes on all three of the specific concerns of the noble Baroness, Lady Sugg, about this. I invite interested noble Lords to engage and work with us on this to deliver a workable solution.

As I expected, this has been a lively and thought-provoking debate. This is clearly an issue of significant interest and importance. But the fact is that we have a responsibility to act and update our laws to reflect changing tactics. The Government will not stand by while decent hard-working people have their lives and livelihoods disrupted; we will put the law-abiding majority first. I commend the Bill to the House.

Bill read a second time and committed to a Committee of the Whole House.

Public Order Bill

Order of Consideration Motion

8.27 pm

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

That it be an instruction to the Committee of the Whole House to which the Public Order Bill has been committed that they consider the Bill in the following order: Clauses 1 to 18, the Schedule, Clauses 19 to 35, Title.

Motion agreed.

Western Jet Foil and Manston Asylum Processing Centres

Statement

The following Statement was made in the House of Commons on Monday 31 October.

"With permission, Madam Deputy Speaker, I would like to make a Statement about asylum processing at Manston and the incident in Dover yesterday.

At around 11.20 am on Sunday, police were called to Western Jet Foil. Officers established that two to three incendiary devices had been thrown at the Home Office premises. The suspect was identified, quickly located at a nearby petrol station, and confirmed dead. The explosive ordnance disposal unit attended to ensure there were no further threats. Kent police are not currently treating this as a terrorist incident. Fortunately, there were only two minor injuries, but it is a shocking incident and my thoughts are with all those affected.

I have received regular updates from the police. Although I understand the desire for answers, investigators must have the necessary space to work. I know the whole House will join me in paying tribute to everyone involved in the response, including the emergency services, the military, Border Force, immigration enforcement, and the asylum intake unit.

My priority remains the safety and well-being of our teams and contractors, as well as the people in our care. Several hundred migrants were relocated to Manston yesterday to ensure their safety. Western Jet Foil is now fully operational again. I can also inform the House that the Minister for Immigration, my right honourable friend the Member for Newark, Robert Jenrick, visited the Manston site yesterday and that I will visit shortly. My right honourable friend was reassured by the dedication of staff as they work to make the site safe and secure while suitable onward accommodation is found.

As Members will be aware, we need to meet our statutory duties around detention, and fulfil legal duties to provide accommodation for those who would otherwise be destitute. We also have a duty to the wider public to ensure that anyone who has entered our country illegally undergoes essential security checks and is not, with no fixed abode, immediately free to wander around local communities.

When we face so many arrivals so quickly, it is practically impossible to procure more than 1,000 beds at short notice. Consequently, we have recently expanded the site and are working tirelessly to improve facilities. There are, of course, competing and heavy demands for housing stock, including for Ukrainians and Afghans, and for social housing. We are negotiating with accommodation providers. I continue to look at all available options to overcome the challenges we face with supply. This is an urgent matter, which I will continue to oversee personally.

I turn to our immigration and asylum system more widely. Let me be clear: this is a global migration crisis. We have seen an unprecedented number of attempts to illegally cross the channel in small boats. Some 40,000 people have crossed this year alone—more than double the number of arrivals by the same point last year. Not only is this unnecessary, because many people have come from another safe country, but it is lethally dangerous. We must stop it.

It is vital that we dismantle the international crime gangs behind this phenomenon. Co-operation with the French has stopped more than 29,000 illegal crossings since the start of the year—twice as many as last year—and destroyed over 1,000 boats. Our UK-France joint intelligence cell has dismantled 55 organised crime groups since it was established in 2020. The National Crime Agency is at the forefront of this fight. Indeed, NCA officers recently joined what is believed to be the biggest ever international operation targeting smuggling networks.

This year has seen a surge in the number of Albanian arrivals, many of them, I am afraid to say, abusing our modern slavery laws. We are working to ensure that Albanian cases are processed and that individuals are removed as swiftly as possible—sometimes within days.

The Rwanda partnership will further disrupt the business model of the smuggling gangs and deter migrants from putting their lives at risk. I am committed to making that partnership work. Labour wants to cancel it. Although we will continue to support the vulnerable via safe and legal routes, people coming here illegally from safe countries are not welcome and should not expect to stay. Where it is necessary to change the law, we will not hesitate to do so.

