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Thursday
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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

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Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
Con Ind	Conservative Independent
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Lab	Labour
Lab Ind	Labour Independent
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Thursday, 7 November 2013.

11 am

Prayers—read by the Lord Bishop of Guildford.

Introduction: Lord Bamford

11.08 am

Sir Anthony Paul Bamford, Knight, having been created Baron Bamford, of Daylesford in the County of Gloucestershire and of Wootton in the County of Staffordshire, was introduced and took the oath, supported by Lord Tebbit and Lord Lloyd-Webber, and signed an undertaking to abide by the Code of Conduct.

Housing: Leaseholder Redress Schemes Question

11.14 am

Asked by **Baroness Gardner of Parkes**

To ask Her Majesty's Government what progress is being made in producing the necessary regulations to implement the access to redress schemes for owners of leaseholder properties established by the Enterprise and Regulatory Reform Act 2013; and when they expect the scheme to be fully operational.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston): My Lords, before answering my noble friend's Question I should declare that I am an owner-occupier of a leasehold property.

The Government are making excellent progress. The order enabling the approval of schemes was laid on 25 October. This should be debated in Grand Committee shortly. The order, which will make it a legal requirement for agents to belong to a scheme, will be laid as soon as we are satisfied that there are sufficient approved schemes. We expect that to be early in 2014. We have also recently announced a significant package of support for tenants in the private rented sector.

Baroness Gardner of Parkes (Con): My interest is declared in the register so I have not redeclared it here. I thank the Minister for that reply, which will give great hope to many of the 3 million leaseholders who have been so adversely affected in the past by the failure to have any essential repairs carried out on their properties. These people had almost given up hope and it is good to know that progress is being made. Of course, I also thank the noble Baroness, Lady Hayter, for starting the whole thing going that got it into the Act in the first place.

Baroness Stowell of Beeston: I pay tribute to my noble friend for her efforts on behalf of leaseholders and join her in paying tribute to the noble Baroness, Lady Hayter. I also pay tribute to my much respected predecessor and noble friend Lady Hanham—together, they have achieved much. The requirement for managers to belong to a redress scheme will support the existing

remedies by providing an alternative way of dealing with many of the day-to-day disputes that arise. I look forward to debating the orders and putting these important redress schemes in place so that all those who have felt let down until now will feel better supported in the future.

Lord Campbell-Savours (Lab): My Lords, the tribunal which replaces the leasehold valuation tribunal system is removing the £500 statutory limit on costs. As a consequence, will not many leaseholders now find it utterly impossible to go before a tribunal because they will be worried about what the final costs of their hearings could be?

Baroness Stowell of Beeston: Leaseholders will have the option of continuing to pursue a complaint through the tribunal system as the noble Lord has described, but they will also have this new route for redress through the new schemes, which will not attract a fee. By introducing these schemes we are able to offer people more opportunities to get the right outcome if they feel they have a legitimate complaint to make.

Baroness Hanham (Con): My Lords, I, too, acknowledge the work that has been done by the noble Baronesses, Lady Gardner and Lady Hayter, on this matter. Does the Minister agree that it is essential that people in leasehold properties understand their rights and obligations and the redress which is available to them as a result of this and other policies? Does she also agree that it is essential that people moving into the private rented sector—which is increasing, and must increase to help with housing problems—have the same knowledge?

Baroness Stowell of Beeston: My noble friend is absolutely right on those points. It is incumbent on government to make sure, through opportunities such as this, that both those living in leasehold properties and those in the private rented sector are aware of their new rights. It is incredibly important that we extend the private rented sector because one way of driving up standards is to increase choice for those living in the rented sector. I am pleased to announce today that we have agreed yet another new Build to Rent project, this time in Manchester, which will deliver 196 rented units by refurbishing three blocks of unused social housing.

Baroness Hayter of Kentish Town (Lab): My Lords, I add my thanks as well as my congratulations to both the noble Baronesses, Lady Gardner and Lady Hanham. It is a shame, of course, that the Minister voted against this when we first pushed it through but we are delighted that a sinner has repented. Given that the Government are now saying they want to give support to those who have been disadvantaged by the activities of letting agents, will they rethink their opposition to full regulation of letting agents, which we have also proposed?

Baroness Stowell of Beeston: I am grateful to the noble Baroness for paying so much attention to my voting record. This provision in the Enterprise and Regulatory Reform Act is the right way forward because it will provide, as I said, a new course of redress for leaseholders and tenants. We believe that once the

[BARONESS STOWELL OF BEESTON]
schemes are in place they will drive up standards, which are so important, and that they will be able to do so without yet more regulation.

Lord Tope (LD): My Lords, can the Minister tell us how the Government will ensure that redress schemes, particularly any government-administered ones, complement and build on the existing regulatory functions of local authorities? In particular, will the Government ensure that such schemes will have effective operational links with the Greater London Authority, which is implementing the Mayor of London's London rental standard?

Baroness Stowell of Beeston: As I understand it, in the rental sector—I am focusing now on the rental sector as opposed to leasehold properties—two redress schemes are already operating, and we certainly expect those two schemes to come forward for statutory approval. The new redress scheme was part of a wider package of measures that we announced a couple of weeks ago and that will provide greater support for those living in rented accommodation. We will certainly ensure, as part of that, that there is more support for local authorities, so that they can be even more effective in their responsibility to ensure that the accommodation provided in their area is of a high standard.

Baroness McIntosh of Hudnall (Lab): My Lords, since the noble Baroness has raised the issue of the private rented sector, I am sure she will be aware that for most people who are obliged to use that sector—which, of course, includes a number of Members of your Lordships' House—the big issue is the enormous increase in rents over the past few years and the concomitant rise in payments to letting agents. Does she agree that it might be beneficial for the Government to investigate this market to see whether it really is operating in the consumer interest? At the moment, it is very much rampaging in the interests of those who let rather than of those who rent.

Baroness Stowell of Beeston: As I said in response to another question, the most important action we can take to ensure that rents are kept at a sensible rate is to ensure that an increasing supply of rented accommodation is accessible to people. We are very much behind that. One way in which we are doing that is with a £1 billion fund called Build to Rent, which is about creating new residences that are purpose built as rented accommodation. These new schemes—new blocks or estates—are designed to meet that fundamental purpose in the way they are constructed. Overall, however, although I understand the noble Baroness's point, I think that average rent rises are running below inflation at the moment, certainly outside London.

Professional Standards Authority Question

11.23 am

Asked by **Lord Taverne**

To ask Her Majesty's Government whether they intend to appoint a scientist to the Professional Standards Authority.

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): My Lords, the Government have no plans to change the membership of the council of the Professional Standards Authority. The authority is required under the Health and Social Care Act 2012 to set standards for organisations holding voluntary registers for health and social care occupations, and accredits those which meet these standards. It is not required to make a judgment on the beliefs and practices of individuals registered with the organisations that it accredits.

Lord Taverne (LD): My Lords, the Professional Standards Authority has recently approved the registration of the Complementary and Natural Healthcare Council—which is known in scientific circles, quite justifiably, as Ofquack. It means, in effect, that craniosacral therapists, reflexologists and homeopaths can now claim to be covered by the same professional standards as doctors and nurses. In the past, the Department of Health has sometimes suggested that it will not take sides between evidence-based medicine, which is based on science, and complementary medicine, which is based on pseudo-science. Does the Minister not agree that the Department of Health should not be neutral between sense and nonsense?

Earl Howe: My Lords, it is important to understand that the accreditation scheme that we are talking about does not endorse any particular therapy as effective, and that it makes clear that accreditation does not imply that it has. The principle remains that it is for individuals, in consultation with health practitioners, to decide which therapy is right for them. The scheme is not a form of regulation, nor is the PSA a regulator. It sets standards for organisations holding voluntary registers for health and social care occupations, and accredits those that meet the standards.

Baroness Pitkeathley (Lab): My Lords, I declare an interest as chair of the Professional Standards Authority, and I pay tribute to the skill and experience of my board. Does the Minister agree that as by next March more than 75 occupations and 100,000 practitioners will be covered by the accredited voluntary register scheme, the public are much better informed and better protected than they have ever been?

Earl Howe: My Lords, I agree with the noble Baroness, and I pay tribute to her work as chair of the PSA. The benefits of accredited voluntary registration are clear. The point is to give the public, employers and commissioners choice to use people on a register that the authority has independently assessed and approved, and only those registers that the authority has accredited are allowed to use its kitemark.

Lord Willis of Knaresborough (LD): My Lords, the 2013 annual report of the Professional Standards Authority states that its third strategic objective is to:

“Enhance public confidence in unregulated health and care occupations”.

How many voluntary registers of healthcare support workers are now registered with the standards authority, how many individual staff do they cover and how can the public get access to them? How long does the

Minister expect it to take for all healthcare support workers to be registered, as the recent reports following the Mid Staffs inquiry suggested?

Earl Howe: My Lords, the Francis recommendations made no reference to voluntary registers for healthcare support workers. The broad position is that the PSA has not received any applications from organisations holding voluntary registers for healthcare support workers, and therefore no voluntary registers for healthcare support workers have been approved. As accredited registers are voluntary, I am afraid that the Government are not in a position to predict how long it will take for all healthcare support workers to be registered.

Lord Hunt of Kings Heath (Lab): My Lords, going back to the question raised by the noble Lord, Lord Taverne, is the Minister confident that every intervention by a doctor is actually based on robust clinical evidence?

Earl Howe: My Lords, as the noble Lord knows, it is the responsibility of local NHS organisations to make decisions on the commissioning and funding of any healthcare treatments for patients, taking account of issues to do with safety, clinical and cost effectiveness and the availability of appropriate practitioners. However, it is interesting to note that there are a number of complementary and alternative therapies referenced in NICE guidance, and I would expect any self-respecting doctor to take account of those.

Lord Colwyn (Con): My Lords, can the Minister give us any news about the proposed accreditation of herbal practitioners?

Earl Howe: My Lords, as my noble friend knows, this is a complex policy area. There have been delays to the Government's original proposals around the regulation of herbal medicine practitioners. One of our main concerns here is to ensure safety for those who wish to use the products. Given that complexity, my honourable friend Dr Poulter announced his intention to set up a working group to consider matters relating to patient protection when using unlicensed manufactured herbal products. Officials are currently working through the details of that group, including its terms of reference.

Lord Laming (CB): My Lords, will the Minister use his good offices to ensure that the Government continue to keep an open mind in respect of complementary medicines, and allow patients the greatest possible choice in these matters?

Earl Howe: Yes, my Lords. The Department of Health does not maintain a position on any particular complementary or alternative medicine treatment. It is for patients, in conjunction with their medical practitioner, to decide whether a treatment is appropriate for them.

Mental Health: Cost of Living Support *Question*

11.30 am

Asked by Lord Touhig

To ask Her Majesty's Government what steps they are taking to ensure that people with mental health problems get the help they need to meet the cost of living.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): My Lords, the association between poor mental health and poverty is clear, and it is equally clear that the best way to meet the cost of living is through work. We are committed to improving employment outcomes for people with poor mental health by supporting them to return to, and stay in, work through a combination of tailored work-focused healthcare and employment advice and by ensuring that they are supported equably in the benefit system.

Lord Touhig (Lab): My Lords, when an alcoholic schizophrenic with mental health problems turned up at St Vincent's community support in Cwmcarin in south Wales, the person attempting to help her by applying for the new personal independence payment had to answer more than 40 questions in an hour-long telephone conversation with the DWP, simply to get the application form. The helper said she found this very distressing. Without this intervention, this mentally ill penniless woman would be destitute. Is there nothing the Government can do to simplify the way in which people with mental health problems can get the support they need, without enduring this bureaucratic nightmare?

Lord Freud: My Lords, on the process of getting PIP, we have been taking advice from people with an interest, particularly the autism group, which I know the noble Lord will be interested in, and we have been adjusting our PIP application process to reflect the observations and points made by those groups.

Lord Wigley (PC): My Lords, does the Minister accept that if people in those circumstances can find work, fine—but if they cannot, they need all the help they can get to access what they have a right to? Should we not therefore ensure that the citizens advice bureaux, which play a key role in these matters, have the resources they need to help such vulnerable people?

Lord Freud: My Lords, helping people with mental health problems and similar conditions is, clearly, not easy. The main problem is that they face a huge variety of problems. We need to help them as much as we can to negotiate their way through a complicated system. I have taken a huge interest in this issue myself, and in the most important area in this respect. We now have a study on what we are calling psychological well-being and work, to look at how we can help people negotiate their way into the workplace, with adequate health support on the way.

Baroness Knight of Collingtree (Con): My Lords, is the Minister aware that although people in this category are legally allowed to claim money that will help them get to work if they are able to work, the person allocated to them from the health service to try to give them all the advice they need hardly ever tells them that they can claim money for this purpose? Will he please look at that point?

Lord Freud: My Lords, I will look at that point—but we are making real efforts now to join up the provision by the DWP and by the Department of Health. I am working very closely with Norman Lamb in this area. We have put a lot of effort into signposting, and into

[LORD FREUD]

training our teams in the DWP and the Work Programme providers, who have put in a toolkit to help. However, I will certainly look into whether I can do more.

Baroness Armstrong of Hill Top (Lab): My Lords, will the Minister acknowledge that when dealing with people with complex needs, which include mental health and also usually addiction, expecting them to get back to work within three months is absolutely unrealistic? I know a man who is working exceptionally hard to get ready for work; he volunteers with our organisation. Twice in the past year he has been denied benefit, then a judge at a tribunal and an appeal reinstated it. I heard that this week he has again been denied benefit and that the department is again appealing against what was said. He is doing remarkably well, but this is knocking him day in and day out. If he has to go back into treatment it will cost the Government more. Why do the Government not listen to organisations that are telling them that three months is not long enough?

Lord Freud: My Lords, if the noble Baroness will write to me with the details, I will look into it. We do not have a rigid three-month rule like that, but I will look at the particular circumstance that she is so concerned about.

Lord Alderdice (LD): My Lords—

Baroness Meacher (CB): My Lords—

The Chancellor of the Duchy of Lancaster (Lord Hill of Oareford) (Con): My Lords, it is the turn of the Liberal Democrats.

Lord Alderdice: My Lords, in the Health Act there was a recognition of the importance of parity of esteem for physical and mental disturbances. However, of course the treatment of physical and mental disturbances often requires different amounts of time. A short appointment for a physical treatment may not be the right thing for the psychological treatments to which the noble Lord referred. That makes it difficult for people in work both to get the treatment that they need and stay in work. Does the Minister's department recognise, as the health department does, that parity of esteem may mean extra time and facilities for those with mental disturbances as against those with physical diseases?

Lord Freud: My Lords, that is a vital point, which is why we are introducing the Health and Work Service, particularly to help those who are in danger of falling out of the workplace. Every year 300,000 people do that, and a quarter of those cases are due to mental health issues. We are intervening at the four-week stage to get those people signposted on to the kind of support that they need.

Female Genital Mutilation Question

11.37 am

Asked by **Baroness Manzoor**

To ask Her Majesty's Government what assessment they have made of the report *Tackling Female Genital Mutilation in the UK* by the Royal College of Nursing.

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): My Lords, the Government welcome the intercollegiate report *Tackling FGM in the UK*, which is published this week. Female genital mutilation is illegal. It is important that children and young women are protected from this abhorrent procedure. My honourable friend Jane Ellison has supported the development of this report. As Minister for Public Health, she has stated that one of her priorities is to continue to work towards eradicating female genital mutilation with the organisations that are promoting the report, among many others.

Baroness Manzoor (LD): I thank the Minister for his reply. Does he welcome, as I do, the proposal that FGM should be treated by healthcare workers as a crime and reported to the police? Does he also welcome the work of the Liberal Democrat Minister, Lynne Featherstone, in prioritising the eradication of FGM in her work in the Department for International Development?

Earl Howe: My Lords, I agree with my noble friend. Female genital mutilation is child abuse and violence against girls and women. It is also a criminal offence, and cutters and perpetrators need to be brought to justice. I pay tribute to the work currently in train in the Department for International Development, which has begun an ambitious programme to address FGM in Africa and beyond.

Lord West of Spithead (Lab): My Lords—

Baroness Butler-Sloss (CB): My Lords—

The Chancellor of the Duchy of Lancaster (Lord Hill of Oareford) (Con): My Lords, the noble Lord, Lord West, could not see that a Cross-Bencher behind him wanted to speak.

Baroness Butler-Sloss: My Lords, will the Minister ensure that the police and the Crown Prosecution Service put forward far more appropriate prosecutions?

Earl Howe: My Lords, the Government are as frustrated as I am sure the noble and learned Baroness is by the lack of prosecutions. We welcome the Crown Prosecution Service action plan, published last year with a view to bringing successful prosecutions. The CPS guidance on FGM prosecutions provides a useful framework for prosecutors to understand how to build stronger cases with the police to bring to court. It explains how they need to be aware of the fact that where there is a victim of FGM, the local authority or social services may well have material or information to support that.

Lord West of Spithead: My Lords, we have failed thousands of young women. This issue first came above my radar horizon as a Minister in the Home Office when one of my sisters, who was training as a midwife, explained the full horror and scale of FGM. I was completely horrified. I failed in my time in the Home Office to ensure that people were being correctly prosecuted. Since then, we have not done any better. I am glad to hear what is being said, but does the

Minister really believe that now we will ensure we have a series of prosecutions? If we do not, we will not stop this vile thing happening.

Earl Howe: I completely agree with the noble Lord. It is clear that we need to make a step change in the landscape here. We have continued to prioritise FGM, both at home and overseas. The intercollegiate report, however, published this week, adds a very welcome dimension to the work we are doing. It was written by health professionals and FGM experts for health professionals, and the Government will naturally study the report very carefully and consider the recommendations as part of the cross-government programme of work to tackle and eradicate this awful practice.

Baroness Masham of Ilton (CB): My Lords, is the noble Earl aware that I took through your Lordships' House the Prohibition of Female Circumcision Act 1985? Is he aware that I, too, am most frustrated by the lack of prosecutions? Why has France convicted people with this horrific condition and not us?

Earl Howe: My Lords, I am aware of that. I was a new Member of the House when that Act went through, and I commend the noble Baroness for the work she did on that issue. She mentioned France. One of the features of the French system is the physical examination of all girls under the age of five. We will not be following that path. We do not think it would be right to do so. We think it raises ethical and human rights concerns. However, all children are routinely seen by healthcare staff in the universal healthy child programme that covers England, and prevention and safeguarding absolutely underpin that programme. It is an important channel for conversations to be held with parents and children, so that they can be provided with relevant support and advice.

Lord McConnell of Glenscorrodale (Lab): My Lords, the 1985 Act was updated in Scotland by the Prohibition of Female Genital Mutilation (Scotland) Act 2005. It extended the maximum sentence from five years to 14 years. In Scotland, as in the rest of the UK, there have been no prosecutions. Will the Minister and the Government work closely with the Scottish Government to make sure that we have a unified approach across the UK to ensure that there are prosecutions in the future for this most extreme form of child abuse?

Earl Howe: Yes, my Lords, we work closely with our colleagues in the devolved Administrations. The noble Lord is absolutely right: FGM is a crime in the UK under the Female Genital Mutilation Act 2003, and in Scotland under the Prohibition of Female Genital Mutilation (Scotland) Act 2005. I am advised that it is a feature of both Acts that if someone is taken overseas for the mutilation, it is still a crime in the UK if the mutilation is done by a UK national or permanent UK resident.

Lord Chidgey (LD): My Lords, the UNICEF report released in July sets out that 129 countries practise FGM. Most of those countries—which have 125 million girls—have strong community links with the United Kingdom. Does my noble friend agree that if we are to

eliminate FGM on girls in the UK we must work alongside organisations such as Tostan and AWEPA, which are successfully campaigning for the abandonment of FGM throughout rural communities in much of Africa and elsewhere? What liaison is there between government departments in this country to address FGM at home and overseas? There must be some working together here.

Earl Howe: I agree with my noble friend. I referred to the work being done by DfID. The approach of DfID's programme is to work with communities through civil society organisations in at least 15 of the most affected countries. Developments in FGM abroad tend to change attitudes towards communities here, which is why the Government are confident that the work of DfID will result in culture change and, hopefully, abandonment in both Africa and the UK. I would be happy to write to my noble friend with details of the co-operative work that we are doing.

Business of the House

Motion on Standing Orders

11.45 am

Moved by Lord Hill of Oareford

That Standing Order 46 (*No two stages of a Bill to be taken on one day*) be dispensed with on Tuesday 19 November to allow the High Speed Rail (Preparation) Bill to be taken through all its remaining stages that day.

Motion agreed.

Business of the House

Timing of Debates

11.45 am

Moved by Lord Hill of Oareford

That the debate on the motion in the name of Lord Dobbs set down for today shall be limited to 3 hours and that in the name of Lord Faulks to 2 hours.

Motion agreed.

United Kingdom and China

Motion to Take Note

11.46 am

Moved by Lord Dobbs

To move that this House takes note of the recent developments in the relationship between the United Kingdom and China.

Lord Dobbs (Con): My Lords, I first express my appreciation to the House and its authorities for the opportunity to promote the debate—and, indeed, to all noble Lords who are here today. It is also a very pleasant duty to extend a warm welcome to the noble Baroness, Lady Neville-Rolfe, and the noble Lord, Lord Whitby, both of whom will be gracing the debate with their maiden speeches. On behalf of us all, I wish them nothing but fulfilment during their time in this place. I also declare my interest as a board member of Conservative Friends of the Chinese, but I do not

[LORD DOBBS]

wish to turn this into a partisan debate. It has been too long since we had the chance to debate these hugely important issues.

China is the world's most populous country, with one-fifth of all humanity's children, the second biggest economy on the planet and the largest standing army. We keep talking about Chinas as an emerging nation, but China is not emerging: she has already arrived, an ever-strengthening wind in our world. My own interest in China dates from my doctoral studies at the Fletcher School of Law and Diplomacy in the 1970s when China was in the throes of the Maoist madness that killed, murdered and even starved to death tens of millions of Chinese. China today is unrecognisable as that delta of misery which flooded into the Yellow Sea. The first thing I do, therefore, is offer my unstinting congratulations to the people and the Government of China for the enormous strides that they have taken since then.

Britain's relations with China are long-standing, although they have not always been good. Our imperial past has left many scars; the Chinese still remember. However, both our worlds have moved on since those inauspicious days. Our economic ties have expanded enormously. In the past three years, British exports to China have doubled, although they are still less than those of France, way behind Germany and only a squeak more than Italy. Our trade deficit with China is far larger than those of our European neighbours. On the other hand, our financial services industry is a world leader. The plans to turn London into a major hub for renminbi dealing are truly exciting. What draws so much attention is the flow of Chinese investment into Britain. It includes investment into Heathrow and Manchester airports, our new nuclear power plants, the Lloyds building, the Royal Albert Dock, Thames Water, good old Weetabix, our next-generation telephone and broadband systems, and even London's traditional black cabs. It is an arrangement of mutual advantage: they send us cuddly pandas and, in return, we send them Boris.

If we intend to strengthen our economic links with China, as we should, we need to give attention to many areas. I will highlight three. The first is that of visas. In the past three years, the Government have been making it easier for Chinese businessmen and tourists to come to Britain. All the required paperwork is now available in Mandarin, making the process of getting a visa much less onerous. George Osborne, in his remarkable trip to Beijing last month, promised even further improvements. We must, however, put those promises into action. Seven times as many Chinese visitors go to France as to Britain. There is more to be done.

My second point relates to our air links. We are going to have to work a lot harder to make sure we are competitive with the rest of Europe. We wring our hands about whether it should be Boris Island, Heathrow's third runway, Stansted or Birmingham—yet, while we argue rather than implement, the Chinese just get on with it and increasingly fly to mainland Europe. We have been awful at our planning of airports policy. We need to get much better, and very quickly.

Thirdly, I will say a few words about education—that vital bridge not just between businesses but between cultures. We are by far the most popular destination in Europe for Chinese students and the third most popular in the world after the United States and Australia, yet we do far too little in return. At state-school level, only a tiny fraction of pupils are offered any education in Mandarin. The situation is improving, but far too slowly. At university level, we have only around 400 graduates a year who get any training in Chinese. The situation at postgraduate level is even more challenging. The British Association for Chinese Studies reports that, in the past four years, Britain has produced only 13 doctoral students covering all Asian studies—all Asian studies, not just Chinese studies. Noble Lords might be interested to know that the comparable figure for Celtic studies is 19. As delighted as I am that we rejoice in our Celtic roots, I think we need to dig rather deeper than that.

There are those who are fearful of our growing contacts. They are worried about the extent of Chinese hacking and industrial espionage, the theft of intellectual property, the inadequacies of Chinese commercial law, and the corruption that is endemic. There is no point in pretending that everything is as it should be. We still need to do business with not only our wallets but our eyes open.

Our relations with China stretch far wider than trade and commerce. The continued progress of China is key to the stability of the rest of the world, and she faces huge domestic challenges. China has the most rapidly ageing population in the world. Her workforce is about to start shrinking rapidly. The failures of the one-child policy are coming home to roost. It is said of China that she will be old before she is rich. Like so much of Asia, China is desperately short of energy and raw materials. However, her biggest challenge is perhaps the shortage of water. Much of it is polluted, unsuitable not simply for human use but even for agriculture and industry. I will give one statistic. The water table in Beijing has dropped 300 metres—a full 1,000 feet—since the 1970s. All this matters to us because China is far too large a part of our world to be ignored.

When China sneezes, the rest of the world catches cold. We talk glibly about China being monolithic—one country politically, economically and geographically—but that can be hugely misleading. China is confronted by immense internal challenges, and many observers believe that the most significant story of the next 20 years will not be the story of her inexorable rise but of her growing domestic problems. There will be rifts between the generations, the regions, the religions, the haves and have-nots, the literally wets and dries, between opposing ideas and conflicting needs.

The country's interior is still one of the most backward parts of the planet. Some 400 million Chinese are desperately impoverished and have gained nothing from the great economic awakening. It is said that a rising tide will float every boat, but what happens when the water runs out? There are also ongoing and deep-seated concerns about human rights—of which I suspect we will hear more in this debate.

Of course, there is a new leadership in Beijing. From the speeches of Xi Jinping and Li Keqiang, it is clear that they understand the magnitude of the challenge they face. We should wish them well, for China at discord could be no friend of the West, let alone a partner in our future prosperity. This is where I want to leave my personal mark on this debate. Although in many eyes the rise of China is a threat to the West, I argue that the greatest threat comes not from China's expansion but from the possibility of her implosion. That would cast a shadow over the world so intense that it would propel us into an ice age that would make our recent economic troubles seem like an outing on an iceberg. To borrow a phrase from Henry Kissinger's recent book on China,

"no issue preoccupies Chinese leaders more than the preservation of national unity".

To understand that point is to understand much about current Chinese policy.

If we criticise Chinese inflexibility towards Tibet, for instance, we should at least understand their genuine fear that unrest in Tibet will be followed by upheaval in Xixiang and other border regions, and then perhaps throughout the entire country. To some, it is an extraordinary concept that China could be a vulnerable member of the international community. It is a particularly odd idea when we see China becoming more assertive. She has border disputes with Japan, India, Vietnam and the Philippines. Her army is mighty and she is flexing her muscles. American academics talk of a new cold war as the United States pivots away from Europe and towards Asia, and as China increasingly joins forces with Russia. The seeds for future conflict exist; they could all too easily be sown.

Yet, inevitably, and happily, there is another side to all this. China has shown little appetite for external aggression. Many of these border issues are left over from the centuries of humiliation, and many of the disputes are about rocks and oil and, in the long tradition of Asian politics, about face. Very often the Chinese have found an accommodation. For instance, many feared that Hong Kong would be destroyed after it was handed back, but Beijing has been true to its word and handled our former colony rather like a precious Ming vase. We should not blind ourselves or be complacent; we must realise that the growth of China will inevitably create the need for change. Through that, it will create also the potential for conflict. She is already developing a more assertive foreign policy; she will insist on being involved in a dialogue over the future not just of border regions such as North Korea and Pakistan but of places further afield, such as Syria—as we have seen—the wider Middle East and Africa. The tectonic plates of our world are shifting.

But this is not a zero-sum game in which they win and we lose. We have our differences, but we also both have an overriding interest in stability. We need to develop a strategy of engagement with China—engagement, not appeasement—that is capable of recognising China's legitimate requirements, making them compatible with our own and finding common purpose in the search for stability. We need to show an open hand rather than a narrow mind.

Britain has a huge amount to offer China in this process of change. It is not simply the economic stuff but our goods and financial services, our expertise in health care and our great creativity. We even have our history to offer. Britain was an exception to the rule that industrial revolution is inevitably followed by political revolution. All across Europe, crowns tumbled and thrones were toppled while, in Britain, we kept our traditions and our political system remained largely intact. China would like to learn from that example. It is perhaps ironic that the reflections of Edmund Burke on the proper order of things are probably read more widely in China than they are in Britain.

There is no need to be overawed on account of our much smaller size. Of course, Beijing had a brilliant Olympics; but, when it came to our turn, it was not just Mo Farah who showed the rest of the world a clean pair of heels; it was our entire country. It was Britain at her best.

Our traditions, our culture, our great British brand, our willingness to be open for business, the recent increase in British diplomatic staff in China, our top-level government visits—all of these, and many more, put us in an exceptional position to form fruitful partnerships with China. There is more to do, of course, but, if a journey of a thousand miles begins with a single step, the well of happiness starts being filled with the first drop of understanding.

The red eye of the digital dragon is staring at me, so I must wind up. I apologise for trying to cover hundreds of years of history and billions of pounds' worth of interests in a single gallop. It has been a privilege of introduce this debate; now it will be my pleasure to listen and to learn.

12.01 pm

Baroness Warwick of Undercliffe (Lab): My Lords, I read the enormously encouraging reports of the Chancellor's recent visit to China, and the serendipitously timed special China edition of *The House Magazine* indicating how much the Government are doing, so I hope that the Minister, in replying to this debate, will seek to be equally positive in his response to noble Lords' questions today.

I want to focus my remarks on the strength of the relationship between universities in Britain and China. In doing so, I declare an interest as a member of the Council of University College London which has, itself, extensive links with China. This House has, on many occasions, debated the importance of universities' international links to the UK economy. We know that international students in higher education contribute about £10 billion a year to the UK economy, and that universities have been frustrated by the apparent failure of the Government to understand fully the opportunities and competitive threats they face in this sphere.

I exempt the Minister from this, because he, as much as anyone in the Government, has sought to point out these opportunities and support universities in their international activities. He has taken a more nuanced approach to visa policy, which recognises the value of international students and higher education trade links. In view of his forthcoming retirement from the Front Bench, I should like to take this

[BARONESS WARWICK OF UNDERCLIFFE]

opportunity to congratulate him on the part he has played in this and perhaps also take the opportunity to wish him a happy birthday.

The strength and depth of UK university engagement with China is already considerable. We have heard from other noble Lords about some of the partnerships and joint ventures between UK universities and their Chinese counterparts. My university, UCL, has built close collaborative links with the Chinese Academy of Sciences and has, for example, developed the concept of a joint science and innovation platform. It has become evident that academic-industrial partnerships in China can enhance relevance, trust and impact of collaboration, thus increasing trade volume and sustainability.