I share the sentiment that has been expressed by Members from across the House who want to see cases in the UK dealt with swiftly. Our asylum transformation programme will help bring down the backlog. It is already having an impact. A pilot in Leeds reduced interview times by over a third and has seen productivity almost double. We are also determined to address the wholly unacceptable situation which has left taxpayers with a bill of £6.8 million a day for hotel accommodation.

Let me set out to the House the situation that I found at the Home Office when I arrived as Home Secretary in September. I was appalled to learn that there were more than 35,000 migrants staying in hotel accommodation around the country, at exorbitant cost to the taxpayer. I instigated an urgent review. I pushed officials to identify accommodation options that would be more cost-effective and delivered swiftly while meeting our legal obligation to migrants. I have held regular operational meetings with front-line officials and have been energetically seeking alternative sites, but I have to be honest: this takes time and there are many hurdles.

I foresaw the concerns at Manston in September and deployed additional resource and personnel to deliver a rapid increase in emergency accommodation. To be clear, like the majority of the British people, I am very concerned about hotels, but I have never blocked their usage. Indeed, since I took over, 12,000 people have arrived, 9,500 people have been transferred out of Manston or Western Jet Foil, many of them into hotels, and I have never ignored legal advice. As a former Attorney-General, I know the importance of taking legal advice into account. At every point, I have worked hard to find alternative accommodation to relieve the pressure at Manston.

What I have refused to do is to prematurely release thousands of people into local communities without having anywhere for them to stay. That is not just the wrong thing to do—that would be the worst thing to do for the local community in Kent, for the safety of those under our care and for the integrity of our borders. The Government are resolute in our determination to make illegal entry to the UK unviable. It is unnecessary, lethally dangerous, unfair on migrants who play by the rules and unfair on the law-abiding patriotic majority of British people. It is also ruinously expensive and it makes all of us less safe.

As Home Secretary, I have a plan to bring about the change that is so urgently needed to deliver an immigration system that works in the interests of the British people. I commend this Statement to the House."

8.28 pm

Lord Coaker (Lab): My Lords, I welcome the Minister to his place—I will do so more formally when there is more time. Actions taken by the Home Secretary over the past eight weeks, with the exception of the six-day resignation period, have raised legitimate and serious concerns over national security, public safety and operational decision-making. I know that the whole House will join me in condemning, in the strongest possible terms, the appalling attack on the Western Jet Foil centre. Our thoughts are with all those affected and we pay tribute to the emergency services. Can the Minister confirm that counterterrorism police are now leading this investigation?

Conditions at Manston were described by the Independent Chief Inspector of Borders and Immigration as a "really dangerous situation" that had left him "speechless". The local Conservative MP, Sir Roger Gale, said the situation was "wholly unacceptable" and should never have been allowed to develop. He pointed out in no uncertain terms that the deterioration of the site had occurred recently and at speed over weeks during the tenure of the current Home Secretary. Indeed, he said on Times Radio today:

"I don't accept or trust this Home Secretary's word."

What does the Minister say to that?

Can the Minister confirm to this House whether the Home Secretary was given advice from officials on the legality of detaining people at the Manston site due to a failure to provide alternative accommodation? How much alternative accommodation was signed off by the now-former Home Secretary Grant Shapps MP during his week in office, and had those options previously been refused by the current Home Secretary? Can the Minister confirm how many cases of diphtheria and scabies have been recorded at the site? What risk assessment has been done on current working conditions and safeguarding issues at the site? Are people still being held illegally at Manston?

Behind the problems at Manston is a serious and deep-running failure of policy and operational performance. Can the Minister confirm that the average waiting time for an initial asylum decision is now over 400 days? The number of decisions taken each year has slowed to the point of collapse. In frankly astonishing evidence given last week, the Home Affairs Select Committee heard that only 4% of small boat arrivals from last year have been processed. An immense backlog and a failure to deliver on the basics leads to problems, including overcrowding, increasing costs to the taxpayer and serious safeguarding issues. What effective action is the Minister able to point to that has been taken to tackle this growing problem? The Nationality and Borders Act introduced further layers of bureaucracy and delay, including an inadmissibility clause that delays cases for months and requirements for some asylum seekers' decisions to be repeatedly revisited.

On Rwanda, we are now aware that the Government have paid a further £20 million on top of the already disclosed £120 million for a policy that the Home Office was unable to sign off as being value for money. Does the Minister not agree that concerted action to tackle vile, criminal gangs starts much closer to home? Will the Government now fund a dedicated National Crime Agency unit?