The demand for higher education in China is staggering and the pace of expansion is difficult to comprehend. But the focus of university partnerships is on research links and innovation as well as teaching. For example, the Innovation UK China partnership brings together five UK and 20 Chinese universities to promote joint innovation, knowledge transfer and commercialisation of intellectual property. I hope that the Minister will urge UK universities to work in concert to attract the very best talent from China for training, exchange and collaborative work. Currently, the UK attracts fewer of the very best students from China than does the US. The UK receives 70% of the number of Chinese students compared with the US, but produces only 20% of high quality, joint publications. Will the Minister look into joint scholarships for top talent with the China Scholarship Council to attract the best young people from both our countries? Meanwhile, the UK-China Partners in Education programme focuses on promoting the exchange of students between the two countries, supports vocational education, raises school standards and aims to encourage more UK pupils to learn Mandarin.

These links and partnerships put the UK in an excellent position to foster close and productive links which will provide enormous long-term benefits to both countries. The UK is in a leading position and we should do all we can to preserve it. The opportunities are considerable, but this is not just about money. We have an opportunity to play a role in shaping the future leaders of China. Universities are acutely aware of the ethical challenge of partnership and investment in a country where corruption and the abuse of human rights remain stubborn features. Does the Minister believe that the UK Government should give advice and support to UK universities as they look to build on their engagement in China? How can we help them avoid the pitfalls of investment and partnerships which could compromise their own ethical standards?

I turn to the well worn subject of international students. The Government often point to the recent rapid growth in numbers of students from China as evidence that there is no problem with the competitive position of UK universities internationally. They should not be so complacent. This rapid growth masks a 3% decrease in non-EU students from other countries. The strong representation of Chinese students on UK university campuses is welcome, adding enormously to the experience of UK students but, privately, some

universities worry about the extent of our reliance on one country, particularly given recent evidence of how volatile the international student market can be. You have only to look at our second largest source of international students—India—to see what the problem is. The number of students from India fell by 32% in 2011-12. That has particularly hit engineering, technology and computer science departments and has played a large role in the decrease in postgraduate taught enrolments. India has strong, active media which pick up the negative political rhetoric and increasing visa hurdles in the UK to an amazing extent. This is, for now, less true of China, but the growth of social media is changing that.

Meanwhile, competition is intensifying, particularly from Australia, which is back from the brink following its own experiment in tightening visa rules. If we want to preserve our position, we need the Government to stop being complacent about the UK's international competitiveness and change visa policy to reflect the value that a diverse and growing international student body brings to the UK. Therefore, will the Minister say whether he will continue to argue for a favourable visa policy? This House will shortly debate the Immigration Bill, which contains yet more provisions likely to deter international students. I hope that the Minister will commit to finding ways to minimise the impact of that Bill on universities. In anticipation of the Prime Minister's forthcoming visit to China, will he undertake to work with universities to increase opportunities for UK students to study in China, for example, by supporting a postgraduate scholarship programme on behalf of the UK? Finally, will he ask the Home Secretary to look again at the detailed university enrolment figures and reconsider the inclusion of students in the net migration target?

12.08 pm

Lord Clement-Jones (LD): My Lords, I first declare my interests as deputy chair of the All-Party China Group, a partner of DLA Piper and chair of its China desk, a former member of Huawei's international advisory council and a council member of UCL. It is with great pleasure that I follow the noble Baroness, Lady Warwick, as I agree almost entirely with her comments, derived from her expert knowledge of the higher education sector.

I warmly congratulate the noble Lord, Lord Dobbs, on initiating this debate. He set out the issues extremely well. I look forward to hearing our two maiden speakers later in the debate. I also look forward to the winding-up speech of my noble friend Lord Green who has been such a great champion of trade with China during his time as Trade Minister. We will be sad to see him go.

This debate is extremely timely. We have the opening of the EU-China trade negotiations on 21 November; on Friday we have the very significant opening of the third plenum in China; it comes in the aftermath of a whole series of official visits last month, including the so-called "yin and yang" Boris and Osborne visits and we have the visit of the Prime Minister later on this year or at the beginning of the next. It is noticeable that, despite the hitherto frosty relations with the new Chinese leadership in the 18 months running up to those ministerial visits, major inward Chinese investment

has been at record levels over the past year. We are now the top European destination for Chinese inward investment and the noble Lord, Lord Dobbs, mentioned a number of those very significant inward investment levels. In that period, record levels of trade have also been set between China and the UK: in April this year, Britain's monthly exports to China hit the £1 billion level for the first time. As we heard from the noble Lord, Lord Dobbs, we also have an agreement on renminbi trading in London, which will be of considerable significance.

I have made 30 or so visits to mainland China over the years. Having accompanied my noble friend Lord Sassoon, the new chairman of the CBBC, in his recent handover visit in September and taken part, last month, in a visit to Shanghai by the China All-Party Group, I am absolutely convinced that the prospects for trade and investment both ways between China and the UK are now better than they have ever been. This partly derives from the Chinese Government's 12th five-year plan which involves a comprehensive strategy towards a more consumer-led economy: a more environmental and energy-conscious economy where the services—insurance, pensions, health and education—and the private sector become much more important, especially with China's rising middle class.

This is, of course, not to say that China does not have major challenges to overcome, which all impact on the overriding Chinese public policy: the need for stability. The noble Lord, Lord Dobbs, set all these out extremely well. However, both the plan and the challenges give us substantial opportunities here in the UK. The all-party group visit last month gave me considerable reason to believe that we can take advantage of some of the welcome new initiatives such as the Shanghai pilot free trade zone and the Qianhai special economic zone, particularly in the provision of professional, financial and consulting services.

We also have a great deal to contribute in our creative industries. As we know, Britain has a great reputation—particularly following last year's Olympics—in architecture, design, fashion, film, animation, games, television, advertising, publishing and music. We have a great opportunity for creative and artistic partnership between China and the UK, typified by the success of Thomas Heatherwick's UK pavilion at the Shanghai Expo in 2010. In the automotive field, brands such as Jaguar and Bentley are experiencing record success. In fact, JLR's sales in China are now higher than they are in the UK. China is leapfrogging the West in many areas of environmental sustainability. Its need for green growth provides an important market for UK goods and services.

In all this, as the all-party group heard from a whole variety of successful and well established British companies in Shanghai, we need to stay ahead of the game if we wish to compete effectively in China. China is increasingly moving from licensing western intellectual property, know-how and technology to developing its own, so British companies need to keep innovating to stay successful. We also need to focus on those areas where we can demonstrate efficiencies and better use of resources. However, for our trade and investment to keep forging ahead, we need SMEs to

have greater self-confidence in entering the Chinese market. We really do need to get this message home to UK SMEs and help them with expert advisory services through UKTI, chambers of commerce and trade bodies and, especially, through local authorities. There is no doubt, for instance, that setting up close twinning relationships between Chinese and UK towns and cities can be of great benefit to business, if done in the right way. I am currently reading an interesting study, recently published by Carl-Johan Carlstedt and Christopher Georgiou on twinning opportunities, which will work if we get the structures of our local government right. However, there is often an imbalance between the Chinese and UK twinning partners. Consider the different population sizes of Shanghai and Liverpool. Whether we have local enterprise partnerships or some of the new initiatives that are being taken, we need to make sure that our structures are suitably matched when we are twinning with Chinese cities.

Quite apart from the value in itself of building bridges, we need to build bridges in areas such as education and tourism. We need visitors to this country to experience what Britain is like, which will help them to create those links that are often of great benefit for business. I am thinking in particular of the alumni programmes that some of our universities are putting in place with Chinese students, whether as undergraduates or postgraduates.

That brings me finally to the question of visas, mentioned by the noble Baroness, Lady Warwick. We need to get our visa regime right. We need to give out the right signals to Chinese students by excluding them from the migration figures. I have no doubt that during the course of this debate we will hear further on that subject.

12.16 pm

Lord Howell of Guildford (Con): My Lords, like my noble friend Lord Clement-Jones, I congratulate my noble friend Lord Dobbs on his extremely eloquent opening to this important debate, and I look forward greatly to the two maiden speeches to come.

I am going to suggest that the main focus of our concerns should be not just on the straightforward bilateral relationship between the UK and China, and not just at governmental level—although that context is extremely important. However, the plain fact is that China now operates all around the world in a polycentric manner, and our interface with Chinese activity and development needs also to be polycentric, not just at government level but at all the soft-power levels, between people, professions and organisations—and particularly in education, which is why the point made by the noble Baroness, Lady Warwick, was so valid. Educational links are extremely important at every level, including right down to primary level, at which connections can be made via the internet every morning.

On the economic side, China is now the main trading partner of many of the most influential economies in both the developed and so-called developing world. As the noble Lord, Lord Dobbs, reminded us, those adjectives are rather out of date. China has become the most sought-after source of capital. Countries, including ours, do not just wait for China to come calling but actively seek out and court Chinese investment.

[LORD HOWELL OF GUILDFORD]

China now funds foreign Governments, underwrites or donates schools and hospitals, and pays for and constructs massive infrastructure projects throughout several continents. That often makes China, for the recipient country, a considerably more attractive and easier investor to deal with than the World Bank.

China has a major impact on both west and east Africa. On the European scene, the Chinese are active in Warsaw and other capitals in working out how to develop shale gas, among other resources. They are very active in Latin America and Australia—with which they now have a huge trading partnership—and throughout the Indian sub-continent, particularly in Pakistan and Myanmar. The Chinese are building a colossal base at Gwadar in Pakistan and huge ports at Chittagong in Bangladesh and Hambantota in Sri Lanka. I say almost in passing that they are sending to the next Commonwealth Heads of Government Meeting in Colombo next week 100 delegates in order to involve themselves in business in that region. It sometimes seems as if the Indian Ocean, rather than the Atlantic Ocean, is becoming the main area of a new pattern and centre of world trade. Indeed, it is forming itself into a sort of maritime version of the old Silk Road—although that, too, is very active.

On the financial side, China now purchases global resources in such huge volumes that it has become the commodity price setter and key influence on markets. It is feeling its way to establishing the renminbi as a rival currency to the dollar, experimenting in Hong Kong and now coming into London, which is extremely welcome and good for us—as long as there is no discrimination with other foreign banks in the City of London. China has a stockpile of \$3.5 trillion in foreign currency reserves. These are enormous figures.

On the energy and climate side, China's appetite for energy resources and its own path towards a new energy pattern will frankly be decisive on all of us, regardless of our own policies. It is the world's biggest coal importer, the world's biggest oil importer and the world's biggest emitter of carbon dioxide. It is building rows and rows of new coal-fired stations—not necessarily CCS-enabled, but very much more efficient than the old ones—and a large number of new nuclear stations. It has massive wind farm investments, although I put "investments" in inverted commas because there is not much evidence that they are paying their way or even being used; however, they are on a very large scale. It is buying up oil, gas and coal concessions around the world. It claims, so the Energy Minister there told me, to have more shale gas than the United States; but I am told that the geology is difficult and there is the problem, to which my noble friend Lord Dobbs rightly drew attention, that it may lack adequate water resources. On the nuclear side, of course, China will now be involved in our own nuclear fleet replacement programme, beginning with Hinkley Point, although I shall feel a bit more reassured when I see the money actually arrive.

On the social and political side, Chinese aid and investment around the world help development, but in some cases they bolster despotic regimes and aid states bent on violence and anti-democratic programmes. We need to show the Chinese, in our dialogue with

them, that those moves are against their own interests. They affect the great cities of China just as much as they affect our country.

On the international and foreign policy side, China wants to be a world power of a kind, but if it is to be one, it will have to accept responsibilities at a greater level than hitherto on the global stage. After all, it imports 50% of its oil from Iran and Saudi Arabia, but one has to ask just where China is on Middle East issues, on Iran's nuclear issue and on Syria and chemical weapons. Quite often, the Chinese seem outright detached or just negative.

China has limited territorial expansion plans. As we know, it regards Tibet and Taiwan as unquestionably part of China. It does, however, allow Hong Kong amazing freedom, including its own currency and representation in international bodies including parts of the Commonwealth, which is all very good for us in the UK. China is now aggressive towards Japan, which is regrettable; their two countries are vastly interwoven in trade terms and together add up to about 18% of the world's GNP, so it is utterly in our interest to see that they settle quarrels like the Senkaku Islands. Moreover, China is still very prickly on questions of human rights and governance values.

We can work with this fantastic worldwide spread of activity; we can work with it constructively and we can advise about involvement in Africa, perhaps leading to a rather happier course because of our long experience. When I speak to my Chinese friends, they say, "Well, we are very big—a billion or more in population". I tell them that we are very big as well; we are the Commonwealth with 2 billion or more and therefore we can speak to each other on equal terms. We should do that.

12.23 pm

Baroness Valentine (CB): Our economic relationship with China is often presented in terms of imports and exports. However, as chief executive of London First—a business membership organisation that helped to create the UK China Visa Alliance—I know that this fails to capture the extent of the connection. Many UK organisations do business with China in less obvious ways. Arup is advising on construction projects, Prospects is helping Chinese entrepreneurs to set up English language schools, universities such as UCL, as we heard earlier, are opening Far Eastern campuses so that Chinese students can benefit from our world-class education and, of course, as the Minister well knows, Hong Kong is a thriving financial centre with strong links to the UK through our historic association. London is the lead location for Chinese investment, while in Manchester the £800 million cash injection into "Airport City" by a Beijing investor will make it one of the country's biggest construction projects since the Olympic Park.

But there remain barriers to our economic relationship, and I follow the noble Lord, Lord Dobbs, by zeroing in on the issues of tourist visas and air links. Before I do so, I add my plea to those of previous speakers for the Government to remove students from the net migration target. The UK is unlikely to become a member of Schengen any time soon. The unwelcome consequence of remaining outside is that would-be

visitors to Europe can visit 26 countries on one visa but have to apply for an additional visa to include the UK on their trip. On top of that, we require them to supply fingerprints, which can mean a round trip of up to 600 miles to one of our application centres. It is small wonder that five times as many Chinese hit the shops on the Champs-Élysées as empty their wallets in the West End. The problem is not that we turn down too many applications, but that not enough potential visitors apply in the first place. The growing Chinese middle class makes up the world's most valuable and expanding tourist market. Chinese visitors spend more than 60% of their travel budget on shopping, and last year they overtook American shoppers as the world's biggest purchasers of luxury goods, accounting for 25% of the world market.

To give them credit, the Government are moving in the right direction. Recently they announced a pilot scheme under which some visitors will have to fill in only one form for the two visas. Next year, we expect the Schengen countries to start demanding fingerprints as well, which levels the playing field in one respect, although it is probable that this will make it even less likely that the Chinese will want to go through the hassle twice. I encourage the Government to go further by extending the shared application process to all travellers, and ultimately to collocate visa centres with those of other Schengen countries so that the entire process can be as seamless as possible for our potential high-spending visitors. While on the subject of border enforcement, I also urge the Government to look at reducing immigration queue times at airports. After a long flight, a target queue time of three-quarters of an hour is hardly a welcome.

That leads me neatly on to my next subject. Armed with a visa we need, physically, to get the Chinese to Britain. I do not need to reiterate that the UK is falling behind European competitors in its air connectivity to emerging and high-growth economies. Despite being one of the busiest hub airports in the world, Heathrow is an especially weak link to China. In fact, China is one of the destinations that globally are most frequently accessed from a hub outside the UK. On the other hand, by 2015, China will have spent four years building 82 new airports. We in the UK will be awaiting recommendations that may or may not enable us to build just one new runway in 10 years' time. How confident is the Minister that when those 82 airports have been built, all those potential flights to the UK will have somewhere to land?

Perhaps I may end by dedicating a limerick to the Secretary of State for Transport and the Home Secretary:

A man on a flight from Shanghai
Found himself wondering why
With just one Schengen visa
He'd see Paris and Pisa
But London, he'd have to pass by.

12.28 pm

Lord Kirkham (Con): My Lords, most of us as consumers or indeed as retailers—a job which I have been doing for over 45 years—have benefited massively from the awesome Chinese economic miracle. The world economy is underpinned by low-cost, high-quality, great-value goods made in China, from kids' toys to

sex toys, from machine tools to motor cars, including 90% of the world's personal computers, 50% of the world's ships and 70% of the cell phones. We in the West comfort ourselves with the thought that it is all due to the Far East's "low-cost" economy, but I venture to suggest that this is not entirely true. I say that not from knowledge derived from reading books, academic research, trawling the internet or taking a brief for this debate but rather from direct, on-the-ground personal experience of transacting business with Chinese companies since 2000. From that I can tell you without caveat or reservation that China is a massively innovative society with a truly phenomenal work ethic, an absolutely determined "can do and will do" attitude and culture and a real commitment to self-improvement.

China's ascendancy in the global economy is no fluke. When upwardly mobile Chinese acquire surplus renminbi, their first thought is not to study brochures for foreign holidays or flash cars—although China is the biggest and fastest-growing new car market in the world, with almost 20 million vehicles sold last year—no, their priority is to invest in their children's education. That is a bit of good news for us here in the UK because we host around 120,000 or 130,000 fee-paying Chinese students in our colleges. If we did not play so hard to get or make it so hard to get here, there might be even more Chinese participating in that part of our knowledge economy.

The China to which I was introduced a short time ago at the turn of the millennium has entirely vanished. It did so in just 10 years—although we are talking 10 Chinese years, which seems equivalent to about 100 years of development anywhere else on the planet. New China is on track to be the world's largest economy very soon. The country has evolved at an incredible pace, segueing seamlessly into "brand China". In 2008, "brand China" gave us the world's biggest and best Olympic Games, arguably until 2012, with its iconic and undeniably brilliant Bird's Nest stadium and a phenomenal, never-to-be-forgotten opening ceremony. This was a "set the bar" launch advertisement for the brand.

With construction everywhere, China has developed. Just look at the city of Shanghai with its 24 million inhabitants. It has been developed into the Paris of the East: fashionable, stylish, exotic and exciting with its fine stores, restaurants, hotels, houses and apartments. That tremendous civilised backdrop is conducive to networking and transacting business, which is the lifeblood of China. It seems odd and sad that it takes a visit to a nominally communist country to see old-fashioned enterprise in action, enterprise that, through its unstinting investment in infrastructure, has provided tens of thousands of kilometres of highways and expressways and its own high-speed rail network, to support, facilitate and power China's stellar growth. The Beijing to Guangzhou high-speed rail line is the world's longest high-speed line at 2,300 kilometres. It was built in only seven years.

On the topic of railways, when I visited China recently, I was taking the incredible maglev train—that is the magnetic levitation train, no clickety-click metal rails there—from Pudong airport to Shanghai, an eight-minute journey reaching an incredible 431 kilometres per hour. That is around 260 miles per hour. Be

[LORD KIRKHAM]

assured it was not just low-cost labour that built that space-age mode of transport. It was a real commitment to innovation and the guts to give it a go. It is worth comparing and contrasting that with the umpteen years it has taken us to upgrade our west coast line to achieve half that speed.

China is an unstoppable good news phenomenon: a sophisticated, global-scale investor, exporter, importer and manufacturer of nano-tech, high-tech, low-tech, no-tech, cutting edge mega-demand products. From eyewear to iPhones, China is the class act powering the world's consumerism. In the UK we need to try better to understand the re-emerging—or re-emerged—power that is China, whatever it takes us to do so. We have got to become closer to the world's fastest growing major economy. We must actively and unashamedly encourage Chinese investment, investors, consumers and tourists, welcoming them with open arms. We must make the UK a ravishingly attractive destination, dismantling without delay every conceivable, perceived or real barrier and hurdle to transacting business. We must strengthen established ties and forge the strongest possible trade links. We must act like a friend. Indeed, we must be a friend. Let us not—even remotely—be tentative and ambiguous about it.

We are a trading nation open for business, and the modern-ancient civilisation that is China can make or break us. China's future mega-growth and success will of course create frustrations, stresses and strains, hiccups and bubbles, upsets and challenges. It is already happening. However, be assured that China's global business and influence is only going one way in the long term, and that is up. That is going to present boundless trade and business opportunities impossible to overstate. We in the UK need to ensure that we are at the party and on the top table, sharing in the fun of success with this ambitious, determined and booming country that dominates global manufacturing, is on the lookout for safe investment, and has an enormous and growing domestic market for goods and services.

A spokesman on China Central Television recently suggested that the UK needs China more than China needs the UK. The colloquial term “no-brainer” comes to mind. Almost every country in the world is courting the Chinese in the hope that it will become China's new best friend, the first choice as a business partner and a place to invest. It is imperative for the future prosperity of the UK that we treat this challenge with the same seriousness that we take participation in the Olympics, and ensure that we come first to mind as the natural business, trading and investment partner for our good friends in the East. We have some catching up to do.

12.36 pm

The Lord Bishop of Guildford: My Lords, the right reverend Prelate the Bishop of Birmingham deeply regrets that he cannot be in his place today. He is the envoy of the most reverend Primate the Archbishop of Canterbury in relation to China. I am sorry that he is not here speaking, and not only because I am speaking in his place.

We are hearing, and shall continue to hear, many fascinating things in this debate about China, not least

from the two maiden speeches, to which we look forward. The importance of student academic exchanges, stressed by some noble Lords, particularly resonates with me. I declare an interest in the University of Surrey with its developing—indeed burgeoning—links with China. That is wonderful.

I begin with the recent comment by Aaqil Ahmed of the BBC on British religious illiteracy. I make a plea for attentiveness to the religious and philosophical, not least Confucian, history of China, without which we shall not be able to understand China today or tomorrow, in all its bewildering and bedazzling complexity. As a metaphor for this bedazzlement, we might consider the current exhibition of Chinese painting at the V&A, which the Foreign Office Minister opened a few days ago, or cast our minds back to the exhibition at the Royal Academy which coincided with the Chinese state visit of 2005, and displayed wonderful artefacts of the Manchu emperors. Just as those paintings and artefacts are of bedazzling complexity and subtlety, so is China's relationship with western religion and philosophy, and with Christianity in particular.

When Marco Polo visited Kubla Khan in the 13th century, he found to his surprise, in and around Nanjing, ancient Christian communities originating from Syriac-speaking eastern Christianity, probably from the seventh, or maybe the fifth or sixth century, along the Silk Road, following the economic tracks of the world. At a later date, there is an extraordinary monument to a Christian bishop from the so-called Nestorian Church of China from that early period. The combination of Christianity and China is not something new.

In, the 17th century, the Jesuit Matteo Ricci settled in China for many years, and accommodated his little community to Mandarin culture. By his time those earlier traces of Christian communities had almost disappeared. He experimented boldly with a Confucian interpretation of the Catholic faith. In the end, he was not supported by Rome. If noble Lords want a fascinating account of a dialogue between western philosophy and culture and Mandarin culture in that period, Cambridge historian Mary Laven's book on Ricci's mission to China is a very good way in. The stories of various 19th-century Protestant missions to China are much better known. They have their heroes and their heroines but I will not take time on that this afternoon in your Lordships' House.

My point is that any understanding of the interrelationship between this country and China needs to take into account religious and philosophical dimensions that go back many centuries. Today, the Church of England, largely through the most reverend Primate the Archbishop of Canterbury, is building, as best it can, good relations with the China Christian Council. Elder Fu Xianwei attended the most reverend Primate's inauguration earlier this year and, in a long personal conversation afterwards, invited him to China. I have no doubt that, at some stage, the most reverend Primate will accept that invitation and implement it.

The exponential growth of Christianity in China, especially in the growing eastern cities, is not well known here. There are huge numbers of practising Christians in China, amounting to many tens of millions, although I agree that the exact figure is very hard to

determine. They operate largely—to use western language—in non-denominational church structures: roughly speaking, independent congregations in loose federations. The Chinese Government have a close interest in how religion helps in building a harmonious society, now that communism is not the only player in China's major global role. Here, I particularly single out the work of the Chinese Academy of Social Sciences in Beijing.

The churches, as they noted at the most recent National Chinese Christian Congress, in September, are also making a major priority of international relations. Here is an opportunity for British churches to respond to this as we all give China the attention it certainly deserves. Co-operation is also developing over theological education, especially at the national theological college in Nanjing and with the Amity Foundation, in its work with the poor in rural regions. Amity Printing Presses, in conjunction with the International Bible Society, has produced 20 million copies of the Bible in Mandarin in recent years.

When Matteo Ricci went to China four centuries ago, he took, as a present from the Pope of the day, a chronometer that also showed the movements of the solar system—a wonderful example of western scientific craftsmanship, which made more accurate calculations than the Chinese astronomers and mathematicians could make at the time. However, Matteo Ricci discovered in return the riches of a deep and wonderful culture. This whole debate is about the exchange of religious, philosophical, economic and cultural gifts, et cetera. My plea is that, amid such a rich exchange of gifts, we do not forget to show proper attentiveness to the religious, philosophical and cultural traditions of China and our own country, and their part in what will happen as we further develop our relationship with China.

12.43 pm

Baroness Neville-Rolfe (Con): My Lords, it is a great honour to address this House for the first time. It is perhaps unwise to take the plunge so early, but I could not resist the temptation of talking about China. This is a momentous occasion for me, so I would like to begin by saying thank you. First, I thank my noble friend Lord Dobbs for securing this timely debate and for his fascinating contribution. I have been given the warmest of welcomes by all Members and by the excellent House staff. They are courteous, they are helpful and they are always right. I especially enjoyed the wisdom of the finance department, which warned me to beware of advice from other Members on the sensitive subject of allowances. I thank my sponsors—my noble friend Lord Inglewood and the noble Baroness, Lady Hogg—and my former colleagues from the Civil Service and from Tesco. I congratulate my fellow juvenile, my noble friend Lord Whitby.

I was brought up on a Wiltshire farm, a small business which gave me a love of the countryside and some understanding of the difficulties of the sector. I went to Somerville, Oxford, like one of my inspirations, Lady Thatcher, and I am now an honorary fellow. In Whitehall, I had relatively little engagement with China, as it was yet to become the economic behemoth that it is now. However, in my 15 years at Tesco, China was one of our key growth markets and I visited it frequently.

China is an extraordinary country, as other noble Lords have said, which of course has the largest number of consumers in the world. It will comfortably meet its 7.5% growth target for 2013 and is expected to be the world's biggest economy in under five years, with an enormous impact across the globe, as my noble friend Lord Howell of Guildford has shown.

I would like to give some brief reflections on what I have learnt about China as an executive at Tesco and former vice-chairman of the China-Britain Business Council. This unique body, now led by my noble friend Lord Sassoon, and so well supported by the Minister, celebrates its 60th year in 2014. The visit of the Prime Minister in 2010, which I was lucky enough to join, and the recent follow-up by the Chancellor have greatly helped to push things along in a favourable direction.

My first point is that UK and Chinese interests can be complementary and that trade is a natural area of collaboration. Even in the 19th century, companies such as HSBC and Jardines built up trading conglomerates and, indeed, cultural links that are still important today. We know from the 2011-2015 five-year plan that China is gradually trying to move its economy from investment to consumption. Its economy has been very unbalanced and, given our recent reliance on the service sector, it is a great opportunity to build lasting export links for British manufacturers.

The area I know is consumer goods, which is a good example. Chinese consumers are hungry for brands such as our own British success story, Burberry. There is a huge opportunity for some of our great shopkeepers, with Boots, Mothercare, B&Q, Paul Smith and Tesco all flying the flag there. I was also involved in seminars with MOFCOM, the Commerce Ministry, on the transfer of climate change-related innovation. China of course has a history of flooding and famine; pollution is evident in the orange skies above Beijing and other eastern cities. So there is a huge opportunity for exporting UK expertise on green building, pollution control and carbon-friendly refrigeration. Conversely, there is a wonderful opportunity for the Chinese to invest in the UK and I was gratified to see the announcements last month about Manchester Airport and Hinkley Point.

I have done business in many countries and I believe that Britain is the country that is now most open for business. For the overseas investor, it is easier to set up and get through the necessary red tape here than in pretty well any other country in the world. Traditionally, there have been visa impediments to Chinese investors and I am so glad to see that the Government are now tackling those. However, we should expect China to reciprocate and the Chinese to be equally welcoming. So far, this has not always been the case with proposed UK investments in China.

My second theme is: "Think local". Working in Asia is very different from working in Europe and especially from working in America. Having a local Chinese partner makes a positive difference and I would recommend it. Thinking local is also important in another respect, because northern and southern China are very different, not least climatically. The goods you sell and the services you offer have to take account of these continental-style differences. China

[BARONESS NEVILLE-ROLFE]

cannot be looked at through the prism of a homogenous nation. By thinking local, UK firms can build networks with local operations catering to specific local needs.

My final thought is about ambition. As the Chancellor said during his recent visit, there is an ambition in China and a surprising sense of optimism—similar, in a way, to Victorian Britain or 1890s New York. The ambition of the Beijing Olympics inspired us to do even better last summer. Britain excelled in Olympic sport and also, of course, in creativity, with the sheer entertainment value of those four extraordinary weeks.

While they have demonstrated some less attractive features, the Chinese have always shown great wisdom, not least with their treasure trove of proverbs. My noble friend Lord Dobbs quoted one:

“A journey of a thousand miles begins with a single step”.

A maiden speech is a perfect example.

12.50 pm

Baroness Bottomley of Nettlestone (Con): My Lords, it is a great privilege for me to follow my noble friend, who has indeed been a friend for more than 20 years and a colleague in many settings. The great strength of her contribution today and of her contributions going forward is the breadth of her knowledge and involvement as a really high-flying civil servant. She has worked at the Ministry of Agriculture, Fisheries and Food, at No. 10—critically, at the deregulation unit; I am not sure whether she solved all the problems—and then she moved into the commercial world at Tesco where, for the past 15 years, she has been such an extraordinary success. Her breadth of knowledge and experience, her wisdom and her always practical approach will be a great addition to your Lordships’ House, so she is very warmly welcomed. We look forward very much to the next speech—do not delay.

I also congratulate my noble friend Lord Dobbs on securing this debate and on his very thoughtful words. Comments have already been made about the fact that today is the birthday of various pretty important people, including Billy Graham, the evangelist; Jean Shrimpton, the model; and Rio Ferdinand, the footballer. Most importantly, it is the birthday of our very special colleague, my noble friend Lord Green of Hurstpierpoint, who, in my view, is the thoughtful architect behind discussions on this great movement of west to east and north to south and the critical importance of China. The China-Britain Business Council, the noble Lord, Lord Powell, Sir David Brewer and my noble friend Lord Sassoon have all played a part, but my noble friend Lord Green’s experience as chairman of the largest company in the FTSE—HSBC—and his experience in that part of the world meant that he knew directly that China was not merely a foreign country but a place with massive potential. From my perspective, he was very much a John the Baptist in articulating most forcefully how critical it was that we had a completely new relationship with China. He will be much missed in his role when, in due course, he finds freedom and liberation, but we hope that he will continue to guide our thinking in many ways.

Mention has been made of the Silk Road, and this was very much in my mind going back to the second century BC, along which traders, merchants, pilgrims,

monks, soldiers, nomads and urban dwellers travelled, trading goods, technologies, religions and philosophies—as well, I am afraid, as the Black Death and the bubonic plague. I pay tribute to the right reverend Prelate the Bishop of Guildford—who, again, will not be with us all that much longer—for his comments about the importance of religion and philosophy. Their bedazzling complexity and subtlety is extraordinarily important. I share a life with him, having been a lay canon at Guildford Cathedral and having had a close involvement in the University of Surrey, where that connection has been crucial.

I want to specialise in the area about which the noble Baroness, Lady Warwick of Undercliffe, spoke: the fundamental importance of education. The English language is the language of business globally. That gives us the most extraordinary opportunity. I will recite all the economic benefits of international partnerships and of overseas students. Over and above the economic advantage for Britain of this wonderful export industry, I believe strongly that universities, particularly in the UK, are the places where intellect, integrity, culture and values are set. At that age, people need a moral compass to set them out on the world. The world today is not monochromal; it is a global world with cultures mixing. I declare my interest as an executive director of Odgers Berndston, where I people-traffic corporate global leaders and, very often, leaders of higher education institutions. The one thing in business that people need today is individuals who are culturally sensitive. It is no good being a Brit, a Welshman or a Scot; you have to be a global citizen.

My noble friend Lord Bamford was introduced earlier today, with all his activities at JCB in China. We need, in all our fields of endeavour—finance, commerce and academia—individuals who view the world as one community. It is really hard to develop that later on if you have never been educated with people of different cultures and backgrounds. The privilege of UK universities now is that they have become so multicultural and that people at that age make their contacts and connections. When I was young, you frequently did not go to even a mixed-sex university or college. Perhaps it was very much composed of people of a similar social background. We should compare that with the multicultural nature of our universities today, particularly when it comes to students from China.

There are some 78,000 Chinese students in the UK. Many of your Lordships know that the greatest pride in my life—apart from responding to my noble friend’s maiden speech—is to be chancellor of the University of Hull. As a great port going out into the world, it has a large number of international students. Some 13% of them—707—are Chinese. At the University of Surrey, I share with the right reverend Prelate some 1,600 students from China. These institutions are involved in joint campus collaborations. The University of Nottingham was the first non-Chinese foreign university set up in 2004. The Universities of Hull and Surrey now have flourishing establishments and relationships with China. Above all, the Open University, under Martin Bean’s leadership, has reinvented itself and has been recognised in the strategic plans in China, with

200,000 learning through Open University courses. There is also the establishment of FutureLearn, MOOCs and the new technologies.

With this huge population expansion and young people hungry for education, we need to find every means possible to help them join the graduate community of the world. I believe that we in the United Kingdom can play a very full part in making that happen to mutual self-interest.

12.58 pm

Lord Haskel (Lab): My Lords, I am most grateful to the noble Lord, Lord Dobbs, for initiating this debate because it brings back many happy memories. When China announced the open-door policy in 1978, I was an early businessman to go there. I sold the Chinese the equipment and technology to make some of my firm's textile products and carry out some of our processes so that they could supply markets that were closed to us in the UK. So began my business association with China, which lasted many years.

I loved going to China. The Chinese proudly took us to the technological wonders, so graphically described by the noble Lord, Lord Kirkham. They also patiently explained calligraphy, Beijing opera and Chinese art. In the philosophical exchange called for by the right reverend Prelate, they came here. The night before they went home, we always gave them a farewell dinner at the Reform Club. There was a lot of interest in this luxurious form of people's commune. All this helped create the personal relationships so important in getting things done in China. This is because you never really know who is in charge, at any level. The Communist Party maintains its monopoly on power by control of the economy and access to it.

So I was interested when the London Mayor and Chancellor announced their successful business deals in China last month. The Chinese press reported that business had been done because the Prime Minister had admitted that he had mishandled or misunderstood Tibet. Here, some commentators ranging from the *Observer* to the *FT* interpreted the business resulting from this visit as kowtowing to the Chinese; I am sure that the Minister saw these reports in the papers himself. Maybe that is true, but to me it looked rather like desperate salesmen doing reckless deals to achieve their quotas. Indeed, the signs are there: the Chancellor announced measures to make it easier for Chinese banks to operate in London by opening branches that are regulated from Shanghai rather than subsidiaries regulated in London. This is exactly what helped to precipitate the crisis in 2008 and, as the noble Lord, Lord Dobbs, mentioned, we said, "Never again". Of course, if Chinese financial rules are reformed, it would be good for the City to have a bank clearing Chinese currency in London—but at the cost of bending our new banking regulations?

It was also announced that two Chinese state-owned nuclear power companies will take a 30% to 40% stake in Hinkley Point. Once again the Government are taking money and then depending on regulators to ensure tough scrutiny over security, safety, investment and financial issues, a concept not well understood or adhered to in China. And do the British public have faith in this concept? I doubt it, after their recent

experience with the banking regulators, the energy regulators, the care quality regulators and the water regulators—I could go on.

Parliament itself has criticised the system of regulation in place to oversee Huawei's operation here and its equipment that is now part of our digital network. I am all for an open economy and Britain being open for business, but there is a line between openness and recklessness. We must be very careful not to surrender our ability to operate and compete in important sectors of industry. Sectors where we have strengths, such as space, must not be sacrificed on the altar of inward investment. This is why we have to be sure that we are operating the right business model. If we have contractors for crucial sectors of our infrastructure that make it easy for us and make promises, as the noble Lord, Lord Howell, explained, there is little redress when things go wrong, and revoking such contracts is very expensive to us. There is always the temptation to hide these errors because politicians do not want to be embarrassed.

In this era of globalisation, our relations with China in business are complicated. The modern supply chain is so involved that it is almost impossible to track. You do not know if firms are trading with themselves or at arm's length. The harmonisation of standards is virtually impossible, and this means the careful mutual recognition of regulation. This applies as much to intellectual property rights and data protection as to trade in goods and services.

All this makes dispute resolution highly complicated. Remember, too, that foreign companies in China are sometimes singled out for investigation or state-led smear campaigns simply because they are foreign. This is why we must have a reciprocal relationship with China, not a dependent one, a point made by the noble Baroness, Lady Neville-Rolfe, in her excellent maiden speech, and bilateral co-operation rather than reckless dependency—one of engagement, as the noble Lord, Lord Dobbs, put it. These are all pressures on our business relations with China. We have to think them through properly before doing more deals that we may come to regret.

1.04 pm

Lord Goodlad (Con): My Lords, I join other noble Lords in congratulating my noble friend Lord Dobbs on his perceptive speech introducing our debate. He has given us much food for thought. I also endorse the tributes paid to my noble friend Lady Neville-Rolfe on her eloquent maiden speech, and I, too, hope that we shall hear more from her in future.

My noble friend Lord Dobbs rightly dwelt on the pace of change in China and the possible directions that change might take. He alluded to possible implosion. What, if anything, should the British Government and Parliament be doing to influence future change in China? My noble friend Lord Howell, in his most recently published masterpiece, *Old Links and New Ties: Power and Persuasion in an Age of Networks*, has this to say:

"Those schoolbooks about capital flowing from the West into the developing world are history. The wealth, as well as the ... technological skills, have long since been flowing the other way, with the debt-laden Western 'powers' now turning east and south

[LORD GOODLAD]

for desperately needed investment and capital from the massive savings and the huge sovereign wealth funds of Asia. It is now from India and China that we have so much to learn, not the other way round. They certainly don't want lectures from us".

So, no lectures please.

However, it is perfectly possible, as the Foreign and Commonwealth Office has been doing for a very long time, to exert quiet and helpful influence, to encourage moves towards greater openness while avoiding explicit criticism or confrontation and to continue to support reform in China, not just on the rule of law and the judiciary but also in areas such as bribery, transparency, open government and the development of civil society, not through lecturing or preaching but through the sharing of best practice with partners representing a very ancient civilisation.

Is it appropriate, some ask, that in its reports on human rights and democracy the FCO should publicly comment on subjects such as China's online censorship, harassment of human rights defenders, the inadequacies of safeguards in China to guarantee the rule of law and access to justice, Tibet and other subjects? The answer is clearly yes, it is appropriate and important. Why else would China engage in more than 20 rounds of the UK/China human rights dialogue on subjects such as detainee rights; migrant rights; capital punishment; freedom of expression; freedom of religion; China's plans for ratification of the International Covenant on Civil and Political Rights; ethnic minority rights; individual human rights cases; the role of faith groups in civil society; and the use of evidence in criminal trials? The Government of the People's Republic do not want implosion.

I shall say a brief word about Hong Kong as part of our relationship with China. Hong Kong constitutes a very large proportion of China's economy and for historical reasons, as has been said, we have an enormous stake in Hong Kong, as Hong Kong has here. This historical and still growing interrelationship is not and will not be at the cost of our economic relationship with Shanghai, Guangdong, Chengdu and the other growth points of China but complementary to them. It is an important relationship, both to China and to this country.

The Foreign Office, rightly, takes very seriously its commitments under the Sino-British joint declaration. A recent six-monthly report to Parliament on the implementation of the Sino-British Joint Declaration on the question of Hong Kong concluded that after the handover of sovereignty in 1997 the rights and freedoms guaranteed in the joint declaration have in general been respected. The rule of law and the independence of the judiciary continue to be upheld. The report expressed concerns about freedom of the press and of expression and urged the new chief executive to ensure the full protection of the rights and freedoms which are essential to Hong Kong's success. In the foreword, my right honourable friend the Foreign Secretary said that he looked forward to further substantive progress towards full, universal and equal suffrage for elections in 2017 and 2020.

It is to be welcomed that the UK branch of the Commonwealth Parliamentary Association is sending

a delegation to LegCo next week to discuss matters of mutual interest. They can be assured of a warm and enthusiastic welcome.

There is a very high degree of experience and concern for Hong Kong in your Lordships' House. The Foreign and Commonwealth Office's six-monthly report to Parliament, to which I have alluded, could perhaps be debated in this House if the Government can find time. Perhaps the Minister would like to talk to his colleagues about that, because I think this House could make a helpful contribution.

The former Prime Minister and Foreign Minister of Australia, Kevin Rudd, himself a distinguished sinologist, wrote recently in the *New Statesman*:

"the challenge we all face (China included) is managing the rise of a non-democratic China as a great power within the framework of the international order ... It will require the highest levels of political engagement and thoughtful diplomacy that the world has seen since the end of the cold war".

The outcome of the recent fifth China-UK economic and financial dialogue has clearly marked an important step forward in China-Britain relations. China believes that the growth of China-UK relations serves the shared interests of both countries and contributes to world peace and development and wishes to work for a more healthy and stable relationship on the basis of respecting each other's interests and concerns. It is in everyone's interests that we pursue stronger and deeper trade and economic relationships, while at the same time maintaining our long-standing position on human rights. The welcome developments of recent weeks and months have proved that where there is good will and a mutuality of interest, much can, and will, be achieved.

1.12 pm

Lord Watson of Richmond (LD): My Lords, I too join in thanking the noble Lord, Lord Dobbs, for instigating this debate and congratulating my noble friend Lady Neville-Rolfe on her excellent maiden speech. I am sure that we shall hear more from her as the months go by. She and I shared a fascinating visit to Beijing in 2010 to look at the rapid changes in retailing in that city. For me it was also a huge contrast with my first visit to Beijing in 1977, a year after Mao Tse-Tung's death and a year before Deng Xiaoping's return. It was then, of course, a city of bicycles; it is now one of traffic jams brightened by a profusion of pink Rolls-Royces.

Any attempt to evaluate recent developments in our relationship with China requires perspective. The best any of us can do in a short debate is to share relevant experience and any particular insight that such experience may have given us. Mine centres on the contradiction in China between extraordinarily rapid economic growth and change and the continuity of monopolistic political power and the impact of this contradiction on our relationship.

As has already been pointed out, we are having this debate two days before the third plenum of the 18th Central Committee of the Communist Party of China, the first for the party chief and State President. There is much speculation that this could bring about a change as radical as that brought about by Deng back in 1978. My second visit to Beijing was in that

year. Even then, as a foreigner, you felt the force, like a second earthquake, of impending change. Twelve months earlier I had been restricted to the Hotel of Foreign Nationalities, with its shop selling only the little red book and admiring accounts of Red Guards who had done the right thing by denouncing their parents. The year 1978 was all about change, with China opening its relationship with us and with the rest of the West, and life flowing into new channels of entrepreneurialism and trade. That year changed our relationship. Will 2013 do the same?

China is in the forward planning and investment programmes of virtually every major business in the western world. Countries compete frantically to sell to China and to attract investment from China. Boris Johnson and George Osborne outdo each other—and outdid each other—as super-salesmen. Some, of course, urge us to shed all restraint and become a new generation of buccaneers. Many people advocating such a course believe that we would do far better in China unfettered by the European Union—conveniently ignoring the fact that Germany, at the very heart of the EU, sells four times the value of goods and trade to China than we do.

Whether singly or as the EU, we all know that recovery from recession turns critically on what happens next in China. Here we face the contradiction with which I began: amazing change on the one hand, and the continuity of communist power on the other. It is that contradiction that will challenge the third plenum, taking place behind closed doors this weekend.

Will Hutton, writing in the *Observer* after George Osborne's visit, dubbed him, uncharitably and unfairly, "Bambi in Beijing"—allegedly because he had ignored the obstinacy of Communist power and the determination of the party to retain it. No doubt that determination does exist, but it is shot through with contradictory pressures. There are the aspirations of an urban population of 665 million, many in the 129 Chinese cities with populations of more than 1 million people. There are the great disparities of wealth between those still stranded on the land—or, indeed, dispossessed by urban development—or trapped as what must be described as sweated labour in so many regimented factories. There is the urgent need to liberalise the economy and break up state monopolies if consumer spending is to soar, as it must, as the domestic economy becomes China's key source of growth. There is the imperative to do this as China's export advantage of low production costs erodes. Above all, there is the tension between economic liberalism and political control.

The Foreign Office Minister believes that,

"political reform and economic reform come hand in hand".

If they do not, failure could foster a catastrophic shift in the tectonic plates beneath China's surface. In the other place, the Prime Minister assured us that the UK will stand firm on human rights. It would be good to hear the Minister confirm that there was no apology from the Prime Minister for the Dalai Lama's visit to London and his meeting with him. Human rights and political reforms are, in the end, the only way to sustain and grow the prosperity of China. So old and deeply talented

a civilisation has the ability to resolve these contradictions, and it is our hope—and our interest—that it does so.

Let me end on a personal note. In the north-eastern city of Shenyang my late mother-in-law, a brilliant German businesswoman, Erica Lederer, began to manufacture decorative goods for the German market very shortly after the cultural revolution. She admired the people, their skills, their competitiveness and their friendship. At the centre of Shenyang stands perhaps the biggest statue of Mao Tse-Tung in the whole of China. Under his granite feet the talent and aspirations of ordinary Chinese people were even then, in that first year after the cultural revolution, beginning to shift the ground, and are doing it so much more so today.

1.20 pm

Lord Whitby (Con): My Lords, it is truly an honour to speak for the first time in this noble House. I begin by thanking your Lordships warmly for your generous welcome and the staff of the House who, despite my regular pestering, have been remarkably kind and understanding. I would also like to thank all those people who have helped me on my life's journey to this point, not least my sponsors and noble friends Lord Baker and Lord Edmiston, my family and friends, who have guided and loyally supported me throughout, the people of Harborne, who elected me, and my political friends and colleagues from both the Conservative and Liberal Democrat Parties, who entrusted me for eight years with the leadership of the largest metropolitan authority in the United Kingdom.

During those years a considerable amount of my time and energy was focused on developing and nurturing a sophisticated political relationship with Beijing and several of China's powerful cities. We structured a campaign of engagement and business development between Birmingham and China, a programme which used civic links to build bridges into China and reinforce them with formal twinning between several major cities. The results have been impressively tangible. The Greater Birmingham City Region exports £2.7 million-worth of goods to mainland China, far more than the south-east region. We make up almost a quarter of all UK trade with China and are the only region in Britain that has a trading surplus with China itself. That success is due in no small part to Jaguar Land Rover exports, which increased 74% last year on the previous year and are already ahead by a further 24% this year. As a proportion of Jaguar's total sales, China is now Jaguar Land Rover's largest global market.

Despite the collapse of MG Rover in 2005, manufacturing is still taking place in Longbridge. Most importantly, however, the new Chinese owner of the brand, SIAC, has invested heavily in research, development and car design, creating 400 engineering jobs. The MG magic, quintessentially British, still has its heart in Birmingham, and the new MG3 was recently launched from Longbridge in September. The combination of British design and Chinese production is a powerful example of the bilateral benefits of Chinese investment. The former premier of China,

[LORD WHITBY]

Mr Wen Jiabao, when visiting MG in Birmingham in 2011, received from me the first MG6 from the production line and commented:

“The relationship between Birmingham and China should be the model for the relationship between the United Kingdom and China”.

Noble Lords will appreciate that my blushes were similar in hue to the Chinese flags fluttering proudly alongside the union flag.

I congratulate my noble friend Lord Dobbs on securing today’s debate, which follows on from the recent highly successful talks between Chancellor George Osborne and his Chinese counterpart, vice-premier Ma Kai, as part of the economic financial dialogue between Britain and China. I welcome the Government’s bold decision to reform the UK’s visa application system. During my administration in Birmingham we increased tourism from 29 million visitors in 2005 to 33 million in 2011, generating more than £5 billion of economic improvement while supporting 60,000 jobs. We are already a major destination for Chinese business visitors and tourists and expect to double the number of Chinese visitors over the next decade. The city region already attracts 7,375 Chinese university students, according to the latest statistics. However, the challenge is that 83 million Chinese tourists left China last year, the biggest tourism market in the world, spending £63 billion between them. The United Kingdom saw just a fraction of those visitors, with only 180,000 coming to the UK. I believe that with sensible and sensitive visa arrangements we can dramatically improve our student visitor economy.

The Greater Birmingham City Region is currently undergoing transformational transport infrastructure projects such as New Street station, new metro lines and the extension of the Birmingham Airport runway. Connectivity is essential to the growth of our regional economy and point-to-point airline routes which connect you to the growth nodules of the world, and in particular to China, are imperative. I ask the Minister to encourage his Government colleagues to support direct flights between the City of Birmingham and Chinese cities when such opportunities are presented as the runway extension is opened in 2014.

In my case today it is not “for whom the bell tolls” but rather how quickly the clock ticks. I once again thank my noble friend Lord Dobbs for instigating today’s debate, which affords us the time to reflect upon the wealth of opportunities China has to offer and how the success of Birmingham and the greater Birmingham region with China has complemented the United Kingdom’s growth agenda.

1.26 pm

Lord Lexden (Con): My Lords, the whole House will join me in congratulating my noble friend Lord Whitby on his excellent maiden speech. His fame goes before him as a most effective and vigorous leader of Birmingham City Council, the city of Joe Chamberlain, which my noble friend served devotedly, not least as head of a notable coalition administration, to which he made reference. He gave us a fine taste of his vigour and determination in his speech and will

bring an important dimension to our debates, which we will value. I also pay tribute to my new noble friend Lady Neville-Rolfe for the wise and wide-ranging reflections that she provided in her memorable maiden speech.

By common consent this is an important debate, for which we are indebted to my noble friend—and long-standing personal friend—Lord Dobbs. It provides an opportunity, among other things, to draw attention to the extremely significant contribution made by British schools and sixth-form colleges to the ever-expanding and closer relations between our country and China. My noble friend Lord Kirkham made brief and vigorous reference to that. The importance of education in bringing our two countries closer together has not been neglected, but it tends to be discussed almost entirely in relation to higher education. Our universities and other higher education institutions are at the centre of this dynamic academic relationship, as the noble Baroness, Lady Warwick, and my noble friend Lady Bottomley reminded us.

Nearly 79,000 students from mainland China were enrolled in our higher education institutions in 2011-12, nearly double the number in 2007-08. However, it is important to note that this growth in numbers has been assisted in no small measure by British schools, and in this achievement our country’s independent schools loom large. I declare an interest as president of the Independent Schools Association, which represents the heads of some 300 smaller, less well known independent schools and which forms part of the Independent Schools Council, of which I was general secretary for some years, working for some 1,200 schools altogether. I also speak as president of the Council for Independent Education—CIFE—which is a professional association of 18 independent colleges that prepare students for university.

Young people come to British schools from a wide range of countries. Some come to our maintained schools: to the state boarding schools and others that have an international outlook. But the vast majority of overseas pupils come to British independent boarding schools and sixth-form colleges, influenced no doubt by OECD surveys, which rank our independent schools among the best in the world. Most of these schools are members of the Independent Schools Council. Currently, 26,000 non-British pupils whose parents live overseas are being educated in them.

The growth in the mainland Chinese market has been one of the most striking features of the recruitment of foreign pupils to British schools in recent years. Traditionally, Hong Kong was the principal provider of overseas pupils, but today, the number of new pupils from mainland China is catching up with the number from Hong Kong, and will soon overtake it. Their combined numbers account for nearly 40% of all overseas pupils in ISC schools—slightly more than the total for the whole of the European mainland. The mainland Chinese number increased in the past year by 5.4% to a total of almost 4,000. This is in addition to a total of more than 5,700 from Hong Kong.

Chinese parents are attracted by: high academic standards; expertise in English language teaching; absorption of a full British education experience, in

many boarding schools alongside other international pupils; good pastoral care; a secure environment; opportunities for entry to UK universities; and, not least, by the warmth of the welcome extended to Chinese students in independent schools. A growing number of ISC schools teach Mandarin, and I hope that the number will rise, not least as a result of the comments made in this debate.

Students from China form a particularly successful and welcome element of the 18 CIFE colleges. Last year, 85% of their 200 Chinese students in their final year gained places in higher education institutions in Britain. Here are comments made by two of the college heads in a survey which I have just conducted. The first said:

“Last year, our most academic student was Chinese and progressed to Imperial College to do theoretical physics. Most Chinese students progress to a Russell Group university”.

The second said:

“Our Chinese students are very successful, as demonstrated by our strong results and university destinations. Yet we are non-selective, supporting Chinese students of all ability ranges to achieve their goals”.

In all specialist areas of teaching and learning, the story is the same. The links between our country and China are expanding, to the benefit of both. Music provides a telling example. The Royal College of Music’s chair of international keyboard studies, Professor Vanessa Latache, is vice chairman of Lang Lang Music World, a school for gifted pianists in Shenzhen. Lang Lang gives regular master classes at the RCM, including one this very month. A successful working relationship with the China Conservatory of Music in Beijing has been firmly established. The director of the Royal College of Music, Professor Colin Lawson, said:

“In China, we continue to look for partnership opportunities, artistic collaboration, and provision of local RCM auditions”.

The long-term benefits to Britain that accrue from hosting thousands of young foreigners for a formative part of their education are incalculable. The financial benefits in foreign currency earnings are calculable, and run into hundreds of millions of pounds. Even more important are the links that successive generations of British-educated Chinese, and other foreigners, establish and retain with the United Kingdom. Many will eventually occupy influential positions in their own countries.

1.34 pm

Baroness Dean of Thornton-le-Fylde (Lab): My Lords, I join other Members of the House in thanking the noble Lord, Lord Dobbs, for initiating this debate; he introduced it in a very positive way, while at the same time being realistic about the challenges that face us in our relationship with China. We have had two excellent maiden speeches, enjoyable and full of the experience of the two new Members of the House. I wish them well and look forward to their future contributions.

The UK exports more each year to Ireland than it does to China. China has a population of 1.5 billion. That is quite a statement and it demonstrates the challenge that we face. We have barely 1% of China’s imports, and Germany has 5%. We have got quite a long way to go. Indeed, the noble Lord, Lord Green of Hurstpierpoint, in his period at the department has done a lot, not only to encourage, but to push things forward. I know this from personal experience; I went

to see him about air traffic services. I am on the board of NATS. He personally made some changes which have helped the development of that organisation and it is now in 32 countries throughout the world. Unfortunately, it is not in China. I ask the noble Lord, in the short time he will still be at the department, if he would make sure that we have a role there, on trade missions. Certainly, aviation is expanding at an enormous rate in China. For an island, our connections with the companies and countries that we export to are crucial. The noble Baroness, Lady Valentine, was right in what she was saying, as a number of other Members have been.

The multinational companies have been doing quite well, but of course Britain is made up substantially of small and medium-sized companies. We have not been doing so well in that respect and I suggest that we need to make a concerted effort. The UK has got enormous opportunities of leverage, in the strong positions in our design, innovation, and environment management; in particular, healthcare; life sciences and green tech, as well as aviation.

I would like to concentrate on the role of higher education and the assistance that it can, and does, give, and could continue to give. Many of the Chinese elite were educated in this country; many of them still continue to send their children to our fine UK universities. I support what noble Lords have said, in particular what my noble friend Lady Warwick of Undercliffe said about visas. There seems to be a bit of a disconnect here; you talk to the civil servants and they say “There isn’t a problem”. But we know that there is, and somehow that disconnect has to be addressed. Bo Xilai sent his son to Harrow. There are education connections which we could build on; we have very few expats living in China, yet half a million Chinese people who have been educated here are now back in China, and they are certainly people we could have a good relationship with.

I need to declare an interest; I am on the council of Nottingham University, which was mentioned this morning. We have a university at Ningbo. It is a partnership, but it is actually called The University of Nottingham Ningbo. It is run by Nottingham, and when the university was built less than a decade ago, it was built on farmland. Next year is its 10th anniversary. The city has grown in population from 5 million to just under 10 million in that short time. The university has 6,000 students, 10% of whom are international students, while the rest are Chinese. They are being taught to a degree which is Nottingham University UK accredited, and they are taught in English. The capital assets of the university are held in partnership with the Chinese city fathers. The chairman is a local Chinese woman, and the governing council has Chinese members on it too. But the academics are not Chinese—they are international academics, drawn from all over the world. I was there a month ago and met with many of the students and alumni. They are hungry for education. In parallel with that, they are determined to succeed. When you talk to them, they do not necessarily see themselves remaining in China.

As part of that trip, when we went to Shanghai we visited Fudan University where we were told that it has been decided in the past few months that by 2020

[BARONESS DEAN OF THORNTON-LE-FYLDE]
every student must spend one year of their education outside China. That is quite an opportunity for us. It also clearly demonstrates their ambition. I felt a great deal of pride in listening to our pro-vice-chancellor Christopher Rudd make a speech off the cuff in absolutely wonderful Mandarin. That went down very well with our Chinese guests.

Over the past few months we have seen Ed Davey—he was at Fudan when we were there—go to China to talk about the environment; we have seen the Chancellor go; and, in a few weeks, I gather that the Prime Minister is going. I give the Government credit for that. It clearly demonstrates an energy which we need in developing our relationships with China. Indeed, if the Prime Minister had the time to see Nottingham in Ningbo, he would be very welcome indeed. Maybe the Minister would consider putting that on his desk.

We have a lot that we can lever in China. We have to be realistic and pragmatic about it. We have to accept that it is a two-way stretch: it is not just us telling China but us learning from them. Until January this year, the chancellor of Nottingham University was Chinese. A Chinese chancellor in a UK university: that is true partnership.

1.41 pm

Baroness Wheatcroft (Con): My Lords, I add my congratulations to my noble friend Lord Dobbs on securing this important debate and leading it so skilfully. I also applaud the two insightful and interesting maiden speeches we have heard today. I look forward to hearing more from both our new Members.

This is an auspicious day for such a debate. For today, the first ship will enter Britain's new port, London Gateway. This remarkable deep-water facility will be able to handle 3.5 million containers a year and is just 20 miles down the Thames from London. Earlier this year, the Prime Minister described it as “an emblem of ambition”. So it should be, but I was struck that all the coverage of this new port referred to the imports that will be landing at London Gateway, many of them from China. However, the plan must not be that these ships will leave London empty. London Gateway should indeed be an emblem of the ambition Britain has to build its exports. There is no more inviting market than China.

As we have already heard, our performance has improved markedly. Last year was the third in a row in which our sales to China increased faster than those of Germany, France or Italy, but from a relatively low base. We are still too far behind. Yet, as my noble friend Lady Neville-Rolfe said, there is an appetite in China for British-made goods. Jaguar Land Rover, for instance, sold a record 73,347 vehicles in China last year, an increase of 74% over the previous year. Burberry has been selling its style in China for 20 years and last year Church's shoes—a brand not unknown to Members of this House—opened its first shop in China.

These are all high-quality brands and we have many more of them. This summer, I was one of those fortunate to attend a wonderful event in the gardens of Buckingham Palace. This was no ordinary garden party but an opportunity for royal warrant holders to display their wares. From sausages to silverware and

cosmetics to clothing, the best of British was on show. As potential buyers from abroad looked at what was on offer, the Queen and Prince Philip toured the exhibition, doing their best to boost the sales effort. Ten years ago, the idea of a trade fair at Buckingham Palace, with Her Majesty taking on the role of head of sales, would have been unthinkable. Now, however, Britain is really serious about bolstering its export effort. We had a prime example last month, to which many noble Lords have already referred, with the Chancellor of the Exchequer's hugely successful visit to China.

At this point—and I am glad to see the noble Lord, Lord Haskel, in his seat—I admit to an interest as a member of the UK advisory board of Huawei, a telecoms company which is playing a major role in the infrastructure of this country and is one of the fastest-growing companies in the world. Huawei is demonstrating ably how the UK and China can co-operate. It is investing more than £1 billion in the UK, including creating a new research and development centre in London. It is also taking on apprentices and doing its best to foster trading between our two countries, taking students to spend time in China and bringing them back here so that what they have learnt can be expanded.

As the noble Baroness, Lady Dean, said, our larger businesses know how to access overseas markets but the imperative now is to ensure that our smaller businesses take advantage of export opportunities. Small high-tech companies which I have never heard of accompanied the Chancellor on his last visit to China, such as games developer Fat Pebble, and Kinosis, which apparently shows surgeons how they can operate via a mobile phone app; I am not entirely comfortable with that, but let us hope that it works.

Trade missions are just the start. Government help should not stop when they land back at Heathrow—and it is, of course, Heathrow. We have not always been good at providing the follow-up necessary to turn contacts into contracts. I am glad to say that this is improving, and credit for that goes largely to my noble friend Lord Green of Hurstpierpoint; we shall miss him.

While encouraging exports, we need to do all we can to persuade increasingly wealthy Chinese to spend their money here. Tourism, as other noble Lords have said, is crucial. The changes in the visa restrictions shall help. However, there are other things we can do. How many retailers and hotels accept Union Pay, the credit card of choice in China and a network second only to Visa in its reach? We should make it as easy as possible for wealthy Chinese to spend their money. I was fascinated to see how this massive organisation views our country. Its website has a small section on the UK which begins:

“Located in Western Europe, United Kingdom is an island country on the Atlantic Ocean ... Scotland in the north is a mountainous area flush with cattle and sheep; England in the south boasts enchanting natural sceneries and Wales in the west is famous for rugged mountain ridges and green stream valleys”.

It goes on in a similar, lyrical vein but not, perhaps, portraying the vibrant, creative place we know. The Olympics showed what we can offer, but we must not rest on our Olympic laurels. The GREAT campaign is

doing good work in explaining what is on offer in Britain, but it appears that there are some corners of the world that we still need to reach.

There is still a long way to go in fostering understanding between our two nations. A good start, I would suggest—as I always have—is language. Mandarin is not an easy language to learn but it is easier if one starts early. I was impressed to hear of state schools in Michigan where, from the age of four, children are taught every other day in Mandarin. Total immersion works and is cheap to provide: it simply means hiring primary school teachers whose first language is Mandarin. I would like to think that British children might soon be offered the same opportunity so that they will grow up and become effective exporters for Britain.

Lord Haskel: Can the noble Baroness refer to the concerns of Parliament over the regulation of her company? That is the point that I was trying to make.

Baroness Wheatcroft: The concern was over the way in which the deal with BT had been constructed. That is highlighted in the report from the security committee. As the noble Lord knows, GCHQ monitors everything that goes on between Huawei and businesses in this country.

1.49 pm

Lord Wilson of Tillyorn (CB): My Lords, China is enormously important. There are always new things happening there, and it is endlessly interesting. I feel very supportive of the view that China is now so much of a world power that we must be involved with China, try to get China involved in all the major issues in the world, encourage China to take part in international organisations, and encourage those organisations sometimes to adjust themselves to take account of China's joining.