On ministerial accountability, is it still the case that the Home Secretary has not yet visited Manston? The chair of the Home Affairs Select Committee has also pointed out that a Home Secretary has not appeared before the committee since February, despite there having been three different Home Secretaries in that time, one of whom was appointed twice. While we discuss these incredibly serious policy and operational issues, questions remain over the Home Secretary's conduct regarding the sharing of sensitive information. Will there now be an investigation into whether similar actions occurred during her tenure as Attorney-General?

What are the Government doing to expand safe routes for those fleeing unimaginable situations? If a woman is forced to flee from Iran in the coming weeks, after taking part in current protests, and turns to the UK for help, what specific safe and legal route is open to her?

Finally, while answering this Statement yesterday in the House of Commons, the Home Secretary used language that many of her own colleagues considered ill-advised and inflammatory when she spoke of an "invasion". That is not the language of a Home Secretary considering national security and public safety the day after a dangerous bomb attack. I would like to know whether the Minister agrees with his ministerial colleague, who said this morning:

"In a job like mine, you have to choose your words very carefully. And I would never demonise people coming to this country in pursuit of a better life."

The whole situation is a shambles, with terrible consequences for people, and it is about time the Government sorted it out.

Lord Paddick (LD): I welcome the Minister to his Front-Bench place. Whatever way you look at the appalling conditions at the Manston processing site, with overcrowding, disease and disorder, the conclusion is that it is the fault of this Government, whether because of the woeful track record in processing asylum claims or the alleged failure to commission accommodation from which asylum seekers can be moved on from Manston. That, coupled with the reckless rhetoric used by the Home Secretary and the Government towards asylum seekers, fuels a false

narrative that results in the kind of attack that we saw at Western Jet Foil, which is now being treated as a terrorist incident.

Asylum claims in the UK are almost half what they were 20 years ago: over 80,000 asylum claims were made in 2002, and just over 40,000 in 2021. There is currently a 20-week wait just to register an asylum claim and, on average, over 400 days before an initial decision is made. At the end of March, 89,000 cases were awaiting an initial decision, which is quadruple the number in 2016.

The local MP alleged on the "Today" programme on Monday that the overcrowding at Manston was deliberate, as the Home Office had decided not to book more hotel rooms to accommodate asylum seekers. Sir Roger Gale MP today repeated his claim that it was a failure of the Home Office to commission move-on accommodation, despite what the Home Secretary said yesterday in the other place. Can the Minister confirm who is telling the truth?

Yesterday, the *Telegraph* quoted a Minister who said that Suella Braverman blocked the use of hotel rooms for migrants to "process them quickly". Mark Spencer MP, the Farming Minister, when asked about the report that Ms Braverman had "put the block" on hotel rooms being used for those arriving on British shores, told Sky News that it was

"because she wants to process them quickly".

We have the local MP and the Farming Minister both saying that Ms Braverman had put a block on hotel rooms, while the Home Secretary herself said that she had not. Who out of those Government Ministers, senior Conservative MPs and the Home Secretary is telling the truth?

The overwhelming majority of those who have been crossing the Channel in small boats in recent years have been genuine asylum seekers—not because I say so but because the overwhelming majority have been granted asylum status by the Home Office. So why is the Home Office calling those genuine refugees "illegal migrants", when clearly they are not? Even the Home Office website, announcing the Manston facility, describes it as a

"processing site for illegal migrants".

That was in December 2021, even before the Nationality and Borders Act. Meanwhile, an Ipsos MORI poll says that only 10% of British people think that immigration is the number one problem facing the UK.

Yesterday, we had the Home Secretary describe those crossing the Channel in small boats as an "invasion". Not only is that outrageously dangerous rhetoric, particularly when the world is dealing with the invasion of Ukraine by Russia, but this morning we had the Immigration Minister saying that politicians had to be careful in the words they used. Which Minister does the noble Lord agree with—the Immigration Minister or the Home Secretary?

The Conservative Party has had seven years in government when it has been in sole control of our borders. As the Home Secretary herself has said, the asylum system in the UK is broken. Does not the Minister agree that seven years is more than long enough to repair any broken system, and therefore it is time that this Government made way for a Government who can mend it?