The visit recently by the Chancellor of the Exchequer and the Mayor of London to Peking seems to have put our own bilateral relationship back on some good rails, and that is very encouraging because, without that top-level relationship in good order, it becomes much harder to deal with things at different levels. It is interesting to note that, as the noble Lord, Lord Dobbs, in his splendid and far-ranging speech opening the debate, said, over the past three years, despite some difficulties in our own bilateral political relationship, our exports to China have gone steadily up, and Chinese investment here has gone up too.

As the major things have by and large been dealt with, I should like to concentrate on some practical building blocks in the relationship with China. The first is the importance of learning the language, to which the noble Baroness, Lady Wheatcroft, has just referred. My attention was drawn the other day to an extract from a foreign-language journal in Shanghai. It lamented the fact that foreign businessmen in Shanghai failed to realise that speaking Chinese was essential to promoting trade. The date was January 1924. The point is still worth making, but the good news about our trading relationship with China is the significant number of young people, including from the United Kingdom, who go to China, who deeply immerse themselves, and who speak very good Chinese. I find that very encouraging.

I find, too, very encouraging the fact that the Foreign and Commonwealth Office seems to be reverting to a more traditional approach of believing that regional expertise really does matter and that language matters. I understand that, with the strong support of the Foreign Secretary, there has been a great promotion of learning foreign languages, including Chinese. It would be very interesting if the Minister had those figures because it would inform us.

The noble Lord, Lord Dobbs, referred to the single step that starts any long journey. The single step is at a lower level. University work on China, as he pointed out, particularly at PhD level, is not nearly good enough. The number of students at university level is not good enough. We also need to start at school level. There the picture is mildly encouraging. I should declare an interest. I am president of the Scotland-China Education Network, which tries to promote the teaching of Chinese in Scottish schools under the inspired leadership of Dr. Judith McClure, former head teacher of one of the major girls' schools in Scotland. There are about 10,000 young people in Scotland learning Chinese at state schools, and there will be more in the private sector.

There are, however, practical problems. This gets back to the visa problem, to which so many noble Lords have referred in different forms. There is the problem of getting people from China to teach Chinese in our schools throughout the UK. Recently, to take an example in Scotland, the Confucius Institute in Strathclyde University in Glasgow wanted to renew the contracts of some of their Chinese teachers who had been there a year. The UK Border Agency has apparently changed its rule so you can have a year, and it cannot be renewed. Some of those teachers were told they could not come back. Late last night I was told that the immediate problem has been resolved, but the underlying problem remains: how do we get people from China to teach Chinese? There is a similar problem at another Confucius Institute, the one at Aberdeen University, where I have an expired interest, having stepped down as chancellor at the end of last year. I hope the Minister will take account of these problems, although they are not his departmental responsibility, and try to bring together the UK Border Agency with those who are involved. Perhaps it would be a good sort of birthday thing to do before, sadly, he steps down from his present post.

The noble Lord, Lord Goodlad, referred to the significance of law in China. There was a very good programme here run by the Great Britain China Centre, of which the noble and learned Lord, Lord Howe, is president, to train Chinese judges. About 80 have been trained in the past decade or more. Funding, which came from the Ministry of Justice, has run out. It is a very good, practical thing we could do. Those people go back to China, their influence spreads, and it is extremely valuable. Perhaps the ODA could take that on.

Finally, there is the matter of Hong Kong, to which the noble Lord, Lord Goodlad, also referred. Our political position there has hugely changed since 1997 but Hong Kong has institutions, a legal set-up and a government structure which make it very user-friendly

[LORD WILSON OF TILLYORN]

for people from the United Kingdom. It is a very good jumping-off ground for trade and all involvement with China. I am sure that the Minister, with his own personal background, will feel strongly about that and therefore I can appeal to him to encourage his colleagues to continue to see the importance of Hong Kong in our relationship with China.

1.56 pm

Lord Wei (Con): My Lords, I too want to thank my noble friend Lord Dobbs for tabling this very timely debate, and also congratulate the noble Lord, Lord Whitby, and the noble Baroness, Lady Neville-Rolfe, on their outstanding maiden contributions today. A happy birthday, too, to the noble Lord, Lord Green, who will be sorely missed in his role as trade Minister.

I declare an interest both as someone with Chinese ancestry and as one who was born and grew up in Britain. This led me quite naturally upon entering your Lordships' House a few years ago to take a keen interest in the nature of the relationship between the UK and China, of British business and interests in China, and in the state and condition of the Chinese in Britain. To this end, I also declare an interest as the chairman of the APPG for East Asian Business, as co-chair of the Conservative Friends of the Chinese and as a non-executive director of the Manchester-China Forum. I also declare a number of other related interests which can be seen on the public register.

In each of these roles I hear much about the challenges and criticism from both sides in the UK-China relationship, from both the media and through public debate, as well as behind closed doors. There can be no doubt that there has been and will likely continue to be areas of major disagreement and cultural and political differences in the relationship between our two countries. I could spend much of this speech recounting the historic disputes and perceived injustices on either side. These might include British imperial imposition by gunboat on China of goods such as opium and other wares which Gladstone described as morally indefensible and which ultimately hurt us when our protected trade succumbed to global competition. Similarly, companies in Britain at times feel competition from China has been unfairly backed by a favourable currency, state subsidies and an intellectual property framework that historically has been hard to enforce, all under the control of a Government who exert supreme authority over their citizens and media.

I could go on recounting such instances but I will not because these issues are both complex and culturally and politically difficult to resolve. Will we ever get agreement if we see the world just through the Chinese leadership's eyes? They are concerned to maintain stability in a country that is known to descend into anarchy if not led well and strongly; they are cautious about religion, as past cults have led to extreme acts of violence and terrorism, such as the Boxer Rebellion. The Chinese Government are keen to avoid other countries' determining their own internal affairs given colonial experiences at the hands of almost every other major power. Or by pushing our western liberal agenda onto China will we get it to agree to open up faster, introduce democracy on our terms, give up its

one-party communist system in favour of a fully western one with a strong and free media and full introduction of the rule of law? Your Lordships can see how these divergent approaches might not lead to swift agreement in the short term. Instead, there is another, pragmatic approach—a word that I choose because both the British and Chinese in general are highly pragmatic people. That is to focus not on what we disagree on at the outset, but on what we have in common. There is a lot we have in common, more perhaps than we realise, and more than is the case between China and many other of our competitor nations.

First, we share similar historical journeys. We as the first industrial nation know what it is like to shift painfully from an agricultural society to an industrial and then knowledge economy, with all the attendant environmental, social, and political issues that this creates. We have a lot of experience to humbly exchange with China on how to manage this transition, and we can also learn a lot ourselves as China attempts to do in 50 years what it took us hundreds of years to do, including adapting our politics to meet the needs of a more urban, connected society and innovating new solutions in healthcare, housing and education in the 21st century.

Secondly, we have a common economic interest. China is shifting from an investment-led economy to one driven by consumption. We are the services capital of the world and have a lot to gain by helping Chinese consumers and service businesses in China flourish, harnessing our knowledge, brands, and expertise. Having ourselves made the shift, we can make a living exporting that know-how to help other emerging countries make their shift as well.

Thirdly, we both love learning. Our higher education and independent school system is the envy of the world; many Chinese love to send their children to study here, and the door is wide open for businesses from Britain to share their vocational knowledge. Many UK businesses could make a living from just doing that for the next few decades, let alone trying to directly service clients in China, such as with Martin Sorrell's new advertising school in Shanghai.

When I witnessed at first hand the recent visit of the Chancellor—where we with the help of the Manchester-China Forum facilitated the announcement on Airport City—and the visit of the Mayor of London, I saw much to praise in these developments, because we focused on what we have in common, and not necessarily just on what separates us. There is progress on tourist visas, on allowing Chinese banks to more easily invest in Britain, and on enabling investors to help fund our recovery. But there is still more that we can do and ultimately, as a country, we have to choose how we want this relationship to develop. Will we choose to let UK neo-protectionists determine our foreign policy just as they did 200 years ago? Our policies on abolishing the post-study work visa, a key draw for Chinese students; on restricting the number of Chinese executives and family members from coming to help Chinese CEOs set up headquarters in Britain and create local British jobs; and on continuing to count students in immigration statistics all seem to be of the same spirit as that which Gladstone denounced,

and could do as much damage as certain imperial monopolies did to our competitiveness and to our regions still today.

Equally, will we let China romanticists determine our policy and expect to walk into China naively assuming to be given a red carpet welcome like our first ambassador to the Chinese imperial court, Lord Macartney? Some organisations and SMEs I know still behave in this way, hardly bothering to learn the language, or engage people who can speak it literally and culturally, then wondering why so little was achieved. Or will we perhaps choose another way, which is to provide UK-China bridges, whether between individuals, cities or organisations, to let people build trust and then decide and act for themselves? As much as we have recently, laudably, reoriented ourselves at the centre towards better China relations, we have also to acknowledge that many recent breakthroughs in trade, from Weetabix to Royal Docks to Manchester Airport City, university and other partnerships, often started through the efforts of individual relationships: through the Anglo-Chinese students and business people who became friends and set up their own joint ventures, involving their parents and networks from the UK and China; through stakes being purchased with the advice of lawyers, friends, accountants and bankers; and through the Chinese diaspora in Britain helping to build academic and commercial links. Perhaps our role at the centre is to increasingly get out of the way, politicising less, and making it easier for bridge builders and intermediaries to do their jobs.

Finally, in the recent Pew Research Centre global attitudes survey, we can see that the population of Britain sees China less as an enemy than do other nations, at 7% compared to the US at 18% and France at 10%, and that the young here are generally more favourable towards China. Perhaps we in politics and the media need to follow the public more closely and let the people get on with it. Osborne and Boris can hardly be blamed for making strong overtures to China; increasingly, they and we by doing so are also playing to audiences at home. A strong UK-China relationship is not just potentially good for the economy, but will increasingly represent, for those keen to follow public opinion, sensible politics as well.

2.04 pm

Lord Howe of Aberavon (Con): My Lords, although my name does not appear on the speakers list, I hope that I may be allowed to intervene briefly as almost the last speaker in this debate.

I do so because China has been an institution in my life for a very long time. I go back to 1949 when, together with my academic friend, the noble Lord, Lord Jenkin, I sold Conservatism in the Labour valleys of south Wales. The two of us, along with another, were the “brains trust” in the Constitutional Club of Ebbw Vale. The first question asked of us when we put our act over arose from the fact that, on that very evening, a socialist called Ernest Bevin, then Foreign Secretary, had recognised the People’s Republic of China. We were asked whether we thought that this was at all a proper thing for the British Government to do. Mercifully, we had both been subject to academic instruction at Cambridge from Professor Eli Lauterpacht,

the international lawyer, and we were very quickly able to define what was necessary for China to be regarded as respectable, which was what we told the socialist miners at the Constitutional Club. That has left China planted firmly in my interests. Of course, it became overwhelmingly so when I found myself as Foreign Secretary, but it was so before that.

The other thing that I would like to emphasise, beyond the huge importance of China, is the outstanding importance of this debate. It is the kind of debate, with much expertise and diversity of judgment, which you would not be able to find in any institution of this kind, save the House of Lords. I am not drawing a lesson from that except to hope that the many arguments put forward by noble Lords here today will be regarded and worked on.

One of the most striking things was to understand the huge leaps that the Chinese leadership had to make as a socialist-dominated and communist-dominated organisation—as it did do eventually under Deng Xiaoping’s leadership. China had been through a period at the beginning of the 20th century when it did have democratically elected and departmental Governments, but that broke down—it did not work.

Deng Xiaoping was able to see not so much the need for political change as the importance of economic change. I talked to him, when I went out there to try to save the future of Hong Kong, and he said by way of encouragement that the American and Japanese Governments had given him assurances that their companies would go on investing in Hong Kong even when it was taken over.

He appeared to understand, when I gave him an alternative view, that Hong Kong was a magnet, and that Americans and Japanese would invest there only because of that magnetism. And that magnetism would not be durable if they found their investments being dealt with unkindly. They needed to have the guarantee of a market foundation in Hong Kong, for the future. Of course, that was not the only lesson that Deng Xiaoping learnt on the matter. But, certainly, the Chinese approach did thereafter recognise the importance of the magnetism of Hong Kong.

Not surprisingly, perhaps, the noble Lord, Lord Dobbs, mentioned Chinese artistic objects, Ming culture and china of the porcelain kind, in the context of Hong Kong. It reminded me of another discussion that took place during the Los Angeles Olympics, and the baton races there. I stressed to Deng Xiaoping that he should think of us not as though racing against each other but as fellow members of a relay team: we are handing over Hong Kong and must make quite sure that the baton does not get dropped. We had to behave as if we were running together in the Los Angeles Olympics.

I do not take credit for having persuaded him in that one address. It was the picture that we were trying to get across, and it was that picture which has laid the foundation for market economics, rather than communist economics, that started in Hong Kong, but began spreading through China as well. The extent to which that is now understood and has been clarified by today’s debate is important. It has been an accurate, encouraging and optimistic debate, and I think the

[LORD HOWE OF ABERAVON]

right one to make sure that our Government understand the importance of a liberal trading relationship with China. We recognise the importance of our political relationship. Those arguments have been underwritten in every way in today's debate, including in the episcopal contributions and excellent speeches by two maiden speakers.

The importance of our maintaining the right attitude towards China, giving encouragement and recognising its importance, will be increasingly acknowledged and, I hope, will follow from this debate to which I have contributed—not, I am afraid, very eloquently but in simple terms. The noble Lord, Lord Wilson, has shown the right approach towards the Hong Kong Chinese, the extent to which democracy was able to found itself there and how the economic bridge with China was strengthened and better understood. I hope that the Government will take note of this debate in deciding how to proceed in our relationship with China.

2.11 pm

Lord Stevenson of Balmacara (Lab): My Lords, I thank the noble Lord, Lord Dobbs, for securing this debate and for his wonderful introductory speech in which he managed to give us a sense of focus. He led us in what the right reverend Prelate the Bishop of Guildford called “an exchange of gifts”. I thought that was a very apposite phrase. Who can complain about a debate in which there is poetry—if you can say that limericks are poetry. The noble Baroness, Lady Valentine, was kind enough to share her thoughts, an aperçu, about some of the problems that the Government have faced in relation to tourism and trade.

I also pay tribute to the two excellent maiden speeches that have graced this debate. Interestingly, they managed to reach the heart of the debate, possibly in an unscripted way, but we benefitted from that. The noble Baroness, Lady Neville-Rolfe, spoke about her experiences in China and the lessons we could learn from the way in which trade is done there. The noble Lord, Lord Whitby, spoke about work that is happening in Birmingham—how investment changes things in a locality—that is the reverse of the coin. These were both influential and helpful to our understanding of this debate.

I add my congratulations to the Minister for a happy birthday. We have not had enough of the noble Lord in this House and are sorry to lose him so quickly. Ironically, as well as today's debate, we are meeting again next week in another debate, so we are going out in a rush together. As many noble Lords have said, we are sorry that the Minister will not be with us as we go forward into the New Year.

There seems to be common ground that, in addition to a wider understanding and perspective on China, the key to the present relationship is in improving our exports. That is desirable, possible and even necessary. The UK currently exports \$474.6 billion a year. We are roughly the 10th largest exporter in the world. However, we are dwarfed by the amount that China exports, which is more than \$2 trillion, significantly more than the United States which exports \$1.5 trillion. UK exports to China have grown in the past decade

from \$0.5 billion to nearly \$3 billion. This is welcome, but it is from a very low base. In the first two decades of China's move towards economic openness, the truth is that we have lagged very far behind Germany and France in penetrating Chinese markets. According to a recent article in the *Economist*, we export only about 50% of the amount that France does and 30% of what Germany does. Our exports to China are only just surpassing our exports to Italy. The graphs crossed in 2011. As my noble friend Lady Dean said, we still export more to Ireland.

There are no major political differences in our wish to improve our export performance, including to China. As part of this debate, we need to examine and address the reason for our continuing poor export performance. Noble Lords are aware that the National Audit Office published a report recently on how we support exporters overseas. It makes for interesting reading. It says that exports need to grow by 10% a year, every single year, to meet the Government's target of doubling our exports to £1 trillion by 2020. It goes on to say that there seems to be no credible plan or measurement of progress to reach that target. Obviously, UKTI has a key role but it supports too few exporting British firms, according to the NAO. That is not good enough. We have to help more firms to export. Government cannot bridge this gap by itself; it is the firms that do it. We have to help those that already do to export more.

Finance is important in underwriting that. As Daniel Kawczynski, a Conservative MP who has written a report into UKTI performance, has said, over the past 18 months, just 18 small companies have used government export guarantee products which are aimed specifically at them. If we do not deliver more from that route, we are not going to be successful overall. To address this weakness requires an overall system-wide approach within the UK to guide us forward—a rethink of our industrial strategy over the recent period. Whether we pursue this successfully will matter far more in the long run to our economic relationship with China than anything else.

Labour has a credible agenda which the coalition seems to lack. This includes financing innovation, building skills, developing our regions and reforming our banks to ensure that they support the real economy. The economic recovery seems finally to be getting going again after a long and protracted period of stagnation, and that return to growth is something to celebrate and nurture. However, with business investment still on hold, bank lending to SMEs still contracting, youth unemployment still very high and living standards still falling for millions in this country, for most people, there is so far no recovery at all. This is no time for complacency.

In a recent speech the Shadow Chancellor said to the CBI:

“Britain has always succeeded, and can only succeed in the future, as an open and internationalist and outward-facing trading nation, with enterprise, risk and innovation valued and rewarded. Backing entrepreneurs and wealth creation, generating the profits to finance investment and winning the confidence of investors from round the world ... That is why we believe it is so vital that government works closely with all businesses—large and small: to promote open markets, competition and long-term wealth creation;

and to reform our economy so that, by using and investing in the talents of all, we can deliver rising living standards not just for a few but for everyone in every part of the country”.

We have heard today from several noble Lords that they are optimistic that the UK economic relationship with China will improve as China makes the inevitable transition from being the workshop of the world to being a knowledge and service economy. As this occurs, the argument goes, the Chinese will demand more of our excellent services in areas such as finance, the wider professions, health and higher education. As the noble Lord, Lord Haskel, warned us, we must be careful. In recent years, British universities have congratulated themselves on the large numbers of Chinese who have chosen to study in the UK. They have been welcomed here, and they have also become necessary to the survival of many of our departments and courses. There are various reasons why these students choose the UK, but an important one has been the lack of appropriate courses at home. However, that is fast becoming an obsolete reason, as Chinese higher education develops. The traditional elite universities have taken stock of international examples, welcomed new staff out of foreign postgraduate training, recruited foreign lecturers, started to reform teaching and curricula and developed new courses. Some 1,300 private universities have been established, usually with flexible, practical and very work-oriented courses and modules.

So China presents three challenges to the model we have of us being the experts, giving them UK higher education. First, China will not for long be a source of overseas students if its own universities overtake ours. Secondly, Chinese higher education clearly intends to offer its services in the world education market. Thirdly, in China there are, at present, 16 million students in higher education, with plans for 20% of secondary school leavers to be in higher education by 2010 and 50%—a familiar figure—by 2050. Even if a small proportion of these have a first-rate education and can use English, they will be competing with our graduates in virtually every field, unless, again, we can provide something very special from within the United Kingdom. Does the Minister agree that it is important to learn the lessons of Chinese education, both positive and negative, and apply them to our own institutions?

We have heard that the Government are desperate to secure Chinese investment in the UK. The tough regulatory approach to banking that was introduced after 2008 has been relaxed to promote trading in the Chinese currency in the City. Guaranteed electricity prices—double the present level—have been offered to secure Chinese investment in the EDF nuclear station at Hinkley. We are not against these measures per se, but we would like to see a much more serious debate about their justification and the implications that will flow from them, so perhaps the Minister will comment on that when he responds.

According to a recent article in the *Economist* in June this year, perhaps the single most disappointing aspect of the British economy in recent years has been its export performance, about which I have been talking. Against that background we have to remember that sterling is 25% cheaper on a trade-weighted basis than it was in 2008, and yet the trade deficit was still a stubborn £36 billion last year—more than 2% of GDP.

Of course, as many noble Lords have pointed out, this is partly the result of a fundamental economic mismatch. Britain's strength is in services; China's hunger currently is for raw materials and machine tools. China seized 80% of the world's metals supply last year, boosting exports from Australia in the process. The odd British firm, such as Rio Tinto, has cashed in, but countries such as Germany, whose firms sell kit used in Chinese factories, have done so very much better.

The prospects for British cultural exports are much brighter. However, as has been raised, there are real concerns about IP protection in China. In 2011, Britain's global exports of TV formats—exciting programmes such as “Strictly Come Dancing” and “MasterChef”—were worth £1.5 billion. I hope that these figures will begin to attract more attention from UKTI, particularly in relation to developing economies and China.

However, the truth is that other countries appear to be taking better advantage of the shifts in China's economy. I shall end with some questions for the Minister. As many noble Lords have mentioned, Britain seems to have gone out of its way to establish a reputation as a country hostile to business visitors, tourists and students. Visa processing is still slower than for the rest of the EU. As a result, London loses out to Paris as the place where wealthy Chinese like to go to shop. Visa restrictions hold back exports in more subtle ways, too. The *Economist* points out that Britain's architectural practices, for example, often want to hire staff from the countries where they plan to bid for work, but this is almost impossible.

In 2011, the Prime Minister said that he wanted to double trade with China by 2015, but the gains that have been made are small. A much touted 2011 trade pact with China covered some 3% of the existing commerce between the two countries. Germany and China, for example, recently agreed on a deal which was 10 times bigger. Is the target set in 2011 still the one for which he is aiming?

My noble friend Lord Haskel mentioned that the warm public welcome for the Dalai Lama's visit last year, which was largely arranged through No. 10, has not helped relations between the two countries. Like the noble Lord, Lord Watson, I would be grateful if the Minister would comment on that, particularly in the light of the rather underwhelming reception accorded to the Chancellor and the Mayor of London when they visited China recently.

Human rights concerns still affect our relationship with China. It is not just the regular house arrests but the lack of press freedom, the oppression of minorities and the fact that religious dissidents continue to be locked up. What representations have been made? What has the noble Lord said to his Chinese counterparts when he has led delegations to China? It would be interesting to reflect on that.

A continuous theme running through our discussions is that of language. How do we deal with that? How do we get people to speak Chinese? The *Economist* notes that whereas there is a network of trade envoys covering emerging and developing economies including Azerbaijan, Indonesia and Mexico, there is still no envoy for China. Is that the case? Will the Minister also comment on a long-promised agriculture attaché who apparently has still not been appointed?

2.23 pm

The Minister of State, Department for Business, Innovation and Skills & Foreign and Commonwealth Office (Lord Green of Hurstpierpoint) (Con): My Lords, I am very grateful to my noble friend Lord Dobbs for tabling today's debate and for his very informed and insightful comments. Indeed, I thank all noble Lords for their very wide-ranging contributions. I pay especial tribute to my noble friend Lady Neville-Rolfe for her extremely insightful maiden speech, which focused particularly on conditions in China, as did the noble Lord, Lord Stevenson. I also pay tribute to my noble friend Lord Whitby for his insightful comments on what it is like at this end as Chinese investment transforms British economic conditions.

This is an extremely important topic for us all and a very complex one. We have covered a lot of ground in this debate and I will find it something of a challenge to respond to all the questions and summarise all the themes in the allotted time. I like to think that I have come and gone to China over a long time but I am humbled by the fact that the noble Lord, Lord Watson, first went there in 1977 and the noble Lord, Lord Haskel, who first went there in 1978. I am a mere newcomer, having first gone there in 1983. However, I think the thought resonates with all of us that this is a society and an economy that is changing rapidly and profoundly, and will continue to do so. The challenge posed by this enormous, sophisticated and cultured country, and our engagement with it, is of profound importance to British society and the economy.

As China continues to grow, so do our shared interests and responsibilities. Our relationship is broader and deeper now than at any time in our history. As I say, China is changing fast. I could go on at length but one manifestation of that change is that Chinese companies are increasingly going global and are on their way to establishing global brands rather in the way that the Japanese did after the war and South Korea more recently. China will be next.

China is also becoming more sophisticated in its own research and development. It now files the largest number of intellectual property patents of any country in the world. Interestingly, there are more cases of IP theft going through Chinese courts than in any other country in the world—some 84,000 in 2012, only 2% of which involved foreign companies. In other words, China has got to the stage where IP is an issue for Chinese businesses dealing with Chinese businesses, which I think means that we can take some comfort that the authorities mean what they say and intend to create a robust environment which protects intellectual property and stamps out corruption and fraud.

China is changing in other ways, too. The international role of China is changing profoundly, as my noble friend Lord Howell of Guildford so articulately explained. This is a country that is taking its place on the world stage. We often talk about an emerging power. It is not an emerging power; it is re-emerging, or retaking its place on the world stage. I like to remind my colleagues in business that in 1820 China had the largest economy in the world and, 200 years on, it will be the largest economy in the world again.

China is also a country with a deep cultural past. As the right reverend Prelate the Bishop of Guildford reminded us, and others echoed, this is a country with a long-standing philosophical and religious perspective. I have met some of the characters mentioned by the right reverend Prelate and they are very remarkable people. The authorities are very keen to see a harmonious development of Chinese society and recognise the role that faith groups can play, particularly in an urbanised environment.

That brings me to my next point. China is not merely changing fast but urbanising fast. The figures are enormous. A number of speakers cited figures in relation to aspects of China's growth. China has the most of almost everything these days, and the challenge posed to it by urbanisation over the next 20 to 30 years will be the biggest for any country, except possibly India. Something like 50% of its population live in cities now, but this will increase to 60% in as little as 20 years' time. The implications for urban infrastructure, urban planning and the whole economy are profound. The rapid transformation presents enormous challenges for the Chinese authorities. Sometimes I think that the popular impression of China is that the authorities sit in Beijing smiling quietly as more and more Chinese companies invest and take over the world. That could not be further from the truth. The authorities are very conscious of the significant challenges of developing a very complex and large society, and of the need to rebalance. They are well aware that at the moment the Chinese economy is too dependent on investment and exports and needs to rebalance itself.

They are also well aware of the issues in the rural areas: poverty, issues of land ownership, the flow of immigration into the cities, which it is increasingly difficult to control, and so on. Demand for products and services like healthcare and education is expanding very rapidly and will continue to do so for the next generation. On the plus side of these challenges, a middle class is developing with the same sort of appetite for branded goods that we all take for granted. It is, therefore, no surprise that, as has been quoted, Jaguar Land Rover now finds China to be its largest market. Some 80,000 vehicles were sold there last year, and the number is growing rapidly. It is the second largest exporter of cars to China after BMW. So there are lots of challenges and plenty of opportunities, too.

Two important themes have dominated this debate and I will touch on both of them. The first is education and culture. My noble friend Lord Dobbs spoke about Chinese language tuition in schools and universities. I share his view of the importance of increasing the sensitivity of the younger generation in this country to Chinese, which is about both Chinese studies and Chinese languages. I am very pleased to report that my grandson is, almost exactly at this moment, doing a presentation on the warring kingdoms period of Chinese history. So he is being made to learn something about that great country.

The Government are committed to the learning of languages, including Chinese, in schools and universities. We undoubtedly start from a low base in the case of Chinese, but in 2013 the number of students entering for a GCSE in Chinese increased by 20% compared to

the previous year and there were more than 3,000 A-level entries. It is a low base, but at least the direction of travel is right. In higher education, language study is about choice. We have seen some shifts towards languages that will better support employment outcomes in growth economies, including Chinese. In 2011-12 the number of students at UK higher education institutions taking Chinese studies was 1,870: a small number, again, but the direction of travel is good. It is important to note that there are many students not studying Chinese who increasingly get a component of Chinese studies as part of more multidisciplinary programmes. There are Chinese centres at Sheffield and Nottingham, to name but two.

There is plenty of work to do. My noble friend Lord Lexden and others, including the noble Baroness, Lady Dean, also pointed out the importance of education, not just at university but at school level. We recognise the importance of schools introducing children to Chinese at a young age and also the importance of being open to Chinese students wanting to come here at secondary and tertiary level. Another aspect of this is the importance of the engagement of British universities and other colleges in China. The noble Baroness, Lady Dean, referred to the work of Nottingham Ningbo. There are a number of other British colleges and universities: Dulwich College in Shanghai is just one of them. There are now some 230 research partnerships between British educational institutions and Chinese ones. We cannot be complacent about this. The noble Lord, Lord Stevenson, reminded us that the Chinese are rapidly upping their game and the old-fashioned notion that we have all the expertise and they have all the need is, frankly, behind us. We should recognise these as joint experiences: partnerships where we learn together about matters of importance to both our economies and societies.

There is plenty of competition in the English-speaking world. As my noble friend, Lady Warwick, said, the Australians have learnt the lessons of some of their mistakes. We must make sure we have a supportive approach to letting Chinese students, and others, into the British education system. We need to minimise the impact of immigration rules on universities. I have been asked in this House before whether I would take up the question of excluding students from the immigration numbers. In response to that suggestion, I have taken it up and am happy to have another go.

Another theme that came up repeatedly, not entirely unrelated to education, is visas. The noble Baroness, Lady Valentine, and others, drew attention to the ease with which you can get a Schengen visa. There is some mythology around the numbers of these visas and where people actually go. In his opening speech, my noble friend Lord Dodds said that seven times as many Chinese visitors go to France as to Britain. This is actually quite difficult to verify. One hard figure we do have is the number of visas issued. In 2012, the French issued 277,000 visit visas and we issued 210,000. So they issued one-third more than us rather than seven times more.

Chinese exit data on first destinations for Chinese travelling abroad show that the UK was the top European destination in 2010 and second to Italy in 2011. My general point is not that we should be complacent but

that the numbers are quite hard to pin down. It is plain that we need to expect more and more Chinese visit visas over the coming years, both for tourism and for business and educational purposes. Specifically, we expect the number of visa applications to top 1 million by 2017. To facilitate that, and the processing of this very large increase in the number of applications, we introduced a number of measures.

Last month, in Beijing, the Chancellor of the Exchequer announced measures to streamline and simplify the visa process for Chinese nationals who want to visit the UK for business, study or pleasure. This includes plans to open a 24-hour visa service and streamlining the UK and Schengen visa application process. As the noble Baroness, Lady Valentine, pointed out, the Schengen process itself is moving—or so they claim—to biometrics, which will level the playing-field. I hope that we will increasingly be able to provide, in effect, a one-stop-shop service for Schengen and UK visas. We will, of course, always be left with the greater flexibility of Schengen. I suspect there is no one in this House who would argue for us joining the Schengen accord at the moment.

We will do our best on visas and I assure noble Lords that the Government recognise the importance of ensuring that the process works as seamlessly as possible. The forms are now in Mandarin, which was a good start. We now have more offices around China: more than the Schengen area does. Progress is being made in discussions with Schengen about how to converge the two processes as much as possible. I noted comments from a number of noble Lords on the importance of ensuring that the visa entry rules for both students and business are as business-friendly and education-friendly as we can make them. I am always happy—and so is UK Trade and Investment, the office which I oversee—to discuss any problems that specific institutions or firms have with getting people in, within the context of the overall policy. We are plainly not going to throw the whole policy up in the air but we need to make sure that, in practice, it works for business as seamlessly as possible.

I turn to inward investment, which is a very important topic for the economy in general. It is a great and long-standing competitive strength of this country that we are open for inward investment from all countries in the world. It is very difficult to imagine a number of our obvious competitors being as sanguine as we are about investment in, for example, the water supply of the national capital. Some 9% of Thames Water is owned by the Chinese sovereign wealth fund, as is 10% of Heathrow. We welcome these investments. We also welcome the deal announced by EDF in respect of Hinkley Point C, which is a good deal for this country. The entire nuclear industry, irrespective of who is investing in it and who is building it, needs to be properly regulated, for all the obvious reasons, but we are committed to the importance of nuclear as part of the energy mix. We have to invest substantially over the next 10 to 20 years in nuclear rebuild and we should welcome the involvement of foreign direct investment—including from China—so long as it is properly regulated and overseen.

The noble Lord, Lord Haskel, mentioned Chinese banks in London. The fact that we offered to allow

[LORD GREEN OF HURSTPIERPOINT]

them to operate through branches, as opposed to subsidiaries, does not mean that we are not going to regulate them, although they are, of course, regulated by the authorities in Beijing—not in Shanghai, incidentally—which would be the case whether or not they were subsidiaries or branches. They will also be regulated by the Prudential Regulatory Authority, whether they are subsidiaries or branches, according to the highest standards that the PRA thinks fit. I am very happy to assure the noble Lord on that point.

Huawei has already been discussed and I am not sure that I have anything useful to add to the exchange that has already taken place. I know the managers of that company, both here and in Shenzhen. I believe that they are committed to doing good business in this country and are certainly investing and building up the skill base in the way that my noble friend Lady Wheatcroft mentioned. All Members of the House will be aware of the security arrangements that are in place and are currently subject to review, following the report from the Intelligence and Security Select Committee.

I turn to exports, which are the other side of the coin. Every speaker has referred to the fact that we have a long way to go on this. We start from a low base and market share. I have always found completely unacceptable the notion of being behind not merely Germany, which is possibly understandable, but France and Italy. The good news is that we have now overtaken Italy. The good news is also that we have grown faster than all three of those countries for the past three years, but this is a long journey and we have to keep at it.

The importance of building relationships and making long-term commitments is something that everyone has underscored. It is true everywhere but it is certainly true in a country like China. Businesses need to spend time and need help. When it comes to small businesses, which were referred to by a number of noble Lords, it is important for the British Government to ensure that the role of UK Trade and Investment, working in partnership with the China-Britain Business Council, is as effective as possible in supporting those who make that journey by de-risking the decision for them and helping them to attend trade fairs. I am pleased to report that we have increased the number of resources we have on the ground in China, not merely in Beijing but around the country. We have increased the amount of money available for attendance at trade fairs and, by the way, we have increased the number of trade advisers in this country.

In respect of finance, we have substantially revamped UK Export Finance; it is not now the case that as few companies have been able to access UKEF as the noble Lord, Lord Stevenson, referred to. Indeed, its business is growing rapidly and I have asked it to triple its book over the next two or three years. I am afraid that I shall not be in office to see this happen but will be cheering from the sidelines. UKEF is now on the way and the momentum is clearly there. It now has more than £1 billion of support for small businesses, compared with almost nothing three years ago. So the direction of travel is there. We need to keep at this. It is a long journey, and we need to keep investing. I have mentioned UKTI and UK Export Finance.

In response to the noble Lord, Lord Wilson, I should like also to refer to the capabilities in the Foreign Office. We have 60 new staff working across the network in China, a third of them focused on less well known provinces and second-tier cities. I was recently in Wuhan, a city that we the British have neglected; the French are the dominant foreign presence there and we need to put that right. What is true of Wuhan will, frankly, be true of dozens of other cities. We have a long way to go. We have been investing in language training in the Foreign Office. I have some numbers somewhere that I cannot find, so I will write to the noble Lord, Lord Wilson, with the details. We have substantially increased the amount of Mandarin training in the Foreign Office because we fully endorse the notion that its officials are at their most effective if they can speak the language.

I will respond explicitly to some of the points made by the noble Lord, Lord Stevenson. I do not have the time to discuss Britain's industrial strategy, except to say for the record that we the coalition believe that it is a coherent strategy that is bearing fruit, and we need to stick at it. We need to invest in the skills that equip the next generation to succeed in a competitive world. There is no turning back from this globalisation. There is no turning back from the challenge of ensuring that education and apprenticeship systems work correctly, that we connect up research and development at university level with businesses and that we invest in appropriate partnerships in key sectors. The sectors involved for the British economy are very wide—all the way from advanced manufacturing and aerospace, through IT, the creative industries and practically every sector in between.

Perhaps I may conclude with just 30 seconds on Hong Kong, as my time is up. Hong Kong remains extremely important to the British relationship with China generally, as well being important in its own right. I had the great honour of living in Hong Kong when the noble Lord, Lord Wilson, was governor there, and I have seen it change rapidly over the years. The closer economic partnership agreement is in place between Hong Kong and the mainland, which means that a company operating in Hong Kong can do business in the mainland without further restrictions, and several hundred British companies in Hong Kong have the opportunity of building their business in the mainland through the Hong Kong gateway. It is a very important asset in terms of the competitiveness of British businesses in China, when compared with that of our European counterparts and others.

Finally, I come back to the importance of this debate. No country is strategically more important to us than China. This is a long journey forwards in the relationship. It is a complex country and there are massive opportunities. Of course there are many political and economic challenges on the way through. The dialogue needs to be open, honest and continuous. Given that two or three of your Lordships quoted Mao's saying that the longest journey begins with a single step, I should like to add another: this journey is a marathon, not a sprint.

2.46 pm

Lord Dobbs (Con): I am delighted and honoured that the debate has been so fruitful; it has overflowed

with experience, insight and enthusiasm. I thank every Member of this House who participated. My noble friend Lord Green's summing up has been most helpful; he has been for so long at the sharp end of things and his time at the coalface has been hugely productive. He deserves his retirement but we shall miss him. I must once again congratulate my noble friends Lord Whitby and Lady Neville-Rolfe who made their first speeches in this House. But my friendly neighbourhood Whip has whispered in my ear—a loud Chinese whisper—that we are out of time. I must apologise, therefore, for being unable to refer to other individual contributions. I hope that noble Lords will understand and forgive me for that. The debate has been a credit to this House. Its messages were put quite superbly and came across loud and clear. The Chinese sometimes say that Britain is a small island, a long way away, which makes a lot of noise. It means at least that they hear us, and that sounds like a pretty good place to start—and also to stop. I beg to move.

Motion agreed.

Security Services: Supervision

Question for Short Debate

2.48 pm

Asked by Lord Soley

To ask Her Majesty's Government what plans they have to review the supervision of the security services.

Lord Soley: My purpose in bringing this Question before the House is to try to initiate some long-term thinking on the way in which we supervise our security services, the impact of high technology, the pace of change compared to our legislative process, and, importantly, the freedom and security of the internet.

Let me begin by saying that there is no reason to doubt the importance of the security services to the freedom of the people of this country and their safety. I say that not least because of my memory of my involvement in Northern Ireland in the 1980s. Equally we have to be clear about what we are defending. We are defending freedom and a way of life, which, as we all know in this place, means that we have to have a good system of parliamentary accountability for the security services. I do not take the view that accountability has been totally useless, or whatever some people have alleged, but there is considerable room for change, and we ought to start addressing that in some detail, which is why I want a slightly longer debate than we are able to have in this one hour.

My first point to the Minister, to which I hope he will give some long-term thinking, is the pace of change in technology. It is a crucial problem and has been so for some years. Technology, particularly information technology, moves so fast that the ink is hardly dry on the Acts of Parliament that we pass before they are out of date. We really have to find a new way of dealing with this. There are a number of possible options, but the one I have looked at with some interest—and I know that this has been referred to in discussions about the data communications problem—is a hybrid between a Select Committee and a legislative Committee that looks at the constantly changing

technology and how to bring changes into effect in existing legislation. We have a number of ways in which we do this in other areas in the House. The Delegated Powers and Regulatory Reform Committee, which I was on, is one way of doing it; we ought to consider that. This House is very strong on science and technology, and we have here people with a great knowledge of information technology. The suggestion that I make to the Minister—although it is a matter for the House authorities as much as for him, but support from the Government would be helpful—is that he look at whether we could introduce a committee process which would enable a detailed look at the way the rapid change in science and technology affects our legislation, not just on the security services, although clearly that is the most important one in the current context.

The other issue I ought to say in opening is that although I would disagree entirely with Snowden's release of all this information, which I think was grossly irresponsible, in my humble judgment, if he were put on trial before a jury in this country, he would probably be found not guilty on the basis of a public interest defence. There is probably enough in what he has done that revealed to us things that we did not know about which would give him a good defence in that area. I do not think the Government are necessarily thinking of it, but getting into a battle either with newspapers, Snowden or anybody else on this would likely be a losing battle. It would be far better to address the issue than to deal with it that way. I only wish that Russia and China could have a Snowden as well; actually, it might even the field up a little bit.

I turn now to the internet. Next year, it will be 25 years since the invention of the internet by Sir Tim Berners-Lee. I hope we will find ways of celebrating that because it is, in my judgment, by far the most important way in which the people not just of Britain, but of the world have been able to communicate, and it has been a great engine for freedom. However, what has happened recently has been a gift to some of the more authoritarian countries and some of the more authoritarian organisations which would like to close down the freedom of and access to the internet. One of the things that is most troubling about what has been happening with the security services is this business of interception of the internet services. For example, the Google fibre-optic cable being breached is a matter for concern. One has to ask whether the Prime Minister, any other Minister or the intelligence committee knew that that was about to happen. Was it ever considered by them?

This brings us straight into the third and main point of this debate, which is whether we can improve the way our security services are subject to parliamentary oversight. Much of the comment made outside has been based on an assumption—a wrong assumption—that because the security services, through the Tempora system, have been hoovering up lots of information, all of that information has been read or looked at. It has not been; it is the case that in Britain, you need to have a warrant if you are going to look at the content of these things. What troubles me is that, although you might need a warrant in the UK, you do not

[LORD SOLEY]

necessarily need it overseas. There is a particular problem here in that the communications network between Britain, Australia, New Zealand, Canada and the United States—the so-called “five eyes”—are interchanging information all the time and are using our systems. Therefore, it must be said that, given that the United States is now accepting that it intercepted the phone of Angela Merkel, the Chancellor of a friendly and liberal power, now with a very good constitution—not least because we wrote it—the very least that should have happened is that the British Government should have been aware of it. However, it was probably done with some interaction with GCHQ, even if they did not know about it. In other words, I suspect that the inter-linkage between the National Security Agency of the United States, GCHQ here and the other surveillance organisations in New Zealand, Australia and Canada is not really supervised by any of the parliamentary structures in any of these countries.

We have a very real problem, which is far greater than we have had in the past, about how we carry out effective oversight of security organisations operating on all our parts. The Intelligence and Security Committee is doing very good work, and I greatly welcome the way they have opened up their processes in recent times. I am sure the Minister will want to record that. I still say that it is not enough, and that we should have a long, hard look at the way in which we oversee this international co-operation, because it means we will be involved in some of the things we might say we would not do, like tapping the Chancellor of Germany's telephone. I do not know whether that was done as the result of the ability of the Tempora programme in GCHQ, but a Minister should have known and should have been able to give a clear reply of, “Yes, we did know that” or, “No, we did not know that”. I suspect that the answer is that we did not; in fact, I am almost sure of it, but it might have been done as a result of that co-operation. That linkage is extremely important, and we cannot ignore it.

There are other areas of this supervision that are critical to us. MI5 and MI6 have been quite good recently at opening up and speaking in public, but I can not say the same about GCHQ. GCHQ needs to be much more open than it has been, with all the difficulties that implies. When I suggested a while ago that GCHQ ought to be much more receptive to visits from parliamentarians, whether of this House or the House of Commons, the answer was, “Well, we are nervous about some MPs or Members of the Lords”. My response to that is, “Well, I am nervous about some of the people who work for GCHQ”, more than one of whom I have met and would have some anxiety about. We cannot address it that way; you have to say that they must be accountable to Parliament and we must be able to have those discussions. As MI5 and MI6 have discovered, you can actually deal with the difficult questions and challenges that you face in a parliamentary system. It is that which makes us stand out above the others and makes us different from some of the other countries that are delighted about what Snowden is doing—but he is not, of course, looking at their own systems, which they would desperately hide from all of us.

I have finished slightly within my time, not least because I hope to give a little more time to others and to extend this debate on other days, but I ask the Minister to take away and look at this business of how we legislate for high-technology change in a slow legislative process.

2.58 pm

Lord Blencathra (Con): My Lords, I congratulate the noble Lord, Lord Soley, on securing this debate. I deeply wish that it were not necessary, but in my view, the legal basis under which the security services operate—RIPA—is no longer fit for purpose. I say that as the Peer who had the privilege to chair the Joint Select Committee on the Draft Communications Bill last year, the so-called “Snoopers’ Charter”. We considered the rapidly changing technology, and no area is changing faster than this. I refer the Minister to our conclusion in paragraph 289, where we recommend the super-affirmative procedure.

I pay tribute to all my colleagues in both Houses who have not been properly and publicly thanked for the excellent job they did on that Joint Select Committee. We made a pretty good job. We decimated the draft Bill and came up instead with workable solutions which were unanimously agreed by the whole committee, even though many of us had very different views on the balance between security and privacy. The conclusions we came to in our report were as follows:

“It is the duty of government—any government—to maintain the safety and security of law-abiding citizens, so that they may go about their lives and their business as far as possible in freedom from fear. This is not only in the public interest; it is in the interest of law-abiding members of the public. For this the law enforcement authorities must be given the tools they need. Reasonable access to some communications data is undoubtedly one of those tools. But the Government also have a duty to respect the right of citizens to privacy, and their ability to go about their lawful activities, including their communications, without avoidable intrusions on their privacy”.

We went on to say:

“Our overall conclusion is that there is a case for legislation which will provide the law enforcement authorities with some further access to communications data, but that the current draft Bill is too sweeping, and goes further than it need or should”.

Those were the conclusions we came to last year in the light of what we knew then. Although Prism and Tempora were at the centre of what we were being asked to look at, we were deliberately kept in the dark about them. It is my personal view that the draft Bill was clearly an attempt to legitimise what the security services were doing already. Of course, they may be talking publicly about it, but they refuse to come to Parliament to tell us about the Bill they were demanding that we pass. This situation cannot be allowed to continue. We need a wide-ranging debate about the balance that we described in our conclusions. We said that they should have reasonable access to some communications, not uncontrolled access to anything they liked or beyond what Parliament intended. This is the key point: whether the security services were technically operating under some part of RIPA is irrelevant. What is wrong, as we have discovered over the past few months, is that they were doing things way beyond the imagination of Parliament and which we did not know about. I have no brief for the *Guardian*

and its general, Polly Toynbee, bleating for someone else's money to be spent on its favourite causes, but in my opinion the newspaper has done a service by revealing the reach and the extent of what was being done in our name.

I detest traitors who reveal secrets which endanger national security, but there is a greater threat to our freedom when powerful agencies of the state feel that Parliament must be kept in the dark about the parameters under which they operate. I say "parameters" because we do not need to know, nor should we know, the operational techniques and methodology of the security services, but we should have known that they had the Prism and Tempora capability and were using it under rules agreed by Parliament.

In the early 1980s, I sat in a trench in Germany and asked my commanding officer, "What is my mission, Sir?". "Your mission, Maclean", he said, "like the rest of us, is to try to hold them back for 48 hours to give the politicians time to nuke 'em". In those days, breaching national security could have resulted in the complete nuclear annihilation and destruction of the western world, and that was what traitors like Burgess, Philby and the other Maclean were doing. It is preposterous for senior figures now to suggest that Snowden is in the same league as those traitors. He is not, and that should be obvious. There is also a need for a debate about what is national security now. Clearly a dirty nuclear bomb in central London which renders the capital unusable and uninhabitable for 50 years is a mega threat to national security. However—and I choose my words very carefully so that I am not misunderstood—much as a terrorist bomb that kills 100 people is an abominable evil and we should try to stop it, is it a threat to national security in the same way as nuclear annihilation in the 1980s? Is it a threat that requires the communications of 56 million law-abiding people to be collected in case there is an evil terrorist among them? I do not know, but I do know that this Parliament—your Lordships' House and the other place—must debate it and collectively strike the balance between reasonable access on the one hand and privacy on the other. We must have replacement legislation for RIPA along the lines recommended by my committee, with proper checks and balances on the security services. We need that debate, it must be wide-ranging, and we need it soon.

3.04 pm

Lord Reid of Cardowan (Lab): My Lords, I have had the good fortune of working with our intelligence agencies as Secretary of State for Defence, Minister for the Armed Forces, Home Secretary with responsibilities for counterterrorism and Secretary of State for Northern Ireland. I have to say right at the beginning that I know at first hand the good that the security services do and about the lives they have saved. Those are not the hundreds that the noble Lord just referred to, but in one case it was thousands. Overall, it has been many, many thousands of lives in this country. I know also that much of the good that they do is never recognised precisely because it is their job to prevent evil happening. I want to put that on the record right away.

Let us start with the obvious. It is right and fitting in a democracy that all the agencies of the state are accountable to and overseen in an appropriate fashion by the elected representatives of the public. The intelligence agencies are a special case since inevitably much of the work they have to do must be carried out in secret. That does not mean that they are unaccountable. Indeed, over the decades we have constructed an elaborate degree and system of oversight. Their work is carried out in accordance with a strict legal and policy framework which ensures that their activities are authorised, necessary and proportionate—I will come back to this. At the heart of the framework are two Acts of Parliament, not only the Regulation of Investigatory Powers Act 2000, which was mentioned by the noble Lord, but also the Intelligence Services Act 1994.

A rigorous system of oversight of the activities of intelligence services is already in place, incorporating warranty oversight by Secretaries of State, detailed review by the Interception of Communications Commissioner and the Intelligence Services Commissioner, and scrutiny by the Intelligence and Security Committee. Today, the fundamentals of this system of oversight have been added to by the interviewing of all three heads of the intelligence services in public and on television. That is an extension that is happening even as we speak. The fundamentals of the system of oversight and accountability have not changed, and indeed we have been assured of this by the Foreign Secretary himself.

What is the present controversy all about? If the fundamentals and the objectives of the intelligence services have not changed, what is it that has changed? It is the world that has changed, and it has done so exponentially. That is not least in terms of electronic communications, as referred to by my noble friend Lord Soley. Cyberspace is now an environment that permeates everything we do. It is an environment that offers great opportunities for information, communication, personal empowerment and advances for good, but it is also an environment that offers equally great opportunities for the bad: for, among others, international crime, terrorism, paedophiles and hate crimes. These, and others intent on malevolent action, no longer communicate directly using a simple telephone line from A to B. Put simply, they now communicate across the world by voice over ISP, the internet, by e-mail, by text or by concealment on web pages. That is what has changed, and crucially, all of these traverse the globe. They are transnational, not even international. All those whose activities are of malevolent intent use these electronic means.

I can tell noble Lords that when I was Home Secretary I looked at a number of plots, on some occasions between 40 and 60. Not one was confined to this country alone. All of them involved communication between people in at least two countries, while a major one involved people in 20 countries. That is the nature of the world in which we now live. The job of the intelligence agencies has thus been made infinitely harder in maintaining surveillance. I can tell the House that Sir Iain Lobban has only just told today's hearing that we have to, "anticipate, discover, analyse, investigate and respond, and we have to do that globally". That is him speaking for GCHQ. How can I tell noble Lords that? It is because I have an iPad which communicates

[LORD REID OF CARDOWAN]

to me in real time via the BBC what is being said in another place and communicates that simultaneously around the world. That is the world we are now living in and which our intelligence agencies have to cope with. They are faced with an infinitely greater task than ever. They are still looking for needles in a haystack, but the haystack is now global; it is huge in size.

We have been assured by the Minister that the nature of the surveillance and the fundamental principles underlying it have not been changed, and therefore in order to discover who is communicating with whom, the security services have to operate under RIPA, and in order to look at any content, they must have a warrant from a Home Secretary; that has not changed. So it is incumbent upon us to recognise that while information should not be kept unnecessarily out of the public domain, a balance must be struck. In order to safeguard sensitive methods and sources and to ensure that the secret intelligence agencies stay secret, some of that oversight must take place behind closed doors.

The intelligence agencies need oversight and scrutiny, but they need to operate in the real world as it exists today. We may not have caught up with this real world, but this can be no excuse for them because, ultimately, the lives of our fellow citizens depend on the intelligence agencies catching up with the real world, and as I said, thousands of lives have been saved. So they require scrutiny and supervision, but they also need our understanding and support in the vital work they do for this country.

3.11 pm

Lord Strasburger (LD): My Lords, I thank the noble Lord, Lord Soley, for initiating this important debate. Let me start with two tributes. First, I pay tribute to our security services which do an excellent job of keeping us safe. My second tribute goes jointly to the American whistleblower Edward Snowden and to the *Guardian*, which has published his astonishing revelations. Both have been brave and highly responsible—all but one of the *Guardian* articles was approved in advance by the Government—and were it not for them, we and the rest of the world would still be in the dark about what the NSA and GCHQ are up to.

This scandal, for that is what it is, is not the fault of GCHQ, which naturally will grab all the tools it can until it is stopped. The blame falls on those in this country and in America who should have been watching over the spies. In the UK, I am talking about the Cabinet in this Government and the previous Government, the National Security Council and the Intelligence and Security Committee. These bodies are supposed to oversee the security services. It is their job to ensure that the British people are not only safe but that their privacy is protected and that intrusions into our private lives are proportionate and justified. In the case of GCHQ's Project Tempora, they have all failed miserably.

The only way such highly intrusive powers can be granted in a democracy is with the informed consent of the people, via Parliament. Parliament was certainly not informed about Tempora, nor has it given its

consent. We parliamentarians knew nothing about the way GCHQ was helping itself to the private data of every citizen until the *Guardian* exposed it. The Cabinet, the NSC and the ISC have all been asleep at the wheel while GCHQ ran out of control.

The ISC, which has the most intimate access to the security services and should have known what was going on, lacks resources and the skills needed to understand the technologies being used. It has clearly failed to ask the awkward questions it should have been asking. The ISC must be unfit for purpose, even in its recently modified guise, and there are questions about its independence. Parliament should not have had to rely on a whistleblower to reveal Tempora's massive abuse of power.

Furthermore, the Home Office has deliberately ensured that Parliament is kept in the dark. Last year, I sat on the Select Committee on the draft Communications Data Bill, under the very able chairmanship of my noble friend Lord Blencathra, and listened to Home Office officials repeatedly justify the Bill by adamantly asserting that there was a 25% shortfall in the communications they could collect and that this gap was hampering the fight against terrorism. At no time did they disclose, not even in the two private sessions, that for years GCHQ has been collecting far more data than that Bill would have given it and that there is no shortfall. That deliberate deception of Parliament is an affront to democracy, and those officials should be seriously considering their positions.

So what needs to happen now? First, there needs to be a vigorous public debate about what we are prepared to allow our security services to do and the boundaries of their reach into our private lives. I hope that the outcome would be permission for intrusive and up-to-date powers of interception for the police and security services where there are convincing grounds for suspicion of serious crime. Equally there needs to be a strong prohibition of mass untargeted surveillance of ordinary, innocent citizens. There will be a need for new legislation to replace RIPA, which was full of deliberate loopholes when it was written and is now hopelessly out of date. There needs to be very strong and sceptical oversight which reports directly to Parliament and has the necessary resources and skills and real teeth. Most of all, we need a sea change in the Government's approach to the trade-off between liberty and control.

The Snowden cat is out of the bag. He has 58,000 secret documents, and so far the *Guardian* has published excerpts from just 17 of them. There must be much more to come. It will no longer do for the Government to sit Canute-like on the beach while a tsunami of further revelations engulfs their old policy of sticking their fingers in their ears and muttering that they do not discuss security matters. They must stop trying to shoot the messenger by attacking the *Guardian*. They must also stop pretending that Britain has the best oversight of its security services in the world when that oversight has spectacularly failed to spot and prevent intrusive surveillance of every citizen without Parliament's knowledge and consent.

Our Government must now engage in the public debate about what spying the people will or will not tolerate—a debate that has been happening for some

time in America, from the President down, and also in France and Germany. The status quo is no longer an option. It is time for the Government to engage fully in the debate.

3.17 pm

Lord Foulkes of Cumnock (Lab): My Lords, I, too, congratulate my noble friend Lord Soley on obtaining this debate. Like him and my noble friend Lord Reid of Cardowan, I admire the work of the intelligence and security services. They have averted substantial terrorist threats and, unlike the noble Lord, Lord Blencathra, I think that is of national interest. I also understand and agree with what my noble friends Lord Reid and Lord Soley said about the challenges of new technology. However, I will follow what the noble Lord, Lord Strasburger, has just. Some recent reports have shown the inadequacy of the scrutiny of those services by the Intelligence and Security Committee as currently comprised. That is what I want to concentrate on in my few remarks today.

I am not surprised, frankly, at what has happened. For four years, I served as the only representative of this House on the nine-person committee and experienced some of the difficulties of scrutinising the intelligence and security services. I had some radical ideas and some changes to propose and managed, along with others, to persuade the Government to increase the number of committee members from this House to two. I was surprised, although maybe I should not have been, that I was summarily removed from the committee by the coalition. What was even more disturbing was that no Labour Peer was appointed by the Prime Minister in my place—no Labour Peer served on that committee. I have great admiration for the many qualities of the two Peers appointed. However, I doubt if my old friend, the noble Marquess, Lord Lothian, and the noble Lord, Lord Butler, a former head of the Civil Service, have at the top of the list of their qualities a reputation for radical and challenging questioning. In fact, two more stalwart pillars of the establishment would be very hard to find.

The ISC is, as I understand it, being reconstituted and is to become a joint parliamentary committee rather than a committee appointed by the Prime Minister. However, I must say, with respect to the Minister, that the secrecy surrounding the way in which this committee is to be constituted would do MI6 proud. It is not the open procedure that Parliament ought to have. Can the Minister, in replying, clarify exactly what the composition of the committee will be, how it will be appointed and how it will operate? My view is that, like any other Joint Committee, the House of Lords should have roughly half of the members, especially as we are going to be bearing half of the cost. I suggest that the size of the committee might be increased to 11 members, with five from the Lords and six from the Commons. The latter would include the chair, who should be a member of the opposition party, like the chair of the Public Accounts Committee, to give the committee greater credibility. I have great respect for the current chair, Sir Malcolm Rifkind—I have known him for 50 years, since he was young man—but, to be honest, it does not instil confidence among the public and in Parliament that the committee will undertake

radical and effective scrutiny when you have someone in the chair who has so recently been Foreign Secretary and had those kind of responsibilities himself.

In order to ensure that the committee is seen as effective and impartial, the members of the committee need to be chosen by as democratic a procedure as we can possibly devise. We are not the most democratic House, but at least we can try to work on some kind of democratic procedure so that the members are accountable to both Houses. I am asking the Minister to cover this in his reply, but suggest that if we had five Peers, two might be chosen by the Labour group, two by the government parties and one by the Cross-Benchers. They would have an opportunity to report back to the groups on what is happening and what their experience has been. Of course, it is up to the Commons to decide how its members are chosen, but I hope there would be some degree of accountability.

Further changes are of course needed in the operation of the committee. For example, when I was on the committee, we had no staff to carry out investigations. We were not allowed to appoint staff to go into the departments and carry out investigations on our behalf. Previously, the committee had an investigations officer, but that was stopped by the Government because, no doubt, he was investigating too much. The committee needs some capacity in that respect.

The changes in membership should be made first. For the committee to have some credibility, it needs to have some accountability. I hope that the Minister will give noble Lords a clear indication in his reply that there are going to be changes in the constitution, composition and operation of the Intelligence and Security Committee. If we do not get those kinds of assurances, some in the media and among the public will continue to take that view that somehow, in some ways, the Government have got something to hide.

3.23 pm

Lord Judd (Lab): My Lords, I join other noble Lords in thanking my noble friend Lord Soley most warmly for having had the courage to initiate this debate. If anything has been established in the very important deliberations so far in this debate, it is that there is a need for a proper, full debate, and a much wider public debate, about the issues at stake. If nothing else, my noble friend is to be congratulated on that.

I should say at the outset that I have, of course, been a Defence Minister and a Foreign Office Minister. I was a Defence Minister in the days when we had service Ministers, and I was very proud to be Minister for the Navy. As such, I was regularly briefed by the head of intelligence in the Navy, who was a very enjoyable admiral, so it was a good conversation. I shall always savour the day on which he came to see me with his briefings and said, "Minister, I think I ought to let you know that the head of the Russian Navy is describing you as Cold War Warrior Judd". I am not sure that that would be immediately recognised by all my colleagues and the rest, but I will always savour that occasion.

I grew up in a non-conformist Christian family, and one of the realities of growing up in that kind of culture was that from a very young age I was encouraged

[LORD JUDD]

to realise that, whatever I might do with my life, God knew everything. My theological thinking has rather moved forwards since those days, but I do not think that at any point in my evolution have I seen GCHQ or the NSA as God. That is the point. God was there as a moral balance in life. He was your conscience. There is immense power in the hands of these authorities now, but no one—including, I believe, most of those working in them—would begin to believe that they are the moral authority of the world; they are there to preserve security.

I have been convinced for a long time that if you make a hard analysis of the threats that face us as a nation, the combination of terrorism, the fact that small numbers of people can do terrible things and the increasing accessibility of the material for mass destruction is a nightmare. One only has to think of the whole business of germ warfare, crude nuclear weapons and the rest to imagine what could happen. If I have one comment for the noble Lord, Lord Blencathra, after his very powerful speech, it is that I am not quite sure how he comes to his conclusion in the equation he put before us, because I do not think that it is just a matter of more localised, small incidents or nuclear war. I think that there is a whole gradation in between and that the real dangers lie in that area. That is why intelligence is indispensable. For a long time, I have felt that our security lies very much in the realm of intelligence and in ensuring that it is properly staffed and properly resourced.

Therefore, going back to my point about God, if I may, it is all the more important that everyone can be certain that in the leadership of the intelligence agencies there are people committed, second to none, to the principles of liberal democracy and freedom that they are defending. It is important that that commitment and understanding permeates the whole organisation and that the internalised culture is that what it is doing is defending freedom, democracy and a decent society. That is a terribly easy thing to say but a terribly difficult thing to achieve.

I believe that we need to look very hard at the criteria for selection in the intelligence services, the training and the leadership at all levels. Otherwise, the excitement, the intoxication and the challenges of the task could become dominant; there is also the danger of counterproductivity.

I emphasise that, like others who have spoken, I believe this country owes a tremendous tribute to the courage and dedication of the overwhelming majority of people working in the security services and what they do on our behalf. I believe, therefore, that it is our duty not only to scrutinise, which we are doing today, but to stand firmly by those who have this concept of responsibility and of what they really are there to do. We must deal very severely with those who abuse that task or who indulge in things that I believe could ultimately be described as treason. Extremists work best when there is a culture of sympathy. We must never allow things to happen which accentuate that culture and which introduce more doubt among thinking people, thus opening up the opportunity for extremists to recruit and to strengthen their cause, and I am afraid that we are in danger of that happening.