The Parliamentary Under-Secretary of State, Home Office (Lord Murray of Blidworth) (Con): Thank you, my Lords. I shall deal first with the questions raised by the noble Lord, Lord Coaker. In relation to the attack on Western Jet Foil, I can confirm that Counter Terrorism Policing South East has now taken the lead from Kent Police in investigating the incident. Detectives have worked hard to establish the exact circumstances, including the motivation surrounding this incident, which happened at 10.20 am on Sunday. During the incident, as noble Lords will know, a number of crude incendiary devices were thrown outside Western Jet Foil and into the premises by a man who arrived at the scene alone in a car. The suspect's vehicle was quickly located nearby, and the man was found dead inside; he has since been identified as Andrew Leak, aged 66, from High Wycombe.

What appears clear is that this despicable offence was targeted and likely to be driven by some form of hate-filled grievance, although this may not necessarily meet the threshold of terrorism. At this point, the incident has not been declared a terrorist incident, but it is being kept under review as the investigation progresses. A search warrant was carried out at the property at High Wycombe on Monday 31 October, and a number of items of interest were recovered, including digital media devices, which are being examined as quickly as possible.

Due to the nature of the evidence gathered so far, it is clear that officers with specialist knowledge, resources and experiences are best placed to lead this work to determine the motivating factors. There is nothing currently to suggest that the man involved was working alongside anyone else and there is not believed to be any wider threat to the community in the High Wycombe area or in Dover. Detective Chief Superintendent Olly Wright, head of the CTPSE, said:

"This was a traumatic incident for everyone involved, and the wider community and we're working hard to establish what led to the events on Sunday morning."

It is right to give space for these investigations to reach their conclusion and it would be inappropriate to second-guess any conclusions at this stage. I echo the thanks given yesterday in the other place for the work of Border Force and the first responders to this appalling incident.

I turn to the second question raised by the noble Lord, about conditions at Manston today. There were 3,629 people at Manston as of this morning. There were no arrivals today, due to the weather in the channel, and conditions are stable and improved routinely, as the Home Secretary set out in the other place in her Statement. Some 332 migrants were rehoused in alternative accommodation today and it is hoped that further transfers will be possible during the course of the week. I can confirm in relation to the other question that the noble Lord asked me, about the health of the people detained at Manston, that there were four cases of diphtheria. Those people have been treated and cases of various skin conditions have also been addressed. The healthcare provided at Manston is first class and, indeed, for many of the people detained at Manston, it is the first time they have had medical intervention

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for a very long time. The conditions being identified are ones that have clearly been prevalent prior to their crossing the channel, and it is excellent that the medical staff at Manston are able to provide that care for those people.

On the question of waiting times for asylum processing, it is correct that, as the Home Secretary said in the other place yesterday, this system is approaching its breaking point and needs some serious intervention. That is precisely what this Government will do. The cause of this is the unprecedented number of illegal crossings of the channel to the United Kingdom, which has put a system designed for many fewer migrants under extreme pressure. The staff of Border Force and of the Home Office more generally are working at pace to secure a resolution to these asylum claims and to expedite the conclusions of their applications.

The noble Lord asked me whether we need to consider other options. I am, of course, happy to confirm that co-operation with the French is key to addressing this issue. Already since the start of the year, co-operation with the French has stopped more than 29,000 illegal crossings, and joint work with France continues. An important aspect of our response to illegal migration is with the French doubling the numbers patrolling the beaches. That work and certain negotiations with France will continue in an attempt to reduce the numbers crossing the channel, particularly during these very dangerous winter months.

8.44 pm

Lord Howard of Lympne (Con): My Lords, I too welcome my noble friend to his responsibilities. Does he recognise the inconvenient truth that it is almost impossible—perhaps entirely so—to deal with this issue without agreement with France going far beyond the level of co-operation to which he referred? Will he draw the attention of his ministerial colleagues to the agreement reached with France in 1995, under which it agreed to take back those who illegally entered the United Kingdom from France—they enter illegally, even if they subsequently claim asylum—and which it honoured?

Lord Murray of Blidworth (Con): I thank the noble Lord for reminding me and my department of that very valuable agreement. Certainly, the best solution to this problem would be an agreement with France under which it accepted the return of everyone who crosses the channel. There could be no stronger deterrent to crossing it. I will of course encourage officials to look at the agreement made in 1995 and see what steps can be taken to revive it.