3.29 pm

Lord Rosser (Lab): My Lords, I add my thanks to my noble friend Lord Soley for securing this debate. It is timely as today, as my noble friend Lord Reid of Cardowan has graphically pointed out, is the first public hearing for the Intelligence and Security Committee in front of the cameras with the intelligence chiefs. Of course, it is timely also because of the recent spate of stories in our national press about some alleged activities of our intelligence services that has raised the issue of oversight and the effectiveness or otherwise of current legislation.

There have already been significant changes in legislation over the past year or so relating to the Intelligence and Security Committee. These have led to the committee reporting not to the Prime Minister of the day but to Parliament, which also now has the final word on who will be the members of the committee, and to the committee in future choosing its own chairman from among its own members rather than that being a decision for the Prime Minister.

The Justice and Security Act 2013 now requires the intelligence agencies to respond to requests from the committee for information and to provide the information that it is seeking. Previously, the agencies could decline to give the information requested. Included in the information that now has to be provided if sought is that regarding nationally significant operations. The committee is also now in a position, which it was not before, to send its staff into GCHQ, MI5 and MI6 to look at papers and files that relate to an investigation that it is undertaking, and it is for the committee and the staff concerned to decide what it is they want to see. Those are significant recent changes as far as the powers of the ISC are concerned.

In addition, we have the two commissioners, the Intelligence Services Commissioner and the Interception of Communications Commissioner, with responsibilities for overseeing the performance of the agencies, including GCHQ, under Parts 2 and 3, and under Part 1 of the Regulation of Investigatory Powers Act respectively.

My noble friend Lord Soley referred to the advances in technology and the way in which the speed of technological innovation can quickly overtake Acts of Parliament set up to define the limits of surveillance. As I understand it, the Intelligence and Security Committee intends to conduct an investigation into whether the Human Rights Act, the Regulation of Investigatory Powers Act and the Intelligence Services Act, and the interaction between them and the policies and procedures that underpin them, remain relevant with regard to the balance between security, liberty and privacy, given the significant advances in technology over the past few years.

An investigation of that nature is important, and we also need to be sure that the oversight arrangements are operating effectively, and are such—and remain such—as to inspire public confidence that what our intelligence and security services are doing is what they should be doing and are authorised to be doing, and is proportionate, not what they may have the capability of doing, which is something else. Co-operation is vital in the field of intelligence gathering, not least in the sharing of information with friendly

countries and allies. Any activity that calls into question that trust could have serious security implications.

At a political level the intelligence agencies are ultimately responsible to the Prime Minister, but on a day-to-day basis it is Secretaries of State who are expected to balance national security considerations against the need to protect against an intrusion on individuals' right to privacy. In the House of Commons on 10 June this year, the Foreign Secretary said that ministerial oversight and independent scrutiny was there as well as the scrutiny of the Intelligence and Security Committee, and that,

"the idea that operations are carried out without ministerial oversight, somehow getting around UK law, is mistaken".—[*Official Report*, Commons, 10/6/13; col. 37.]

Opening e-mails or tapping a phone requires a warrant in the United Kingdom, and effective legislation and oversight arrangements should ensure that that is what happens. However, in the light of the Foreign Secretary's statement that the idea that operations are carried out without ministerial oversight is mistaken, will the Minister confirm that that statement also covered any operations that may be conducted by or with the knowledge of our agencies outside the UK, whether in relation to United Kingdom bodies or citizens or to bodies or citizens of other countries?

We all recognise the importance of the work that our intelligence and security services undertake in protecting us against criminal and terrorist activity, international cyberattack and international global terrorism, and in ensuring our national security. We also recognise the reality that nearly all operations that have foiled a terrorist plot in this country in recent years have been dependent on information from communications data. I suspect that we will never fully appreciate or understand the debt we owe to our intelligence and security services since, for obvious reasons, the detail about what they do and how they do it cannot be in the full public domain.

It was Sir David Omand, a former head of GCHQ, who said that democratic legitimacy demanded that where new methods of intelligence gathering and use were to be introduced, they should be on a firm legal basis and rest on parliamentary and public understanding of what is involved, even though the operational details of the sources and method used would normally need to remain secret.

A number of issues and concerns have been raised in the debate, not least by my noble friend Lord Soley, who also made some proposals for change. I very much hope that the Minister will go as far as he feels he can in responding to them.

3.55 pm

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): My Lords, I join other noble Lords in thanking the noble Lord, Lord Soley, for presenting this topic for debate, and I am grateful to all noble Lords who spoke so eloquently in this debate. I think that noble Lords will understand that, in line with the practice of successive Governments, I shall not comment on specific issues relating to the work of the intelligence agencies. I shall focus on the breadth and depth of supervision of the UK's intelligence agencies, and the fact that they are second to none

and—given recent reforms extending parliamentary oversight, of which this House is very much aware—fit for purpose.

Secret intelligence helps protect national security, tackle terrorists and stop criminals. But this does not mean the activities of the intelligence services go unchecked. Successive Governments have rightly introduced measures to ensure that the use of intrusive powers needed to obtain intelligence are governed by a strict legal and policy framework compatible with the Human Rights Act. This ensures that intelligence activities are authorised, necessary and proportionate, and provides robust statutory oversight.

Oversight starts within the intelligence agencies themselves, which enforce rigorous internal controls. Their recruitment and training procedures are designed to ensure that those operating within them can be trusted to do so lawfully and ethically. A culture of compliance with the letter and spirit of the law pervades everything they do. Noble Lords have rightly paid tribute to the work of those in the intelligence agencies. In their most recent reports, both the Intelligence Services Commissioner and the Interception of Communications Commissioner commended the integrity and professionalism of the agencies' staff.

In addition, of course, Secretaries of State are accountable to Parliament and the public for the agencies' actions. They take decisions on whether to authorise the use of intrusive powers by the intelligence agencies. Senior members of the judiciary are appointed as Interception of Communications and Intelligence Services Commissioners to oversee the process of authorisation of intelligence activity, which includes reviewing the decisions of Secretaries of State and reporting to the Prime Minister on their work.

Several honourable Members in the other place recently urged the commissioners to play a more visible role. I agree. Oversight must be seen to be effective. That is why, as noble Lords mentioned—indeed, the noble Lord, Lord Reid of Cardowan, gave us an up-to-date briefing on what was going on down the other end—the Intelligence and Security Committee is, for the first time, holding an open evidence session with the three heads of the intelligence agencies. It is because of this landmark occasion that the noble Lord, Lord Butler of Brockwell, as a member of the ISC, told me that, contrary to his wish, he would not be able to participate in today's debate. However, we should remember that so much of the commissioners' work—and, of course, that of the ISC—involves extremely sensitive information and that there will be limits to what they can responsibly report on publicly.

Separately, the Intelligence and Security Committee examines the policy, administration, past operations and expenditure of the intelligence agencies. Noble Lords will remember that earlier this year the Justice and Security Act significantly reformed and strengthened the committee's powers. As a result of that Act the intelligence agencies are more accountable to Parliament and no longer have the ability to withhold information from the ISC. The new ISC has a broader remit, extra powers to consider past operational activity, and twice the resources. Those reforms were not conjured from thin air but followed public consultation on the best

[LORD TAYLOR OF HOLBEACH]

way to modernise judicial, independent and parliamentary scrutiny of the intelligence agencies, while allowing them to get on with keeping us safe.

The noble Lord, Lord Foulkes of Cumnock, asked what the composition of the ISC will be and how it will be brought together. I can say that with the new appointments process, although the PM nominates the members after consultation with the Leader of the Opposition, Parliament will appoint the ISC. The reforms in the Justice and Security Act mean that the ISC will itself select its chair. Should the committee wish to nominate a member of the Opposition as the chair, it will be free to do so. I hope that that will reassure the noble Lord.

Lord Foulkes of Cumnock: I am grateful to the Minister for that. However, can he clear up the point I raised about the balance of membership between the two Houses? As I understand it, we are being required to provide 50% of the running costs. We are also used to Joint Committees of both Houses having roughly equal membership. Can he assure us that that will be the case with this committee?

Lord Taylor of Holbeach: If I sought to reassure the noble Lord, I might make a mistake. However, I will check that out and write to him. The noble Lord makes a very good point as a loyal Member of this House, and I hope that I will be able to give him a positive answer.

We have to give these new arrangements time to bed down and to prove their effectiveness. I am certain that the committee will succeed in giving Parliament and the public confidence that the Executive and the agencies are properly held to account. As the noble Lord, Lord Soley, said, the whole business of keeping legislation up to date is a matter for the House authorities, and he made an interesting suggestion about how we can keep pace with technical change. However, that is a matter not only for the Government but for the House authorities as well.

Supervision does not stop with the ISC. The courts provide an independent avenue for anyone who wishes to complain about intelligence activity. Anyone who feels that they have been subject to improper use of intrusive powers by the intelligence agencies can complain to the Investigatory Powers Tribunal, which provides independent judicial oversight. If it decides that legislation has been breached or human rights infringed, it can quash warrants, order the destruction of records and award financial compensation.

One need only look at the range of activity this year alone to see that the system works. The ISC has published reports on foreign involvement in UK critical national infrastructure, communications data, and GCHQ's alleged activity in relation to PRISM. It is now reviewing the tragic killing in Woolwich in May and will begin another review next year into intelligence legislation, which may assist with the point made by the noble Lord, Lord Soley. The Interception Commissioner is investigating reports related to interception following the Snowden leaks. A judicial review of the police's decision to stop David Miranda in August is currently being heard by the courts, and

the independent reviewer of terrorism legislation—David Anderson QC—will then report on the police's use of terrorism powers in that case.

The Investigatory Powers Tribunal is considering several cases arising from the Snowden leaks that have been brought by parties including Liberty and Privacy International. If these investigations and legal cases lead to criticisms, recommendations for change, or adverse judgments, the Government will listen, reflect and respond. This is how effective oversight works, and this is how we can best ensure that Parliament and the public can have confidence in the work of intelligence agencies while protecting the secrets that need to remain secret.

I will now comment on some of the points made by noble Lords in the course of the debate. I welcomed all the contributions, which were good. I do not necessarily share the views of my noble friend Lord Blencathra on the proportionality of different levels of terrorism. I thank the pre-legislative Joint Committee on the draft Communications Data Bill, which did Parliament great justice in its scrutiny. The ISC undertook similar scrutiny of that Bill; it took evidence from the intelligence agencies and was briefed on GCHQ capabilities in this area. From its informed position, it considered there was still a communications gap requiring legislation. The noble Lord, Lord Reid of Cardowan, paid right and proper tribute—

Lord Reid of Cardowan: Given the Minister's accolades for all the work done by both the ISC and the committee of the noble Lord, Lord Blencathra, can he tell us what has happened to that Bill? What is the blockage?

Lord Taylor of Holbeach: I do not think that there is a blockage, but I think it is sensible that we reflect on the two committees' contributions to the legislation. No doubt the Government will bring forward legislation in due course to cover the gap that was detected in our ability to handle modern communications.

Lord Reid of Cardowan: I am grateful, but given that a gap has been identified, that means there is a gap in counterterrorism, surveillance and national security. Can the Minister explain why it is taking so long to reflect on that, when so much work has already been done? Will he comment on the suggestion that the blockage is actually the Deputy Prime Minister?

Lord Taylor of Holbeach: I think that the noble Lord is being a little mischievous on this particular issue. Heaven forbid that he should be so. He knows the background against which the issue is being debated. All I can say is that the challenge to be effective in the real world, and maintain a proper balance, is what the Government are seeking to do. That is why we are so supportive of having proper scrutiny of the security services. I have been interrupted. I hope noble Lords will forgive me, but I must rush because otherwise I will run out of time.

I reassure my noble friend Lord Strasburger that the ISC has very much increased resources, and is now responsible not just to the Prime Minister but to Parliament itself. The communications data gap relates to what is happening in the UK. GCHQ is a foreign

intelligence-gathering agency, and this is its core mission. The Communications Data Bill focused on the communications gap in this country.

The noble Lord, Lord Judd, made one of his usual passionate contributions. I noted his call for a longer debate on these issues. I would welcome this. However, the shortage of time has not inhibited noble Lords in the expressiveness of their contributions.

I thank the noble Lord, Lord Rosser, for his contribution. It is not technical capacity that governs intelligence gathering but the need for intelligence. I cannot comment on the Foreign Secretary's statement applying to overseas activities, but all of GCHQ's work is carried out in accordance with a strict legal and policy framework which ensures that its activities are legal, necessary, proportionate and targeted. I hope that we can say that of all the activity that is done in our name by these important parts of our national security apparatus.

Armed Forces: Legal Challenge

Motion to Take Note

3.50 pm

Moved by Lord Faulks

To move that this House takes note of the case for protecting the armed forces from vulnerability to legal challenge.

Lord Faulks (Con): My Lords, it is entirely appropriate that today, as we approach Remembrance Sunday, we should be discussing the Armed Forces. The subject of the debate is their vulnerability to legal challenge or what is sometimes described as the increased juridification of military conflict.

It is an enormous privilege to bring the debate to your Lordships' House. I am conscious of the fact that included in the list of those to speak in the debate are noble and learned Lords, noble and gallant Lords, and others with real experience of the issues which this debate involves and who can enlighten your Lordships' House. I, on the other hand, am a mere lawyer. To be more specific, I am a barrister who has spent a considerable amount of the past 20 years of my professional life patrolling the borders of the law of negligence, acting for public authorities, the emergency services and professionals—but not the Ministry of Defence. I was also special adviser to the Department of Constitutional Affairs on the compensation culture.

The law of armed conflict is well established. It is no part of my argument today that we should be resiling from the Geneva convention or any other of our humanitarian international obligations or that war should in any way be a law-free zone. However, what concerns me and many others is the encroachment of our national law into the way our Armed Forces conduct themselves. The law of negligence in particular is far better suited to civilian life, such as accidents at work, or events that take place in a controlled environment, or at least one capable of being controlled.

The recent publication by Policy Exchange of *The Fog of War* provides a penetrating analysis of the way in which the law has developed and reaches the conclusion that,

“recent legal developments have undermined the Armed Forces' ability to operate effectively on the battlefield”.

If this is correct, we must question whether it is time for a change in the law.

Many noble Lords will be aware of the Supreme Court's decision this year in the case of *Smith v Ministry of Defence*, in which, by a majority of four to three, the court concluded that the claim should go to trial so that a judge could decide on the evidence whether the claims were covered by the doctrine of combat immunity, or could give rise to a claim based on the Human Rights Act. There are a number of reasons why I will not go into the detail of the facts of the case. First, it is not concluded. Secondly, it used to be a convention, not sufficiently honoured, that Parliament did not criticise judges. Thirdly, whatever the law should be, those who brought these claims have suffered bereavement or serious injuries and can only have our profound sympathy. Finally, even those like me who are alarmed by the implications of this judgment could not but admire the detailed and thorough analysis of the issues contained in the speech of the noble and learned Lord, Lord Hope, who spoke for the majority in the case.

However, the issues of principle which arise from that case are important and should be debated. Are judges to blame for the current situation? It is undoubtedly the case that the approach of the courts to difficult questions of immunity from claims has changed. For example, in *Hughes v National Union of Mineworkers* in 1991, the Court of Appeal decided that police officers who were quelling serious public disorder should not be liable for negligence on public policy grounds. The decision stemmed in part from the case of *Hill v the Chief Constable of West Yorkshire* in 1988, in which the House of Lords Appellate Committee decided that the police were immune from claims in negligence for failing to catch the Yorkshire Ripper, albeit that they may well have made mistakes which, if avoided, could have saved the life of the last victim or victims of Peter Sutcliffe.

The law in relation to combat immunity is judge-made. It was explained most recently in the cases of *Mulcahy* in 1996 and in *Multiple Claimants v Ministry of Defence* in 2003. It is not a neat and tidy area of the law. Its scope seems likely to be very closely confined in the future. It must be acknowledged that rather few of our judges have served in the military, whereas in the post-war period almost all would have done so. But this does not explain entirely the opening up of the law. Sir Alan Moses, in his thoughtful preface to *The Fog of Law*, suggested that the expectations of the public in terms of the care which should be taken in ensuring the safety of the military was a significant factor in judges' thinking and that they probably reflected what much of the general public might think about the issue.

Another explanation is provided by Professor Anthony Forster, who points to the fact that recent developments have been,

“wars of choice rather than wars of national survival”.

One of the difficulties in the *Smith* case and its predecessors was the question of where so-called battlefield immunity begins and ends. There is no obvious reason

[LORD FAULKS]

why a common or garden accident which takes place at a training establishment should be any different from one that happens in an ordinary factory environment, although this may not apply to some of the more extreme forms of training which are necessary to be ready to fight in theatre. But if the doctrine of combat immunity is insufficiently precise for judges' tastes, the effect of the Supreme Court finding is that a court will then have to examine in detail whether there was fault and, if so, whether that fault fell one side or another of the rather uncertain line which defines combat immunity or, as the Supreme Court preferred, whether it would be fair, just, and reasonable to conclude that no duty of care was owed.

In practice, this means a trial with witnesses having to justify their decisions and actions. I have recently been acting for the fire brigade in a case in which it was alleged that the incident commander was negligent in fighting a major fire in which firefighters died. It was suggested to him that the fire should not have been fought at all or that he should have ensured the evacuation of firefighters much earlier. Watching him being told that he was responsible for the death of his comrades who were close friends was an unedifying experience. That is what will happen with the military even if the case ultimately results in the exculpation of those concerned. I am driven to agree with the noble and learned Lord, Lord Mance, who gave a minority judgment in *Smith*. He said that the approach taken by the majority,

“will in my view make extensive litigation almost inevitable after, as well as quite possibly during and even before, any active service operations undertaken by the British Army. It is likely to lead to the judicialisation of war, in sharp contrast with *Stark J's* dictum in *Shaw Savill* (1940) that ‘war cannot be controlled or conducted by judicial tribunals’”.

One of the lawyers who is acting for a number of claimants in this rapidly growing field—and it is growing fast—was quoted as saying this in the *Times* on 19 October of this year:

“The court is the best place to decide these very difficult issues”.

I could not agree less. The studied calm of the Royal Courts of Justice, with vast numbers of documents and the luxury of time in which to consider issues, not to mention the benefit of hindsight, is a world away from the field of military activities. No fog, my Lords, in Court 12. Barristers like me, whose experience of military matters is restricted to an undistinguished period in the combined cadet force at school, will be seeking to second-guess military commanders facing life-or-death decisions based inevitably on less-than-perfect intelligence and almost certainly on less-than-ideal equipment at any one time. I am afraid that it is simply not enough to suggest that the courts can, in each individual case, sort out what is a purely policy matter, and therefore not capable of review by the courts, from a matter that crosses the boundary into combat immunity. The very process of deciding those issues will involve challenging military decisions on procurement, tactics and deployment, whether on a macro or micro scale. The noble and learned Lord, Lord Mance, is surely right.

We are thus entering a period where there is a risk that military decisions will be questioned and thus potentially affected by the decisions of judges. Civil servants are told to consider, when doing their work, to have regard to the hypothetical judge on their shoulder. Our Armed Forces will have such a judge with them, to paraphrase Winston Churchill, on the sea and in the oceans, in the air, on the beaches, on the landing grounds, in the streets and in the hills.

How does the Human Rights Act help? Clearly, the Strasbourg Court is not the appropriate venue in which to decide matters of fact and judgment. However, it is possible that the European Court of Human Rights may decide that any restriction on the liability of the Ministry of Defence potentially or actually violates Article 2 of the convention—or some other article, possibly Articles 3 or 8. I have real difficulty in understanding what Article 2, the “Right to Life”, really means in the context of armed conflict. There is something strangely poignant when the mother of a soldier says to the press, after the decision in *Smith*, “Now all those soldiers have the right to life”. Perhaps that is the effect on the public's mind of the decision.

So what can the Government do about this? They can legislate to define combat immunity. They can consider reviving Crown immunity, something that is open to them under Section 10 of the Crown Proceedings Act 1947. They can legislate fully to exempt the MoD from corporate manslaughter and corporate homicide. They can derogate from the European Convention on Human Rights during deployed operations, as other countries have done. These are just some of a number of recommendations that Policy Exchange has put forward.

In answer to the noble and gallant Lord Craig of Radley, on 23 October, the Minister said that the Government were hoping,

“that the Court will provide clarification of combat immunity”.—*[Official Report, 23/10/13; col. 1003.]*

Whatever clarification is forthcoming, it will not be a solution to the problem that I have attempted to identify.

Nothing that I suggest should in any way derogate from the military covenant or diminish the Armed Forces Compensation Scheme, which provides compensation on a no-fault basis. However, to treat our brave men and women as subject to the assessment of the courts in the same way as a factory owner who has failed to fence his machinery is in my view highly inappropriate. The courts have given their response. It is not, in my judgment, the right one, and it is time for the Government and Parliament to respond.

4.03 pm

Lord Thomas of Gresford (LD): My Lords, I thank the noble Lord, Lord Faulks, for bringing forward this important debate. I declare an interest as the chair of the Association of Military Court Advocates.

The mood of this House in the debate on the prospect of military involvement in Syria demonstrated a response to public opinion which has become less enamoured of military campaigns. The public are hugely supportive of the lower levels of the Armed Forces but less confident of the political and senior

military leadership. There remains from the historic concept of Crown immunity a statutory power under Section 2 of the Crown Proceedings (Armed Forces) Act 1987 to prevent any proceedings in tort by servicemen and their families against the Crown altogether. It has never been invoked or brought into effect, no doubt because it would be political death for any Minister or his party to deny relief to the injured and bereaved arising out of the unpopular wars of choice in Iraq and Afghanistan. That power remains, however, as a backstop if this country ever again becomes involved in a general conflict with a large number of casualties.

Since there is currently no general immunity from suit, the Ministry of Defence must deal with actions, based on Article 2 of the European Convention, or on negligence at common law, brought by relatives of those killed, by injured servicemen, and by those who have been detained by British forces.

The Ministry of Defence has fiercely resisted the application of the European Convention on Human Rights in theatres of war. From my participation in the Baha Mousa case, I recall a brave officer in the Army Legal Service being reprimanded by a top civil servant in the MoD for daring to suggest that the treatment he observed in Basra of Iraqi prisoners—being hooded, hands bound, kneeling in the dirt—could amount to inhuman and degrading treatment in breach of Article 3. He was told, dismissively, by the MoD that, if he were right that the European Convention applied in Iraq, the Government should make him Attorney-General in place of the then Attorney-General who had advised otherwise.

It was the unanimous view of the Supreme Court in the Smith case that not only captured prisoners, but servicemen and women who have relinquished almost total control over their lives to the state, can claim the protection of the convention, even when serving outside the United Kingdom or Europe. The debate was about the scope of Article 2—that everyone's right to life should be protected by law. In what area is it fair, just and reasonable to extend the protection of that article to service men and women? It used to be common ground that matters of high policy and the exercise of political judgment in the use of resources were not justiciable, but nor were decisions taken by commanders in the heat of battle.

In claims based on negligence, the fallback defence of the MoD has been the ill defined concept of “combat immunity”—an exemption from tortious liability in the context of actual or imminent armed conflict. Its boundaries have not been settled, and it was held that this can only be determined on the facts as found at trial. The majority in Smith were prepared to countenance actions based on inadequacies of procurement, of training, and of material which have led to death and injury.

The purpose of the paper, *The Fog of Law*, published by Policy Exchange, is to criticise the very limited area of potential liability outlined by the majority in Smith. It seeks, in my view, to undermine the role of the judiciary by complaining of “judicial creep”. The authors argue that the commander in the field will be looking over his shoulder; they say that his ability to act with flexibility and determination will be threatened.

I consider that to be nonsense, in the light of the views expressed across the Supreme Court in the case of Smith.

The authors of *The Fog of Law* reflect the views of the Ministry of Defence as demonstrated in its very interesting study entitled, *Risk: The Implications of Current Attitudes to Risk for the Joint Operational Concept*, published in the *Guardian* on 26 September 2013. That MoD paper refers to the benefits which can accrue from a “who dares wins” approach to military action, an approach which will encourage individuals to accept risk. It requires positive action by the MoD to mitigate the effect of risk aversion, to preserve the utility of the Armed Forces, “by influencing those who might mistakenly place crippling restrictions on our actions”.

The study goes further, suggesting a series of changes in MoD thinking and practices, which include reducing the profile of the repatriation ceremonies. The Royal Borough of Wootton Bassett is clearly not its favourite town. It wishes to,

“reduce public sensitivity to the penalties inherent in military operations”.

“Penalties” is Civil Service speak for death and injury. Its future work, it states, is to collect evidence,

“to demonstrate the latitude offered by existing legal frameworks”.

Wittingly or not, the authors of *The Fog of Law* paper seek to provide that evidence. I consider *The Fog of Law* paper to be a wholly unjustified and over-the-top attack on the standards of justice which should protect those who volunteer for the armed services.

Recently, in September, before a judicially led defence department inquiry in Washington DC, I was proud to outline the leadership role the United Kingdom had taken, both in the courts and in the Armed Forces Acts passed by this Parliament, in applying the rule of law to the military sphere, not least in the revolution of its courts martial processes. A series of cases from Findlay onwards in the European Court of Human Rights led to changes that are welcomed not merely in the services but in the services judiciary. It would be sad to see the Ministry of Defence take a backward step.

It is certainly not the role of the judges to run the Army, but the decision in Smith is miles away from that. The days when our Armed Forces were effectively isolated and self-contained, standing slightly apart from public attitudes, as the MoD paper succinctly puts it, are well and truly over. In a competitive market, the services require recruits of sufficient number and quality to operate increasingly sophisticated equipment and to endure the harshest of conditions. They should have all such measures of protection against death or injury and all such guaranteed human rights as is fair, just and reasonable having regard to the inevitable risks they have volunteered to run. A democratic society demands no less.

4.11 pm

Lord Hope of Craighead (CB): My Lords, I must, of course, declare an interest as I was, indeed, the author of the decision in Smith v Ministry of Defence which has given rise to this debate. I appreciate very much that our decision has given rise to concern, so I very much welcome the opportunity that the noble Lord, Lord Faulks, has given us to examine some of the issues that the case has raised.

[LORD HOPE OF CRAIGHEAD]

When a judge writes a judgment, one of the rules that he has to work with is that the judgment must speak for itself. It is not open to him to add anything to it or to subtract anything from it once it has been issued, and it is not my intention to do that, nor would I wish to do so. However, I thought that it might help if I were to say a little about how the leading judgment which I wrote is designed and about what it says, as it is vital to any decisions about where we go from here that it should not be misunderstood.

As the noble Lord, Lord Thomas of Gresford, indicated in what he has just said, under our system it is open to anybody who believes that he or she has a claim of damages against a public authority to bring that claim to court. When that claim is brought before the court, the judge has to deal with it. There are two sides to every argument and the issues cannot be ducked, however difficult or uncomfortable they may be.

The claims with which we were dealing arose out of casualties sustained in two distinct phases of the United Kingdom's engagement in Iraq. The first was a friendly fire incident involving two Challenger tanks during combat operations on the fourth day of the offensive. The second involved the use of Snatch Land Rovers on two occasions during a period when our forces were exercising the powers of government for the provisional Administration in Iraq—assisting the civil power, in other words. These claims were brought under two distinct branches of our law. The claims in the two Snatch Land Rover cases are brought under the Human Rights Act for breach of a convention right. The Challenger friendly fire claims dealing with combat do not raise a human rights issue at all. They are brought under the common law only. The second of the two Snatch Land Rover cases has an additional case under the common law, too.

As for the human rights claims, we held that a decision of the Strasbourg court left us with no alternative but to hold that the protection of the right to life under Article 2 of the convention applies to members of the Armed Forces when they are serving anywhere outside the territory of the United Kingdom, as well as inside its territory. Of course, as has been pointed out, that raises the question of how that article was to be applied, in the situations that were described to us in these cases. The majority held that the court did not have sufficient facts to decide the issue for itself, so the Snatch Land Rover cases would have to go to trial. However, we gave as much guidance as it was open to us to give in paragraph 76 of the judgment. I said that the court must avoid imposing unrealistic or disproportionate obligations on the state in connection with the planning for, and conduct of, military operations in situations of armed conflict. It would be easy to find that the claims are beyond the reach of Article 2 when those thought to be responsible were actively engaged in contact with the enemy. In the Snatch Land Rover cases, it was not open to us to declare that the state had absolute immunity in these matters. The law with which we are dealing—human rights law, convention law—does not work that way, but we expected the trial judge to pay very close attention to the guidance which we were giving.

Under the common law claims, we first had to examine the doctrine of combat immunity, which has been referred to, because the MOD argued that all the common law claims should be struck out on this ground. As noble Lords have heard, the majority rejected that argument. But it is very important to note that the claims in the Challenger friendly fire incident—when it was plain that our forces were, indeed, engaged in combat—were not directed at those who were conducting the operations on the ground. Those who formulated the claims were very careful to direct their claims in a different direction. The complaints were of failures in training and the provision of equipment, which occurred long before the tanks crossed the start line. So the issue which has caused concern was not directly raised at all in the Challenger tank claims. The majority view was that combat immunity did not apply to things done or admitted to be done at that preliminary stage. However, it is crucially important to note—and I cannot stress this point too strongly—that we did not say that the doctrine of combat immunity no longer exists: it remains part of our law. The noble Lord, Lord Faulks, gave us a description of people engaged with the enemy on the beaches, in the air and in other situations. That is not what our judgment was dealing with, and there is nothing here which deprives commanders, and those serving under them in that situation, of that protection while they are engaged in combat.

The difficult question we were left with arose in the Snatch Land Rover cases and it was a different one. It was whether the immunity applies to what was going on in Iraq after the combat phase was over, when our troops were, as I have said, assisting the civil power, no doubt in situations of considerable danger. Here too, the majority held that the court did not have the information to decide for itself whether the claims should succeed. We did not rule out the possibility of applying the immunity, but the issue had to go to trial because we needed to know more—as will the judge—about the precise situation with which our forces were dealing at the time. In paragraph 99 of the judgement, I repeated the guidance given in paragraph 76 that, when considering the issue of what is just and reasonable, great care must be taken not to subject those responsible for decisions at any level who are engaged in operations of the kind that were being conducted in Iraq after the end of hostilities to duties that are unrealistic or excessively burdensome.

As the Minister has made clear on several occasions, the case is now in the hands of the trial judge. I suggest that it would be premature to draw any further conclusions until his decision is known. However, I hope very much that it will be appreciated that those serving in our Armed Forces, to whom we owe so much, are not as vulnerable to legal challenge as some people have been suggesting. As the author of the judgment, and as a former national service officer, I am greatly encouraged by the perception that the noble Lord, Lord Thomas of Gresford, has taken from it and the way in which he has appreciated the guidance we were trying to give.

4.19 pm

Lord Craig of Radley (CB): My Lords, I very much welcome the opportunity that the noble Lord, Lord

Faulks, has given the House to debate this topic, and I commend strongly his excellent speech.

For all my 40 years of service, service discipline, enforcement and review were the responsibility of the chain of command. Since then, service legal arrangements have changed to accord more closely with human rights legislation and the view that misbehaviour and crimes in the services should largely be judged independently of that chain of command. The services have adapted, but what concerns me more is that the Armed Forces Act and human rights legislation are potentially incompatible.

Only service men and women effectively contract with the state to make the ultimate sacrifice if required, backed by the Armed Forces Act to enforce discipline and obedience. No other public servant is placed in this position. To disobey a lawful command, even one that for operational reasons may place an individual at serious risk of injury or even death, is a criminal offence under Armed Forces law. But today or in the future will the commander be at risk of a charge under human rights legislation? I acknowledge that this has not yet happened and that today's commanders have been given assurances that the MoD would give them full support if ever it did. As has been mentioned, the Minister sought to reassure me, in answer to my topical Question following the Supreme Court judgment last June. He said:

"I do not expect it to be open to a soldier facing a charge of failing to follow orders to argue that his human rights trumped those orders".—[*Official Report*, 25/6/13; col. 657.]