Baroness Chakrabarti (Lab): My Lords, initiation rites are pretty tough in some cultures, but none the less I too welcome the Minister to his place. I declare an interest as a fellow member of 39 Essex Chambers, where lawyers act for and against the Government without demonising each other. Of course, the demonisation of their most vulnerable clients is worse. Did the Minister see the comments by the very well-respected charity, HOPE not hate? Its policy director said:

"The terrible incident at Dover does not stand in isolation. It is the result of repeated demonisation … of migrants, asylum seekers and refugees by the government and by the media."

As an excellent lawyer, the Minister will know that, by definition, because of the non-penalisation doctrine in the refugee convention, a crossing that eventually results in refugee status was never an illegal crossing. Finally, does the Minister agree that it is not helpful or appropriate to refer to the current refugee crisis as an "invasion" of our south coast?

Lord Murray of Blidworth (Con): I thank the noble Baroness for her kind remarks. She is right to observe that we have that common interest in terms of our professional origins. I imagine her question relates to the question posed in perhaps more clear terms by the noble Lord, Lord Coaker, about the use of the word "invasion" by the Home Secretary. I take the view that the expression the Home Secretary used was intended to—and did—convey the scale and challenge we face as a country from the numbers crossing the channel. Millions of people across this country are rightly concerned about that and want to know that we have a robust but secure asylum system. A significant proportion of those arriving on our shores are economic migrants, many from countries such as Albania. A quarter of all migrants this year came from Albania, which is demonstrably a safe country. The Home Secretary and the entire ministerial team will see what they can do to bear down on those numbers.

Baroness Brinton (LD): My Lords, I declare my interest as a vice-president of the Local Government Association. The Statement says that 12,000 people have arrived at both Manston and Western Jet Foil since Ms Braverman became Home Secretary in September, and 9,500 have already been transferred out. As the Minister mentioned, there have been confirmed cases of diphtheria and other infectious diseases at the very overcrowded Manston centre in the last month. Diphtheria is a notifiable disease under the Public Health (Control of Disease) Act 1984, and directors of public health and their local authorities have statutory duties to manage notifiable disease outbreaks, including tracking, testing and tracing not just those with the disease but their contacts. Can the Minister explain why the Home Office has refused to work directly with directors of public health and their local authorities in the areas receiving these asylum seekers from Manston, despite repeated requests?

Lord Murray of Blidworth (Con): I thank the noble Baroness for that question. I do not have the answer, so I will find out what it is and write to her.

Baroness Blackwood of North Oxford (Con): My Lords, those of us who have had the misfortune to be an MP representing a detention centre will know that the detention estate has had failings for many years. One of those is that the appeals rate has rested at about 42% against the Government for many years; it was that last year as well. Does the Minister not think that, if the Government were able to make the right decisions on asylum requests in the first place, we would have fewer people in the detention estate and would be making quicker decisions?

Lord Murray of Blidworth (Con): I thank my noble friend for her question. Clearly, the process for considering asylum decisions needs improvement—that is something

we are committed to—and the appeal rate clearly reflects some mistaken decision-making. However, it is right to say that certain cases on appeal will consider matters that were not before the original decision-maker, so those cases do not reflect a particular error. The statistic itself does not suggest entirely a situation which is indicative of flawed decision-making by Home Office officials. However, as I say, this is an area on which we shall work.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, I too welcome the Minister—notwithstanding the fact that he is a lawyer—because he went to a Scottish university, so he must be okay. However, he must appreciate that in 12 years of a Tory Government we have had a lot of rhetoric and promises but very little practical action, except for gimmicks such as the flights to Rwanda that have never taken place. Everything seems to be done to appease Nigel Farage and his cohort, unfortunately, and the awful racists who surround him. To ask the Minister a specific question, he said that he could not have anticipated the huge influx of immigrants, refugees and migrants across the channel. Why not? Why could it not have been anticipated? What are the Government doing now to anticipate what will happen in the future? The Immigration Minister, Robert Jenrick, said on the radio this morning that he expected the figure would be 50,000 by the end of the year. How does he know that? What are the Government doing to try to mitigate that and reduce the numbers?

Lord Murray of Blidworth (Con): The answer to that, as the noble Lord well knows, is to try to produce policies which deter people from seeking to attempt the dangerous channel crossing. That is precisely why we have entered into this agreement with the Government of Rwanda: to seek to disincentivise people from crossing the channel.

Lord Foulkes of Cumnock (Lab Co-op): It is not working.

Lord Murray of Blidworth (Con): The noble Lord says from a sedentary position that it is not working; the point is that it has not had the chance to work because of the prevailing legal challenge. Once the barriers to the policy are removed and it starts to work, we will see the number of people attempting to cross the channel dropping.

Lord Walney (CB): I add my welcome to the Minister. On the issue of disincentives, there has been speculation that the conditions at Manston are being kept deliberately bad as a disincentive. Could the Minister be categorical that the Government would never do that on ethical grounds, and that they recognise that that would not prove an adequate disincentive in any case?

Lord Murray of Blidworth (Con): I absolutely agree with the noble Lord.

Baroness Hamwee (LD): My Lords, we have heard about the conditions suffered by people held in these establishments. I cannot help thinking that life must be very difficult for the staff who work there. I imagine that all their instincts are to do their very best by those who are detained or who are there under any other category. I would be grateful if the Minister could tell the House what support is being given to staff to cope with this situation.

Quite separately, in his response to the question about the appeal rate, making the point that issues come up on appeal that had not been considered in the initial application, would he not agree that that may be indicative of a failure of the casework, a lack of curiosity and a failure to raise the right questions?

Lord Murray of Blidworth (Con): I thank the noble Baroness for the question. I entirely share her concern for the staff at Manston and Western Jet Foil who have to work in difficult conditions. I have made a point of ensuring that officials are fully alive to these issues. The noble Lord, Lord Coaker, suggested that the Home Secretary had yet to visit Manston. As I understand it, she is going to visit later this week, and I can reassure the House that I am visiting next week. I have absolutely no doubt that, on all of those visits, the present concerns of the staff will be taken into account.

As I understood it, the noble Baroness's question in relation to appeals effectively asked whether this showed a failure by decision-makers to take into account matters which had come to light later. That is not routinely the case. Usually what happens is that a fresh claim is advanced by the applicant and/or there is a fresh set of facts; for example, the development of a subsequent relationship.

Lord Frost (Con): My Lords, we have seen over the last couple of days what seems to me to be an almost obsessional pursuit of the Home Secretary, who is dealing with a series of extremely difficult, substantive problems. It is a pursuit on the basis of leaks, anonymous briefings and the usual oversensitivity about words—though if we are going to be sensitive about words, I suggest that "racist" is one that should not be used without a degree of caution. Does the Minister condemn this practice of leaking against a sitting Minister? Does he agree that what the British people want the Home Secretary and the department to do is get on with solving the substantive problem, which means making the country less attractive to illegal migrants, looking at the international legal framework in which we are operating and improving the performance of his department?

Lord Murray of Blidworth (Con): I absolutely agree with my noble friend. It is very important that the Home Secretary is able, without unnecessary distraction, to get on with the job of resolving this very difficult situation. I am very grateful to my noble friend for the support he has expressed for the Home Secretary. I am sure that this issue will be front and centre of all her decision-making.

Lord Kennedy of Southwark (Lab Co-op): My Lords, what we have seen reported in the media is shocking—diphtheria, scabies and horrific conditions at the site. The Government have been in power for 12 years and we have had about seven Home Secretaries. What is going to happen next? It is not as though this is a new

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problem. The Government have had many years to solve it. Repeated Bills and Acts of Parliament, meetings with the French and all sorts of things have been going on, but here we are and the problem is getting worse and worse. I am sure that the noble Lord is shocked by that as well. What is going to happen now to make things better? The Government have had a very long time to sort this out.

Lord Murray of Blidworth (Con): As the noble Lord will recall, when Sajid Javid was the Home Secretary, only some five years ago, the number of people crossing in small boats was only 200. The problem has become significantly worsened by the success of Border Force in closing off other methods of illegal entry. That perhaps puts in context the fact that we now anticipate 40,000 people crossing the channel—that is half the size of the British Army. This is a problem of great seriousness which requires a reaction that needs to be commensurate with the problem we are now facing.

Lord Kennedy of Southwark (Lab Co-op): I should have said that I welcome the noble Lord to his new position and wish him well.

Product Security and Telecommunications Infrastructure Bill

Returned from the Commons

The Bill was returned from the Commons with certain amendments agreed to and with one disagreed to for which they assigned a reason. It was ordered that the Commons reason be printed. (HL Bill 65)

House adjourned at 9 pm.