However, could it not go the other way, when protracted legal hindsight is brought to bear on the heat and urgency of operational decisions?

In 1998, in concert with Lord Campbell of Alloway, I tabled amendments on Report and at Third Reading to exclude the Armed Forces from the Human Rights Bill. While acknowledging that the Armed Forces were a public body as defined in the Bill—now the Human Rights Act 1998—we argued that special considerations applied to Armed Forces personnel, who may be, and often are, treated differently by legislation. As I said:

"There are offences of conduct prejudicial to good order and discipline, of disobeying a lawful command, and so on, which have no direct parallel in civilian life. These are enacted because they underpin and are vital to the operational effectiveness and discipline of the Armed Forces. Without further elaboration, the conclusion is self evident. The Armed Forces may be, and often are, treated differently by legislation".—[*Official Report*, 19/1/98; col. 1354.]

The fashion of the time—remember we were not then engaged in major expeditionary operations overseas and the services were almost sidelined in the public mind—was to believe that civilian-style management rather than military-style leadership was what the services should adopt, particularly in peacetime. At Third Reading of the Human Rights Bill, the Lord Chancellor sought to assure the House. He said that,

"the Secretary of State for Defence takes the view that the Bill raises no issues which are special to the Armed Forces".

Later in his speech he said:

"I urge your Lordships to be of the view that the convention is a flexible instrument. It poses no threat to the effectiveness of the Armed Forces".—[*Official Report*, 5/2/98; col. 768.]

Since then numerous cases against the MoD have been brought under that Human Rights Act. The Lord Chancellor's reassurances have been frittered away, most spectacularly by the way that the Supreme Court findings last June were publicised. The court's view—albeit a minority one—that such cases were not suitable for resolution by a court seemed to be a ray of hope that could help inch the problem back to greater realism. The noble Lord, Lord Faulks, quoted the wording of the minority view, and it is worth repeating. It stated that,

"the approach taken by the majority will in my view make extensive litigation almost inevitable after, as well as quite possibly during and even before, any active service operations undertaken by the British army ... 'war cannot be controlled or conducted by judicial tribunals'".

Should that realism be translated into new legislation? There is a proper reluctance in some quarters not to try to make changes because of the variety of cases that are sub judice and because today's service men and women might be encouraged to believe that their rights were being eroded. Nevertheless, I remain concerned that there is a need to be proactive, not to await events only to find that the problem has become far more difficult and disruptive to the effective command and control of forces and personnel in operational situations.

The changes since the Human Rights Act 1998 and the assurances given then and the recent Supreme Court ruling show that this issue still has legs and will run and run unless remedies are devised and provided. This said, what proactive approach might be taken? The Policy Exchange think tank, which has been mentioned several times, argued in its study entitled *The Fog of Law* that such legal mission creep could paralyse the effectiveness of the military. It came up with seven options for tackling this problem. I floated two, Crown immunity and combat immunity, in my topical Question last month:

"Will Her Majesty's Government consider new legislation to define combat immunity? ... Could this be incorporated in the Defence Reform Bill now in passage through Parliament?".—[*Official Report*, 23/10/2013; col. 1003.]

Following further discussion, I now accept that this is not the right moment for primary or secondary legislation, although we should not ignore the public's present strong support for the Armed Forces. After withdrawal from Afghanistan, and in the absence of other major overseas adventures, that support will surely fade.

The quinquennial Armed Forces Bill, due in 2016, would, however, provide a vehicle for further legislation, giving time for preparation and avoiding prejudice to current sub judice cases. A proactive game plan must be the Government's approach. There needs to be a well resourced team charged with instigating study in academia and elsewhere to prepare the way. Waiting until something worse turns up before moving would be wrong and a deplorable failure of political and military leadership. I hope that the Minister will be robustly proactive tonight.

4.27 pm

Lord Hamilton of Epsom (Con): My Lords, I congratulate my noble friend Lord Faulks, who described himself as "a mere lawyer". I know him to be more

[LORD HAMILTON OF EPSOM]

than a mere lawyer; he is an extremely good one, and therefore he must be well aware that, with this debate, he is stepping into a serious legal minefield.

The report by Tugendhat and Croft, to which reference has already been made, has made it quite clear that they do not consider that the military should be in any way above the law. It does present us, however, with enormous problems. I am not a lawyer, but I would like to divide the two activities of the military into two separate categories. One I would describe as the heat of battle and the other is cold blood.

I will deal with cold blood first. I do not think there is any excuse for an armed serviceman to murder a helpless prisoner. I do not think that the brutal treatment of detainees who are completely helpless victims in the hands of those who are supposed to be looking after them can be defended in any way. I remain to be convinced that any serious intelligence got through torturing detainees has actually saved British lives. On top of that, we leave the moral high ground when we descend into this sort of behaviour, and, inevitably, it gets out. What is almost beyond doubt is that when this stuff does get out, the effect it has justifies the actions of terrorists to carry out even more atrocious acts which put British lives at risk. So, in the category of cold blood, I do not think that anything other than the ruthless application of the law should be applied.

The heat of battle, though, is very much more difficult. The problem is that the law deals in facts, it does not deal in context. Let us face it, the military are the only people who are in the business of actually having to kill people. That puts them in a unique position in our society. If a soldier shoots a civilian, and that civilian is subsequently found to be unarmed and going about his lawful business, it sounds as though he has committed an unforgivable act, but if the context is one of ambushes, sniper fire and suicide bombings, the whole context changes that act. We have to accept that the pressures our military have been under in Helmand province, for instance, where they are dealing with a population some of whom are more than happy to kill them while others are not, completely changes the context in which acts like that are carried out.

I remember reading in the paper about the US Marine Corps in Helmand a few years ago. Some US marines were watching a rather distinguished looking Afghan man standing some way away in a field. They had him in their binoculars and they were wondering what on earth he was doing. This went on for some time, but eventually, they gave up, saying, "We won't bother". One marine turned around to walk away, whereupon the man picked up a rifle and shot him in the back. If you are dealing with that sort of environment, it is extremely difficult to bring the courtroom into the actions that soldiers take in such circumstances. If you are on live round training in the military, where you walk down a theoretical alley and targets pop out all around, I have to tell noble Lords that it is very difficult not to shoot the nun straight through the head because your reactions have to be very quick, and sometimes people get it wrong.

With the wisdom of hindsight, the military could have avoided practically every disaster that has ever happened, but the problem is that good armies are trained to take the fight to the enemy. The British Army in particular specialises in the friendly approach of winning hearts and minds, but that does not come without risk, and it is certainly very difficult when you are dealing with people such as Afghans.

On a totally separate issue, I turn to the question of civil liability, I have to say that during my military career, comprising a rather undistinguished three years, I never heard a shot fired in anger. However, I was nearly killed twice while training in Thetford in Norfolk. The first time was when my platoon was acting as the enemy at night. I was running ahead, because the platoon was behind the rest of the battalion that we were supposed to be attacking, when I fell into a bomb crater. Very luckily, I turned completely head over heels and landed on my back at the bottom of what was really quite a deep crater. If I had not done so, I might have broken my neck and died. Later on in our training we were training with live rounds. I inspected the Bren gun of the guardsman who had been firing and it was clear. I walked forward. He put the magazine back on to the gun and pulled the trigger. Those who know about Bren guns will know that that means that the thing goes off. The butt of the gun was on the ground and the bullet went straight over my head.

Are we saying that, if I had been killed in either of those circumstances, it would have been right for my family to have sued the Army because of something it had done wrong? Come on, let us live in the serious world. My noble friend Lord Faulks compared training in the Army to the Factories Acts and so on, but I do not believe that life is like that. You have to train in reasonably extreme circumstances in the military, and you run risks when you do that. Regrettably, people die quite regularly when training with the British military. If they all sue because someone did something wrong and someone died, where on earth will we end up? It strikes me that we are moving into very difficult territory if we do that.

The noble and learned Lord, Lord Hope, referred to Snatch Land Rovers. We deployed Snatch Land Rovers not because we had much more sophisticated vehicles that we could have used instead, but because we had nothing else at the time. The military has a great habit of being equipped to fight the previous war, never the current one. Eventually Snatch Land Rovers were replaced, but the fact is that we did not have the option to use anything better. This is another thing that is almost inevitably going to happen with the military. On day one of any conflict, it is never going to have the right equipment to fight that particular war.

We have to be very careful that we do not go down the same road as the National Health Service, where everyone now sues if something goes wrong with the result that it costs the taxpayer hundreds of millions of pounds a year. It would be regrettable if the military suffered the same fate.

4.35 pm

Lord Guthrie of Craigiebank (CB): My Lords, I start with a blunt and basic point. For those who have not experienced active military service, it is difficult to

understand the pressures and friction of the battlefield. Decisions have to be taken by men who are under stress, often under fire, on the basis of incomplete information. Those decisions have to be taken quickly. Delay could mean death or defeat. In an office it is possible to come to a view, to seek advice, to make a couple of telephone calls and to reconsider. No such indulgences are possible when you and your men are in action. Armed combat is a unique activity. It follows that it must be governed by different rules.

This does not mean that armed combat is lawless activity. On the contrary, for centuries, men who fought were aware of some rules of chivalry, even if they were not always observed in modern times. The Geneva Convention and the law of armed conflict both attempt to restrain the brutalities of war. Service men and women are instructed early in their careers as to their responsibilities. There are limits. Let us not be squeamish: in combat, men are trying to defend their country by killing its enemies. It follows that civilian norms cannot apply. Things which happen on the battlefield are absolutely unthinkable in normal times.

If health and safety at work were to prevail on all occasions the Armed Forces would have to be disbanded. As for human rights, no right is more basic than the right to life. In combat, a soldier might be ordered to advance towards virtually certain death. Then there is a duty of care. All commanders do indeed have a duty to care for their men. They also have a duty to achieve their objectives.

That might all sound like common sense. I hope it does. In previous generations, that is how it would have been regarded. In the early stages of the Falklands War, when we started to suffer casualties, the then Prime Minister, Margaret Thatcher, was upset. It took her husband to comfort her, saying that that was the sort of thing that happened in war. He knew because he had been there and seen it. Denis Thatcher was right. Yet in recent years, common sense has often been brushed aside. Health and safety and the European Convention on Human Rights have both been imported into contexts where neither is really applicable. In effect, members of the judiciary has been brought into the front line of combat, where they really should not be as often as they are.

That is not the fault of the judges. I agree with all that the noble and learned Lord, Lord Hope, said. I blame successive Governments, who did nothing to prevent legal mission creep. They could on occasions have sought derogation, but they did not. Legal mission creep is dangerous. As a young officer about to lead your men into action, you do not know how long the action will take or when and whether you will come under attack. Many things are on your mind. You are already aware of Geneva Convention rules, and it is intolerable that you should also be burdened by the thought that in some months' time, your every action will be dissected by lawyers. That has happened in the coroners' courts from time to time.

If noble Lords wish to consider all this in more detail, I, too, recommend the *Fog of Law* pamphlet produced by Policy Exchange. One of the authors, Colonel Tom Tugendhat, was wounded in Afghanistan and knows what he is talking about. Whether we

disagree with it—and I do not—I believe that many hundreds of servicemen and servicewomen support what he says. That is what they feel.

I am anxious, because we need our Armed Forces. I hear no sound of swords being hammered into ploughshares. We live in a dangerous world, in which our survival depends on the dedication of our Armed Forces, who are willing to embrace discipline, to confront danger and to do their duty at whatever cost and sacrifice. We have an exceptional national resource. However, legal mission creep and the fog of law on the battlefield put that in jeopardy. We cannot, and must not, arrive at a situation in which our soldiers are afraid to fight not because of the enemy—that day, I hope, will never come—but because of the lawyers back home, backed by legislation that is inappropriate for the battlefield.

The British public respect the military and are grateful for its efforts, which buoys up the soldiers. The problem arises with the politicians, the public representatives. If they are serious about preserving our military ethos, it is they who must act. I agree with all that the noble Lord, Lord Faulks, said in his introduction to the debate. We should think very hard about what our servicemen and servicewomen think. They are worried.

4.42 pm

Lord Bew (CB): My Lords, I thank the noble Lord, Lord Faulks, for securing this debate and for his excellent speech. I speak with some trepidation, not being a noble and learned Lord or a noble and gallant Lord. I am not even, as the noble Lord, Lord Faulks, put it, slightly whimsically, a mere lawyer. I speak as an academic, but as one who discovered, on reading the important and commanding academic article by Professor Anthony Forster in *International Affairs*, Vol. 88, on the process of juridification of armed conflict, that I had played a somewhat unwitting role in this process, as historical adviser to the Bloody Sunday tribunal.

Professor Forster lists a number of key moments in the period since I became an adult, over the last generation, in which one can see this process of the juridification of armed conflict. Some have already been referred to in our discussions, such as the Supreme Court ruling in *Smith* this summer, and the *Baha Mousa* case. However, he also mentions the Bloody Sunday inquiry, and what it tells us about changing attitudes, a number of times. He makes a very serious point: it is an obvious example not just of the way that the judiciary has become engaged in the process of the use of force by our soldiers but of how the concept of national interest has changed, in the sense that it was inconceivable for British Governments to formally challenge, in that way, the past use of our soldiers in conflict at a later date. The decision of the Blair Government in 1998 to reopen the issues dealt with by the *Widgery* inquiry in the early 1970s is an example of the way in which the traditional concept of national interest has changed, for good or ill.

Professor Forster's point in his article is that, emotionally and in a number of ways, our society's view of these questions is in the process of flux and change; I think this is indisputable. I remember being

[LORD BEW]

a student in Cambridge in 1972, when Bloody Sunday occurred, and there is no question that that day, when 14 innocent civilians were killed, is one of the least happy days in the history of the British Army. I remember watching the demonstration of students in Cambridge. I can see in my mind's eye the people in that demonstration, one of whom, for example, came to hold one of the highest offices of state. There is no question that, in this respect, our attitude as a society and the attitude of leaders, public opinion and so on has evolved.

In some respects, the Widgery tribunal is often discussed a little unfairly. Lord Widgery actually said that a majority of those who died on the day were innocent—that has been forgotten—and the Army's response to discovering his view was one of being disturbed. However, it is hard to avoid the sense that the structure of feeling surrounding the tribunal was very different from the structure of feeling that we have today. It has already been referred to by noble Lords that, in the post-war period, judges themselves had often served in the military, as had Lord Widgery. A key issue in the Bloody Sunday tribunal was the role of the general in Northern Ireland, General Ford, who had been a very brave soldier at the D-day landings. It is almost inconceivable that these recollections and emotional associations were not in Lord Widgery's mind when he considered the issues posed by Bloody Sunday; it is humanly inconceivable.

We have now moved into a very different world. Lord Justice Moses refers to this in the introduction to the Policy Exchange pamphlet that has been referred to a number of times during this debate. He talks about remembering, as a boy, cases coming up before a judge where a burglar comes into the court, puts on his regimental tie and medals and the judge regretfully looks at him and returns half the merited sentence for the crime. This world has gone completely; it is not to return. I know that and Professor Forster knows it. We know that the Widgery tribunal inquiry was inappropriate and inadequate. He states clearly that he has no regrets about being an historical adviser to the new tribunal. It is not a question of trying to create a context in which the Armed Forces operated outside civilised standards. Politically we have to be aware of the fact that, in the wars of choice that have been referred to in recent times, as the fundamental ideological justification of these wars has been the defence of human rights, it is all the more important that our Armed Forces are perceived to behave properly in context, as far as possible, with obligations to human rights.

However, we have reached a fundamentally unstable point. I listened with great interest today to the words of the noble and learned Lord, Lord Hope. I do not want to be misunderstood. There is an argument about whether the four were right in the Supreme Court, whether the three were right in the Supreme Court, and whether there were exaggerated fears out of the ruling that came from the majority on the Supreme Court. I understand that argument and I am extremely grateful to the noble and learned Lord for the way in which he explained the position with great clarity today. However, the real problem is that we are

on a slippery slope once we move to a rights-based jurisdiction, away from the unproblematic concepts of national interest and the relationship between the state, the judiciary and the Armed Forces that existed a generation ago when I was a young man. We are now in a new place. Indeed, Professor Forster says at the end of his piece that once you move away from those concepts to rights-based arguments, because of the difficulty of reconciling and aligning competing rights, the context is always unstable.

That is why, despite the hints that come from on high, there will be no end to litigation on this subject; the floodgates are absolutely open, despite the hints that people perhaps misunderstand the full implications of the ruling of the majority in the Supreme Court. That is why, like the noble and gallant Lord, Lord Craig, I was attracted to the argument on the question of Parliament looking again at combat immunity. Perhaps the noble and gallant Lord is right to believe that this is not the right step at this moment, although there are other steps that Parliament might consider taking. However, what is certain is that there is no stability in the place that we have currently reached, and we owe our Armed Forces that stability.

4.50 pm

Lord Freeman (Con): My Lords, I join colleagues in congratulating the noble Lord, Lord Faulks, on an excellent speech. I find myself in complete agreement with his contribution to this important debate, and my remarks would march very much in time and in tune with what he said.

I want to make what some noble Lords might feel is a rather narrow point, but for me it is very important: the impact of the uncertainty that has been created on the major challenge that we face in increasing our Reserve Forces, particularly the Army reservists. Twenty years ago we had something like—my noble friend Lord Trefgarne will confirm this—50,000 reservists. That fell to 15,000 only quite recently.

Lord Trefgarne: My Lords, we aimed for 83,000.

Lord Freeman: I defer to my noble friend on the statistics. Now, however, we are looking to increase the numbers to something like 35,000. The uncertainty that has been created by this discussion, however erudite and legal, is causing problems already. I say this as president for the past 10 years of the Reserve Forces Association, and the questions that I get—few at the moment, but they will gather speed and pace—about the liability of reservists who are serving abroad alarms me, and gives me concerns about our ability to reach our target of recruitment over the coming years. It is rather poignant that today the MoD has sent out a call for 1,500 extra reservists for service abroad, principally in Afghanistan.

I make a plea to the Minister and, through him, to his Secretary of State to come to a conclusion fairly quickly. I appreciate that the advice Ministers are receiving is, "Let's wait and see what the results are of the lower court's consideration of the issue"—the noble and learned Lord, Lord Hope, referred to two present cases. We cannot wait too long; we need clarification on this issue. I for one, and I dare say a number of noble Lords on this side of the House,

would probably favour taking clear action on the Convention on Human Rights and disallowing it in relation to the activities of the Armed Forces, not just on the battlefield but in planning and preparation for conflict.

I look forward to the Minister's response and hope that we can clarify the situation so that this major task of increasing our reservists can be done in a slightly calmer fashion and we can allay their fears that they might be subject to litigation in the courts of the United Kingdom.

4.53 pm

Lord Ramsbotham (CB): My Lords, I, too, congratulate and thank the noble Lord, Lord Faulks, for obtaining this important debate, and in doing so say that I suspect that I speak for many members of all three Armed Forces. I also thank Nicola Newson for her quite excellent Library note, which sets out the arguments for and against legal challenge so clearly and fairly.

During my own Army service, I watched the advance of what the Policy Exchange calls "legal mission creep". I will begin my contribution by venturing that not enough note has been taken of one very good explanation for this—namely, that the nature of the active operations in which our Armed Forces have been involved has changed since the end of World War 2.

General Sir Rupert Smith, in his important book, *The Utility of Force*, refers to them as "wars amongst the people", because no longer are they between uniformed armed bodies of people fighting within geographically defined areas, but between a uniformed armed body of people and a number of un-uniformed, sometimes armed, people, who mingle with other un-uniformed, usually unarmed, people in the places where they live. Therefore the law of armed conflict and the Geneva conventions are not always applicable. During confrontation with Indonesia, my riflemen had to understand both what was allowed in combat with the Indonesian army when we were in Indonesia, and how to behave towards the inhabitants of that part of Sarawak in which we were based when looking for possible infiltrators.

Northern Ireland was different again. Traditionally, in what were called internal security operations, the police handed a situation over to the Army, who took the necessary military action, possibly including opening fire, after which they handed it back to the police as quickly as possible. Unfortunately, when the Army was introduced into the Province in August 1969 it was as policemen, the Royal Ulster Constabulary being exhausted. I have always regretted this, because of the problem it posed for our soldiers. They were expected to be firm, fair and friendly—like armed policemen—most of the time, but when military action was required they had to act within the law, and were told that if they did so in good faith, they had nothing to worry about. To guide us we all had to carry a yellow card on which the appropriate circumstances were printed. We also used what were known as "flying lawyers", who interviewed those involved in any incident, at the scene, before memories clouded over. But all that was before the European Convention on Human Rights.

However, it is my experience of European legislation that seems to me most relevant to this debate. When I was Adjutant General, or personnel director, I and my

Navy and Air Force opposite numbers were told that we had to introduce industrial tribunals into our service judicial systems. When I asked whether they came before or after the Queen, I was told that that was irrelevant, because the Bill bringing this European legislation into United Kingdom law had already had its First Reading. Having asked to see it, I passed the Bill to the Director General of the Army Legal Services, who within five minutes told me that it was totally unacceptable, because it allowed an employee to take his employer to an industrial tribunal if ordered into a place of danger. In Army terms this meant that OC B Company could take his commanding officer to an industrial tribunal if ordered to attack an enemy position.

I asked what the French, German and Italian armed forces had done about this, to be told that their Governments had sought, and been granted, dispensation for them. I asked why ours had not done so, and was pleased that, later, dispensation was sought and agreed. I mention this because I have the distinct impression that, while full of gratitude for the work of Ministry of Defence legal staff and civil servants, who understand the difficulties of the transposition of human rights legislation to the battlefield, ancient or modern, members of the Armed Forces do not feel the same about those in other parts of the Government, who are in a position to seek dispensation for them. Currently they agree with my noble and learned friend Lord Hope that they should await a ruling of the European Court of Human Rights before they know whether the Supreme Court judgment in the Smith case will affect operations and their commanders.

I suspect that, had the need for dispensation been considered years ago, my noble and learned friend Lord Hope might not have been required to deliver his leading judgment, from which I will quote the following words. He stated that,

"it is of paramount importance that the work that the armed forces do in the national interest should not be impeded by having to prepare for or conduct active operations against the enemy under the threat of litigation if things should go wrong".

I do so because my noble and learned friend clearly understands the demands of both command and active operations, and appreciates the importance of the former not being saddled with inappropriate limitations when planning or conducting the latter.

I note that Policy Exchange recommends consideration of derogation from the European Court of Human Rights during deployed operations. I prefer to seek appropriate dispensation for our Armed Forces as a matter of course as early as possible in a legislative process. However, whichever route is chosen, I hope that those responsible for the consideration of how our Armed Forces may be protected from vulnerability to legal challenge will have the words of my noble and learned friend ringing in their ears.

5 pm

Lord Brown of Eaton-under-Heywood (Non-Affl): My Lords, I originally put my name down to speak in this debate because I understood that my noble and learned friend Lord Hope of Craighead would be unable to be here. It had been my overriding concern to make plain that Smith is a good deal more nuanced and measured a judgment, that the senior judiciary

[LORD BROWN OF EATON-UNDER-HEYWOOD] and the majority judgment in *Smith* had not lost their marbles, and that the reaction has been something of an overreaction in terms of the damage that it does to our fighting capabilities. The Defence Secretary was quoted as saying,

“We can’t have troop commanders living in fear of how lawyers back in London might interpret their battlefield decisions”, and somewhat similar concerns were expressed by noble and gallant Members of this House during Questions. Those concerns are substantially misplaced. When my noble and learned friend Lord Hope told me that he could take part in the debate after all, I wondered whether to scrub from the list. However, I decided not to, partly because not having been on the case I am perhaps almost better able to emphasise the comparatively limited effect of the majority judgment. I also want to make plain that I am prepared to acknowledge and recognise the problems that the majority judgment creates for the future, perhaps not merely for the Armed Forces but for the justice system as well.

As to the limited effect of the judgment, three things must be recognised. First, members of the Armed Forces, notwithstanding that they are on active service abroad, come within the UK’s jurisdiction for the purposes of the European Convention on Human Rights. That was the unanimous decision of all seven members of the Supreme Court in *Smith*, and that conclusion was plainly now dictated by the Grand Chamber decision in *Strasbourg*—a decision, I add, that was contrary to what we had previously decided in the Appellate Committee here in the House, to which I was party.

Secondly, however—this is very important—it by no means follows that the fact that a claimant was on active service abroad when killed or injured is irrelevant to a claim under the convention; far from it. As the majority’s judgment makes plain, the convention will not be applied as imposing on states obligations which are unrealistic and disproportionate. Policy decisions made at a high level of command and things done on the battlefield will necessarily fall outside the protection of the right to life under Article 2 of the convention and a wide measure of appreciation is given to member states as to what are the requirements of armed service.

Thirdly, all the various claims that were considered—claims under the human rights convention and separate claims brought in common law negligence, without reference to the convention—which were grouped together in *Smith* in the Supreme Court, were being dealt with at a preliminary stage of the litigation, namely as strike-out applications. The question for the court was therefore: should these claims be allowed to proceed, however unpromising they might appear, to see whether once all the facts were established they should succeed, or—this was the minority conclusion—should they receive their immediate quietus on the basis, frankly, that enough was already known to decide that they could never properly succeed? The majority, of course, took the former view, but made it plain that it was far from clear that all, or indeed any, of these claims would in the end actually succeed. So much for the limited effect of the judgment.

I will now turn briefly to the problems which, as I have already said, I nevertheless recognise that the majority judgment poses for the future. This appears clearly from the judgments of the minority, in particular those of the noble and learned Lords, Lord Mance and Lord Carswell, with whom the noble Lord, Lord Wilson agreed. The problem is this: to say that first, high-level policy decisions, and secondly, battlefield decisions, fall outside convention protection, leaves a wholly undefined area of middle ground between those two extremes; an area within which the majority suggests that, depending on all the detailed facts of the case, liability might arise. That, as the minority judgment suggests, makes extensive litigation almost inevitable in a number of cases, and is likely to lead to the “judicialisation of war”. These passages have already been emphasised by various of your Lordships. It might, therefore, have been preferable to have ruled with the minority that on the known facts, without the need for any more, no positive obligation to protect life could arise under Article 2 of the convention, and *Strasbourg* would not contend otherwise and, similarly, that it would not be fair, just and reasonable to impose on the Ministry of Defence any common law duty of care in respect of any of these deaths or injuries and rather they should be regarded as falling within the scope of this somewhat ill defined defence of combat immunity. That is the burden of the argument of the noble Lord, Lord Faulks. I have to say, one can readily see its attractions.

As to the way ahead, it must now surely be necessary to await the final outcome of these particular actions, hopefully sooner rather than later. One would have thought they should be expedited. Parliament cannot legislate retrospectively in respect of these claims. Depending then on how matters appear, legislation may be thought desirable. I suggest that this would most sensibly and conveniently be done by the Secretary of State making an order—the noble Lord, Lord Thomas of Gresford, has already referred to this path—pursuant to Section 2 of the 1987 Act which would revive the effect of Section 10 of the 1947 Act. Essentially this would exclude tort liability for the injury or death of any member of the armed services in connection warlike operations or activities abroad.

I will make a brief final point. Legislating to allay the fears of those who may be criticised—soldiers or the Ministry—in one of these cases is also by definition legislating to end the compensation hopes of a number of brave injured soldiers. It may be the right thing to do, but we should not lose sight of that consideration.

5.08 pm

Lord Rosser (Lab): My Lords, this is an important issue, and I, too, express my thanks to the noble Lord, Lord Faulks, for providing the opportunity to discuss the matter in some detail and shortly to hear the Government’s position from the Minister. Virtually all—if not all—of your Lordships who have spoken have been able to call on their direct and practical knowledge of the law or on their direct and practical knowledge of the realities of conflict and the realities of the way in which our Armed Forces operate and

work on our behalf. Unfortunately I am not in that position. Like the noble Lord, Lord Ramsbotham, I am extremely appreciative of the Library note.

Although, as has been said, there have been previous decisions by courts that have given rise to the concerns that have been expressed today, it has been the Supreme Court judgment last June, apparently changing a Supreme Court judgment from 2010, which has raised the profile further of the issue of our Armed Forces and their vulnerability to legal challenge. Shortly before the Supreme Court judgment, in May this year the High Court apparently ordered hundreds of inquest-style public hearings to investigate alleged unlawful killings and mistreatment of civilians by British forces in Iraq. Recent legal challenges to the Armed Forces have fallen into two main categories: those relating to the Armed Forces' treatment of civilians and those which relate to the Armed Forces' treatment of their own personnel.

Although I am not a lawyer, I would like to talk about the Supreme Court judgment and what, as I perhaps mistakenly understand, it said. The proceedings concerned three sets of claims arising from the deaths of three of our servicemen and serious injuries to two others in Iraq. The first set, brought in negligence, arose from a friendly fire incident involving British tanks and alleged failures by the Ministry of Defence properly to equip the tanks involved and give the soldiers adequate recognition training. The second set arose from the detonation of improvised explosive devices level with the Land Rovers in which the soldiers were travelling and claimed that the Ministry of Defence breached the European Convention on Human Rights by failing to take preventive measures to protect life in the light of the real and immediate risk to life of soldiers who were required to patrol in the Land Rovers. The third set, like the first, was also brought in negligence, by—I believe—the son of one of the soldiers killed in the Land Rover incident, and claimed various alleged failures on the part of the Ministry of Defence.

The Ministry of Defence argued at the Court of Appeal that the Land Rover claims should be struck out because at the time of their deaths the two soldiers were not within the jurisdiction of the UK for the purposes of the European convention and because, on the facts put forward, the MoD did not owe a duty to the soldiers at the time of their deaths under Article 2 of the convention, the right to life. The Ministry of Defence also argued on the Challenger tank claims and the third set, the negligence claim, that they should be struck out on the principle of combat immunity and because it would not be fair, just or reasonable to impose a duty of care on the Ministry of Defence in the circumstances of those cases.

The Court of Appeal decided that the Land Rover claims should be struck out and that the Challenger claims and the negligence claim should proceed to trial. The Supreme Court decided unanimously, as has been said, that in relation to the Land Rover claims the two soldiers were within the UK's jurisdiction for the purposes of the European convention at the time of their deaths. By a majority, the Supreme Court held that the Land Rover claims should not be struck out on the ground that the claims were not within the scope of Article 2 of the European Convention on

Human Rights and, also by a majority, that the Challenger claims and the negligence claim should not be struck out on the ground of combat immunity or on the ground that it would not be fair, just or reasonable to extend the MoD's duty of care to those cases. The effect of the Supreme Court's decision was that all three sets of claims could proceed to trial.

The summary provided by the Supreme Court to assist in understanding its decisions states on the Land Rover claims under Article 2 of the European convention:

"In this area, the court must fully recognise the wide margin of appreciation to be given to the state and avoid imposing obligations which are unrealistic or disproportionate".

It also states:

"The circumstances in which the various decisions were made need to be inquired into before it can be determined with complete confidence whether or not there was a breach of article 2. However, given the Court's guidance on the margin of appreciation to be given to the state, it is far from clear that the claimants will be able to demonstrate such a breach".

On the Challenger claims and the further, separate, negligence claim, the summary says that:

"The doctrine of combat immunity should be construed narrowly and should not be extended beyond its established scope to the planning of and preparation for active operations against the enemy. The Challenger claims are not within the scope of the doctrine because they relate to decisions which are sufficiently far removed from the pressures and risks of active operations against the enemy. The ... negligence claim is less obviously directed to things done away from the theatre of battle so it is arguably within the doctrine".

The summary then goes on to say:

"The circumstances in which active operations are undertaken by the UK's armed services today vary greatly and cannot all be grouped under a single umbrella as if they were all open to the same risk of judicialising warfare. However, considerations similar to those affecting the Snatch Land Rover claims under article 2 arise in relation to whether it would be fair, just and reasonable to impose a duty of care on the MoD in this area. The question whether the negligence claims in this case entail subjecting the MoD to duties that are unrealistic or excessively burdensome cannot properly be determined without hearing evidence".

The Supreme Court has not determined the outcome of the claims it addressed in its judgment. It has made the decision that the claims should proceed to trial. It is not for me to interpret the wording in the Supreme Court summary document, which clearly states that the full judgment of the court is the only authoritative document.

I have, however, noted what the noble and learned Lord, Lord Hope of Craighead, said today. It is clear that there is now a feeling of uncertainty over where our Armed Forces and the actions that they take now stand in relation to the law and the vulnerability to legal challenge. Whether the position will be clearer when the cases that were before the Supreme Court have been to trial remains to be seen.

The Government are clearly concerned about the lack of clarity. Subject to what the Minister has to say, the Government appear to be waiting, not unreasonably, for the outcomes of these cases in the hope that the decisions will provide greater clarity before determining what, if any, action needs to be taken and, accordingly, what advice should be given to Armed Forces personnel.

Cases are, of course, determined on their merits and on the evidence that is placed before the court, but clarity is often dependent on judgments laying down clear principles and guidelines that can be applied and

[LORD ROSSER]

taken into account by those who might be contemplating legal action and by those who feel they might be subject to legal proceedings. Nobody wants to see a situation in which our Armed Forces are less able than they are now to protect, further and act in the national interest on our behalf because of uncertainty over the legal position or because of new or changed legal considerations and the perceived or real prospect of vulnerability to legal challenge that did not exist before.

I am aware that the Ministry of Defence now has to deal with a considerable increase in claims in the light of earlier judicial decisions and no doubt also, in some cases, of a feeling that the exact legal position should now be tested. It is interesting to note that in his dissenting opinion to the Supreme Court decision, the noble and learned Lord, Lord Mance, said that,

“the approach taken by the majority will in my view make extensive litigation almost inevitable after, as well as quite possibly during and even before, any active service operations undertaken by the British army. It is likely to lead to the judicialisation of war”.

Dealing with claims costs time and money and deflects resources, human and financial, from other defence-related work. Apart, however, from the vital need to get uncertainty resolved so that proper consideration can be given as to whether and, if so, what further action does or does not need to be taken by government, the other key issue is whether our Armed Forces, involved in or preparing for operations, are being inhibited in what they do on our behalf in the national interest as a result of uncertainties about exposure to potentially successful legal challenges and claims. I hope the Minister will be able to give assurances that that is not the case because, if it is, we are in a very difficult and serious situation.

5.18 pm

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): My Lords, I, too, am grateful to my noble friend Lord Faulks for tabling this motion. It is timely for this House to take stock of recent legal developments which could, in different ways, have important consequences for the ability of our Armed Forces to conduct operations and, therefore, for our national interest.

All military operations carry a degree of risk. As the noble and gallant Lord, Lord Guthrie, said, armed combat is a unique activity. Good commanders are adept at forecasting, assessing, and carefully managing risks in the preparation and execution phases of operations. The Armed Forces of the United Kingdom must at all times seek to operate within the rule of law and to take account of how the law changes. There is nothing new about that. But what does cause the Government concern is the extent to which legal developments are creating uncertainty and imposing costs which may have an impact on how our Armed Forces are able to train and operate.

One direct consequence is that the Ministry of Defence has been grappling with rapidly increasing numbers of legal claims arising from operations, together with escalating costs, largely as a result of these legal developments and the increasing willingness of individuals to litigate. I welcome the fact that these issues are of

increasing interest and concern to others. The House of Commons Defence Committee recently announced an inquiry into the legal framework for UK military operations in future, including the protections and obligations for operational and deployed UK Armed Forces personnel. The Ministry of Defence has submitted its observations to the Committee, and we look forward to learning of its conclusions.

The recent report by the Policy Exchange called *The Fog of Law*, to which a number of noble Lords and noble and gallant Lords have referred, was therefore a timely contribution to the discussion and raised a number of very important questions. It was written by authors with a great deal of hands-on experience of military planning and operations, so its conclusion,

“recent legal developments have undermined the armed forces’ ability to operate effectively on the battlefield”,

deserves respect and careful consideration. None the less, I would not go quite that far, or not yet. I do not believe we have reached the stage where the ability or operational flexibility of our Armed Forces has been significantly impaired or that military decision-making has been hamstrung. I think that that answers the question asked by the noble Lord, Lord Rosser. Crucially, I cannot point to any specific incident in which it appears that concerns about legal liability have been responsible for failure to take operationally necessary measures in the course of combat.

Ministers and the military chain of command have been clear that commanders and other military personnel, at whatever level, who make reasonable decisions in good faith in the course of operations will receive the full backing of the services and the Government. I hope that this reassurance will have put any doubts to rest. I am also reassured that there has been no decision by the courts that would suggest that they would impose liability in such circumstances. Nevertheless, the Government are certainly concerned about the long-term trends which the report analyses. The law remains uncertain on some key matters—unhelpfully so, from the Government’s point of view—and this situation will continue until some of the key cases now before the courts have been ruled upon authoritatively.

The Government are very concerned in particular about the potential effects of the Supreme Court’s majority judgment in the cases of Smith and others, Ellis, and Allbutt and others versus the Ministry of Defence, which were handed down together on 19 June. As the noble and learned Lord, Lord Hope, pointed out, these cases relate to a number of extremely tragic incidents in Iraq arising out of lethal attacks on soldiers patrolling in Snatch Land Rovers and out of a so-called “friendly fire” accident involving Challenger 2 tanks. The noble Lord, Lord Rosser, set that out very clearly. It gives us no satisfaction at all to have to defend cases brought by the families of the brave men who died or were injured in these events, but the principles involved are extremely important, and the Government’s case needs to be put robustly.

Briefly, and at the risk of oversimplification, these cases turn on the extent to which the European Convention on Human Rights applies to military personnel on overseas military operations, and the precise scope of the legal doctrine known as combat immunity. In this litigation, the Ministry of Defence

contended that it was not reasonable or appropriate for the courts to take the role of final arbiters of military decisions, including, as in these cases, decisions about the provision of equipment to our forces. Our case failed in a split judgment in the Supreme Court. I think it reasonable to point out the minority speech by the noble and learned Lord, Lord Mance, which offers an admirable and compelling analysis of the dangers of opening up the conduct of military operations to litigation.

The noble and learned Lord, Lord Hope, who delivered the judgment, has spoken with his accustomed clarity about the issues at stake in this case. The Government took comfort from the clear warnings in the majority judgment that the scope for such litigation must inevitably be limited. While the effect of the judgment is that the cases considered by the Supreme Court must now be heard on their individual merits by the High Court, their Lordships were very clear that, to quote the judgment:

“The court must be especially careful, in their case, to have regard to the public interest, to the unpredictable nature of armed conflict and to the inevitable risks that it gives rise to”.

I listened carefully also to the advice of the noble and learned Lord, Lord Brown.

To reassure the noble and gallant Lord, Lord Craig, we will therefore be defending vigorously any legal cases which turn on the issue of combat immunity. For that reason, although we have considered the option of legislating for a statutory definition of combat immunity, and we have not ruled out any legislative possibilities, we have made no decision as yet to bring forward any such proposals. We will study very carefully the judgments in the cases to which I have referred when they appear. It is our hope that the case law will develop in a way which recognises that there must be limits to the extent to which military decisions should be replayed and contested in the courts. I must make it clear that our position is underpinned by the provisions of the Armed Forces Compensation Scheme, which assigns compensation on a no-fault basis for injuries sustained by members of the Armed Forces in the course of their service.

So far, I have been speaking mainly of legal actions brought against the Government by current or former military personnel or their families. There has also been a good deal of concern about the volume of cases against the MoD brought by UK firms of solicitors on behalf of Iraqi and Afghan nationals who were detained by UK Armed Forces. The claims typically allege that individuals were abused on arrest and unlawfully detained, which amounted to a violation of their Article 3 and Article 5 European convention rights. These are the right not to be subjected to torture or inhuman or degrading treatment, and the right to liberty. They seek damages, sometimes for very substantial amounts, as well as declarations that their human rights have been breached, and in some cases they argue that a full investigation is required into their alleged ill-treatment. In a smaller number of cases, unlawful killings and breaches of Article 2—the right to life—are alleged.

A key issue in these judicial review challenges and personal injury claims has been whether people detained or allegedly killed, injured, or mistreated by UK Armed

Forces come within the jurisdiction of the convention. On 7 July 2011, the Grand Chamber of the Strasbourg court handed down judgments in the two important cases of *Al-Skeini* and *Al-Jedda*. These judgments resulted in a substantial extension of the extraterritorial application of the convention to Iraq. In addition, the *Al-Jedda* judgment had what I can only regard as the deeply unfortunate consequence that compensation has had to be paid to a large number of people who were detained solely because there was good reason to think that they posed a threat to security in Iraq and to the safety of members of our Armed Forces.

I need hardly say that the Government in no way dispute the need for the legal accountability of our Armed Forces. Nor do they suggest that the Armed Forces are at all times without fault, as we know from the tragic death of Baha Mousa, the Iraqi hotel owner mentioned by my noble friend Lord Thomas. He was beaten to death by soldiers guarding him in 2003. There is no question that his killing was a tragedy and a shameful incident in the history of the Iraq conflict and of the British Army. Those soldiers who knew the truth refused to come clean and no one was convicted of Baha Mousa’s murder, although one soldier was convicted of a lesser offence.

Noble Lords will, I think, be pleased to learn that there remains the possibility that those responsible for the death of Baha Mousa will be brought to justice. As suggested by the previous Defence Secretary, a new investigation of the case is under way, conducted by the Iraq Historic Allegations Team, which was set up as a mark of the Government’s serious commitment to get to the bottom of the allegations of abuse and unlawful killings in Iraq. Despite repeated legal challenges, the competence and integrity of the Iraq Historic Allegations Team has been vindicated by the High Court and it is getting on with its important work, carried out under difficult conditions.

These investigations are important because we need to ensure, as I have said, that the Armed Forces of the United Kingdom will be held to the highest standards of conduct. They are also important because, by establishing how abuses were allowed to happen, remedial action can be taken. The Baha Mousa public inquiry, chaired by Lord Justice Gage, provided a cogent analysis of the conditions which led to the killing and made 72 recommendations to prevent any recurrence, all but one of which were accepted by the Government. We intend to make an announcement shortly on progress on implementation of the Baha Mousa inquiry recommendations. The department will also shortly be publishing the first annual report on systemic issues identified from the investigations of the Iraq Historic Allegations Team.

I mentioned earlier the judgment of the European Court of Human Rights in the case of *Al-Skeini* and *Al-Jedda*, which had important implications for the application of the human rights convention to our operations in Iraq. It is important to be clear that in our view the situation in Afghanistan is different. This is in part because the UK operates in Afghanistan through ISAF, a multinational force under the ultimate authority and control of the United Nations Security Council. Consequently, we contend that the UK’s acts

[LORD ASTOR OF HEVER]

and omissions are, for convention purposes, attributable to ISAF and hence to the United Nations, not to the United Kingdom. But even where the convention does not apply, there are legal challenges that need to be grappled with. The English courts are all too aware of the serious and difficult outcomes that can arise. Through a combination of recent legal challenges seeking to put a stop to UK detention and transfer operations in Afghanistan, the Defence Secretary came close to being put in a position where he could neither lawfully detain captured persons nor transfer them into Afghan custody. The problem was eventually solved, thanks in part to co-operation between the British and Afghan Governments, but this illustrates the way in which judicial action in the domestic courts can potentially have the most serious effects on operations which the Government consider vital for national security.

Given the centrality of the European Convention on Human Rights to many of these issues, some have suggested that derogation from the convention for military operations should be considered. Article 15 of the convention allows for parties to derogate from the convention's obligations, but only from certain articles and then only in time of war or other public emergency threatening the life of the nation. There are different views as to the circumstances which would satisfy this condition. The legal and political questions which derogation would raise would be difficult ones, and we would need to be very clear that the benefits outweighed the disadvantages before proceeding with that option. The coalition agreement is also clear that no such changes would be contemplated at present.

I should like to say a word about the costs of litigation arising out of military operations. The Ministry of Defence is required to spend millions of pounds of taxpayers' money each year to defend claims. These are resources which have been voted by Parliament for defence purposes and which would be much better employed in support of the front line. I wish to place on record my appreciation of the work of the Secretary of State for Justice in seeking to ensure that public resources are allocated as far as possible only to the most meritorious cases.

My noble friend Lord Thomas referred to a paper produced by Army personnel on the problem of risk aversion, which was subsequently leaked to the press. I can confirm that this was what is known as a "think piece" and in no way reflects the policy of the Government. My noble friend Lord Freeman was absolutely right to remind us that these matters are potentially of vital concern to reservists as well as to the Regular Forces. His call for an early resolution of these uncertainties is very pertinent. The noble Lord, Lord Ramsbotham, mentioned Northern Ireland. I was also there in August 1969 and well remember the yellow cards that we were all given and the extreme care that we had to take. There are some misconceptions about derogations from the European Convention on Human Rights by some of our key allies. Their obligations are, in all key respects, the same as ours.

In closing my remarks, I should like to emphasise once again that the Armed Forces are thoroughly committed to the rule of law. We mount a strong defence in litigation wherever justified, but we will also

call members of the Armed Forces to account where it is right and proper to do so. The vast majority of our service men and women have served, and continue to serve, the country with integrity and courage, many of them in situations of danger and stress which we civilians can only try to imagine. I pay tribute to them today.

5.36 pm

Lord Faulks: My Lords, I am very grateful to all noble and gallant Lords, noble and learned Lords and other noble Lords. This has been a remarkable debate, reflecting the experience and knowledge of military affairs and the law which are found in your Lordships' House.

My noble friend the Minister has been very helpful in responding to a number of points made in the debate. He, the noble Lord, Lord Rosser, and many other noble Lords pointed to what may or may not eventuate from the decision in *Smith* and in other cases. The burden of expectation on the judge or judges who decide this case is considerable. The suggestion that clarity will emerge from one case is an expectation too much. Each case is decided on its individual facts and one cannot get away from the point of principle which is at stake here. In every case where there is a claim for negligence it will be said that, although something is possibly within the scope of battlefield immunity, it can be attributed to failures of training or inadequate equipment. So the line has to be drawn.

The noble and learned Lord said that the judge at first instance would have to take great account of the judgment of the majority in *Smith* and I am sure that he or she will do so. However, to take great care is not going to provide an adequate solution. To quote the noble and learned Lord, Lord Mance:

"To offer as a panacea ... that courts should be very cautious about accepting such claims is to acknowledge the problem, but to offer no real solution".

The wave of litigation will continue unabated, with all the consequences alluded to in this debate, unless and until Parliament intervenes. I hope and trust that the Minister will take back to the ministry the concerns expressed in the House and I look forward to a positive response.

Motion agreed.

Magna Carta

Question for Short Debate

5.39 pm

Asked by **Baroness Boothroyd**

To ask the Chairman of Committees what plans the House of Lords has to celebrate the 800th anniversary of Magna Carta.

Baroness Boothroyd (CB): My Lords, one of the team organising the 800th anniversary of Magna Carta said recently that it was a celebration of democracy, which it is. He then added in a private, off the cuff comment, that this probably ruled out the House of Lords being involved, a jibe I resent and deplore. It not only betrays a gross ignorance of the role of this House in Parliament and its place in the constitution, it is also historically bunkum.

The Barons who forced King John to sign Magna Carta in 1215 paved the way for many of the liberties we and millions of others enjoy throughout the world. Of course, those medieval Barons were not democrats, far from it. But they laid the foundation on which our freedoms are based—the rule of law, the limitation of executive power and the rights of the individual.

Look around you, my Lords. Their statues, as filthy and as dirty as they are, adorn our walls. Sixteen of the Barons and two Bishops who were at Runnymede look down on us. They changed the course of history, which is why I want this House and this Parliament to be in the forefront of the anniversary celebrations. Sadly, it will not be, according to the plans so far announced. I am told that my views on this are unhelpful but I make no apology.

Preparations for the anniversary have been underway for several years and one of the key decisions needs to be challenged. The highlight of the anniversary will be the display of all four surviving copies of the original charter in the British Library. Parliament will be a backcloth to the celebrations, not a focal point. True, we have two facsimile copies of Magna Carta in this House. One is in one of our Division Lobbies and has been there for a very long time; the other is in the Royal Gallery, put there recently, courtesy of the noble Lord, Lord Mitchell. But they are not the real thing and the British Library intends to restrict the display of the four surviving originals to allow experts to study them and members of the public who pay to see them, or with free tickets obtained by ballot. I understand that the originals will be reunited for just three days before two of them are returned to the custody of Lincoln and Salisbury Cathedrals. What visible role will this Parliament play in all that? I have yet to be enlightened. I look to the Front Bench to enlighten me on that.

This is rightly a joint Anglo-American celebration. I have to say the Americans have seized the opportunity to show what they owe to Magna Carta with greater enthusiasm than anything so far evident on this side of the Atlantic. The Law Library of Congress will display a later revision of the Great Charter sent from England. Another copy will go to the Houston Museum of Natural Science in Texas, where over a million people are expected to see it. Parliament will have nothing to match that. Yes, certainly there will be events in Parliament Square, a parliamentary education centre if the money can be found, and the annual Parliament Week with its own programme of events, which are all well and good. But I submit we need to do more, a lot more, to raise public interest and alert the nation to the significance of what happened 800 years ago.

As things stand, my concerns and my fears are that we shall lose a once-in-a-century opportunity to proclaim Parliament's seminal role in the advancement and protection of Magna Carta's most basic principles. In many parts of the world, they are still revolutionary principles. Billions of people are denied their basic human rights. Let us rekindle their hope by showing them that change is possible and democracy works.

Let us not forget either that 2015 is the 750th anniversary of Simon de Montfort's Parliament—another Baron who confronted an over-mighty executive. Let us remember also the monarchy's role in all this.

The Queen is patron of the Magna Carta Trust, which oversees the celebrations. The monarch is sovereign because the Crown is constitutional. That seed was also sown in 1215 and the monarchy is stronger than ever before.

Previous efforts to involve Parliament more closely have got nowhere. Last December, the noble Lord, Lord Mitchell, asked what plans the Government had for the anniversary. He offered a brilliant idea. He suggested that the four original copies of the charter should be exhibited together for the first time, perhaps in Westminster Hall. The noble Lord, Lord McNally, replied for the Government at that time. "That's a very good suggestion", he said. He was sure the organising committee would welcome it. I regret to say they did not and I hope very much they will reconsider. Let there be no doubt about it: the original copies of the charter should be here in Westminster Hall. I will tell you something: if I were still wearing the robes of Speaker of the Commons, I would ask for a joint session of both Houses of Parliament in Westminster Hall to celebrate the anniversary, with at least one of the original charters as its centrepiece. The British Library could surely spare one of its two originals for just one day. We have held joint sessions in Westminster Hall for royal occasions and visiting leaders. What I propose would be no less memorable. I believe the whole world should see Magna Carta honoured where it truly belongs: in the heart of our democracy.

I am delighted to see my colleague, the noble Lord, Lord Elystan-Morgan, in his place this afternoon. When this question was first raised in this House, he said:

"Magna Carta ... remains one of the most noble documents of human history".—[*Official Report*, 17/12/12; col. 1335.]

He was right. Let us rededicate ourselves to its principles in a manner that befits this Parliament and safeguards its most precious rights.

5.46 pm

Lord Brooke of Sutton Mandeville (Con): My Lords, how apt and suitable it is that this ground-breaking debate should have been introduced by the noble Baroness, Lady Boothroyd, whose most distinguished Speakership of the Commons—the first of her gender—is exactly the right harbinger for the memorable celebrations that stretch in front of us. I am looking forward to hearing about their nature and detail, but I do not think any questions of mine will elicit more information than the noble Chairman of Committees is already going to tell us and of which we have some advance notice from the work programme of the further committees of both Houses that are designing this constitutional jamboree.

I have a personal link to the great events, in that for 24 years—the third longest tenure of any MP for the City of London since 1283—I represented the City in Parliament. The City is the only body specifically referred to in a provision of Magna Carta which still remains in force. It is in section 9, which provides that the City of London,

"shall have all the old liberties and customs which it has been used to have".

Through my City connections, I am aware of one coincidence worth recording. In the great American celebration of 1776, the American Bar Association in

[LORD BROOKE OF SUTTON MANDEVILLE]

1976 moved lock, stock and barrel to London for its annual gathering. The Drapers' Company, of which I am a liveryman, invited to its election dinner in July that notable American academic Professor Goodhart, father of my noble friend Lord Goodhart and at that time Master of University College Oxford, who was already co-opted onto a working party of welcome. In his guest-of-honour speech to the drapers, Professor Goodhart, after revealing that he came from a country with drapes but no drapers, and was thus overwhelmed suddenly to meet 200 drapers in a single hall, said that a more naive member of the welcoming party could not tell what all the fuss was about, whereupon another colleague whispered to the professor: "Silly old buffer; he doesn't realise that it's because of Adam Smith's publication of *The Wealth of Nations*".

For an American to be involved was also a bright omen for Sir Robert Worcester—now an Englishman from American roots—being so closely involved in the Magna Carta preparations. The great global law summit—a world-class international conference to be held in London in February 2015—though not, of course, a House of Lords event—is a splendid heir to the American Bar Association's compliment in 1976.

The one sadness for some of us, perhaps for many and even for all, is that we should have been robbed by death in 2011 of the late Lord Bingham of Cornhill, whose book in 2010, *The Rule of Law*, was an offering to Magna Carta's greatness and was described by reviewers as so much more than a book for lawyers. I am profoundly impressed by what the Library has served us up with in comprehensive briefing, and I personally commend the slim volume to which these events have introduced me in a splendid series published by Oxford University Press entitled *Magna Carta: A Very Short Introduction* by Professor Nicholas Vincent, professor of medieval history at the University of East Anglia. He has brought home to me how far back the seeds that led to Runnymede were sown and how much rolling of the wicket occurred in the decades that preceded the historic sealing—sealing, not signing—using seals that only the British Library still retains attached to the original charter. So far I have not been able to secure a copy of the late Lord Bingham's speech in the Guildhall when Tip O'Neill, the Speaker of the House who died so recently, came over. However, I have a copy of the speech Lord Bingham gave at St Albans Cathedral in 2011, the year of his death, the forerunner to Professor Bogdanor's similar address at the same festival this year.

It is a moment for remarking tiny data that one has noticed: that the 26 right reverend Prelates in your Lordships' House today exercise the tiniest of majorities over the 25 Barons at Runnymede. It was, of course, a particular implication of chapter 39 of the charter that provided the basis for the creation of the Lords Spiritual as a separate category, as Enoch Powell's history of the medieval House of Lords tells.

I am delighted that so much of the preparations of the parliamentary working parties are for educational plans, and I have one small suggestion to make. The noble Lord, Lord Bew, heard me suggest that a novel which embraced the G8 summit in Enniskillen this year would have been a suitable vehicle for spreading

the word about such events, as did Ian Rankin's novel about a similar summit held at Gleneagles. This time I shall draw on my own childhood and those of my sons. I grew up with the World War One board games of L'Attaque and Dover Patrol. In due course I found even better the World War Two version entitled Tri-Tactics. They were outstanding in that they were demanding but gentle games which introduced the young to the subtleties of warfare. Later I spent hours on the floor with my sons playing Kingmaker, the similar version for the Wars of the Roses which demanded a grasp of the interstices of strategy. Diplomacy was another version on a wider scale.

Having read the whys and wherefores and the toing and froing of Professor Vincent's account of the prolonged run-up to Runnymede, I cannot but believe that you could make a highly educational and testing board game. To those who say that board games are passé, I would say that Monopoly and Cluedo are back. One of my grandsons told me that Buccaneer, another in the same genre, was the best birthday present he had had. There is plenty of time to design Runnymede.

In the mean time, I would be the last to describe this debate, which some might equate with what the House of Lords summons inexplicably includes, as "mere motion". It is a marvellous fount of anticipation. For myself, I am optimistic about the total project and encouraged by the way that the noble Baroness, Lady Boothroyd, wound up her speech.

5.53 pm

Lord Parekh (Lab): My Lords, I begin by thanking the noble Baroness, Lady Boothroyd, for securing this debate and for introducing it with such eloquence and wisdom. When looking at the 800th anniversary celebrations of Magna Carta, it is important to bear in mind four or five features of the charter which are in danger of being ignored.

First, it is not a democratic document. Democracy is the rule of the people. What Magna Carta does is provide the rule of law. The two are quite different. Happily, Magna Carta introduced the rule of law and, in so doing, it prepared the ground for the liberalism that would eventually prepare the ground for democracy. It has allowed us to consolidate our liberal democracy in the way we have.

Secondly, Magna Carta is the product of the threat of civil war. Some 26 Barons had threatened to take up arms unless King John agreed, but even when he did agree in order to avoid civil war, the Pope voided the document and war broke out. It was reissued after King John's death. In other words, it tells us something very English while at the same time something very universal about history. It did not come unasked and it did not come without the threat of violence, rather it came about as the result of an enormous amount of pressure building up on the king of the day.

Thirdly, it does not talk in terms of general legal principles, which again is a very English way of approaching the problem. It deals with specific grievances, to which specific responses are made in the context of the just thing to do. These are then generalised and translated into large-scale universal legal and moral principles.

Fourthly, we should not forget that in clause 20 it reiterates the medieval Christian principle that human needs must be given priority over everything else, which is why it says, for example, that if a man commits an offence, the King should fine him, but not so heavily as to deprive him of his livelihood. A merchant may not be deprived of his merchandise and a villein or a worker may not be deprived of the instruments of his husbandry. His livelihood is his natural right which may never be trampled upon.

The other thing it does very explicitly is in clause 16. It talks about how people who owe money to the Jews should be treated, and goes on to say that non-Jews should be treated in exactly the same way. This establishes an important principle which counters any form of anti-Semitism. At that time, that was an extraordinary contribution, and we should not ignore it and simply talk about democracy.

Finally, it ensures the freedom of the Church. The King assures the barons that not only will the Church be left free to practise its own leadership but that there will be no interference in its elections.

If these are some of the important distinguishing features of this historic document, the question is how to celebrate its 800th anniversary. Why are we celebrating it in the first instance? The reason is twofold. First, it is to reaffirm and deepen our own commitment to the rule of law, which, as we know from the experience of the past forty years, is constantly in danger of being eroded. It is intended to remind us of the great tradition to which we belong and of how we can continue to affirm the heritage that we cherish.

The second objective is to spread awareness of the rule of law in the rest of the world, and, if I may be a little devious, to affirm our soft power. It reminds the world that we have achieved something very significant in our history of which the world should take note. If these are our two objectives—to reaffirm and deepen our own commitment to the rule of law and to affirm the commitment to the rest of the world and in so doing to increase our soft power—the rest of what I am going to say follows.

Take the first objective. How do we deepen and reaffirm our own commitment? Exhibitions are all right. People will come and people will go. We need to catch young people and get them to realise what our history has been about, what the rule of law is about and what constraints it imposes upon executive power. Therefore we should be organising lectures and seminars in schools and in major cities up and down the country, encouraging local events and holding a national essay competition, as has happened in some other countries in relation to other events. Continuing with the point that the noble Baroness, Lady Boothroyd, made, I favour an annual lecture in Westminster Hall where the two Houses can meet to take stock of where we are in the field of the rule of law. It may not be entirely inappropriate. It will allow the two Houses to meet regularly as well as provide an occasion to take a moral and political audit of where we stand at any given time.

As far as the rest of the world is concerned, I have two suggestions. I hope they are not presumptuous but worth considering. First, the British Council should be asked to take an active role in sponsoring and

establishing annual lectures in key countries, designed to explore further the idea of the rule of law. If I may be even more ambitious—I do not think we are that short of money—I should have thought that the 800th anniversary of Magna Carta was an occasion in our history where we might institute a prize comparable to the Nobel Prize, given by the British people through the agency of the British Government, to the person who, during the particular year, has contributed the most to establishing the rule of law. Some such imaginative idea equivalent to the Nobel Prize would be a worthy tribute to this great event.

6 pm

Lord Addington (LD): My Lords, I find myself in a position that reminds me of the first intervention that I think I made in this Parliament. At Question Time, the noble Lord, Lord Hill, was asked about why some historian—I cannot remember which one—was being removed from the national curriculum. I stood up, from a little further back than I am now, and suggested to the noble Lord that we should not worry about the nuances of a particular historian but about the facts, because intellectual fashions change. I compared intellectual fashions to hemlines.

I am probably of an unfashionable hemline and an unfashionable tradition in history, for which the noble Lord, Lord Sewel, of course has to take some responsibility, as he was running the University of Aberdeen when I was there as a student. I come from a school of historians, which I do not think is popular now, which did not regard Magna Carta as being that big a deal. It was something that failed; it was the control of those outside resisting the creation of a modern, centralised state where you control power and did not deal with your overmighty subjects. It was a symbol of King John's failure, and was then imposed on Henry III, who is nobody's idea of a romantic hero. He did not assert full control of his kingdom until the age of 29, which is very old by medieval standards, and ended up, in the last part of his career, with the kingdom effectively run by his son, who had to win a battle and a civil war for him after the rebellion of Simon de Montfort. Magna Carta was issued a couple of times during that reign.

Magna Carta is reissued and referred back to every time the overmighty subjects beat up a king. "You have failed, we are going to impose something on you", they say. When I discovered that I was very unfashionable, in terms of intellectual background, I did a bit of reading. Magna Carta itself refers back to a conveyance of rights from the reign of Henry I. The barons then imposed it on King John, who was known as Softsword—today that would be a sexual reference but then it referred to the fact that he was not very good at fighting, or at least was not perceived to be. The fact that the statues round here, dusty as they may be, are wearing armour and thumbing broadswords conveys quite a lot of what I read about that process. I always felt that a successful baron was like a medieval Hell's Angels leader, in that he came in and asserted his rights by force, through his skill at arms.

Magna Carta has gone on to be something else and the idea has emerged, whether justifiably or not, that the rule of law comes from it and seems to be embodied

[LORD ADDINGTON]

in it. If I go past a copy or a facsimile of it here with Americans, they stop and go, “Wow”. I was always much more impressed by the draft Declaration of Rights when we had it on display here, with its crossings-out and ink-stains, which set out the tripartite idea of sovereignty: Lords, Commons and Crown together. It may just be an educational accident, but I am told that I am intellectually cynical. The idea of Parliament did not get going until a fair bit after Magna Carta. It was something that was generally called when the Executive—the English royal family—wanted money out of their subjects, usually to fight a war. That was something different.

Magna Carta may have set up an idea, but a study into the way that an idea grows and captures attention and the way you refer back to a golden age might be a more important thing than its point in history. It might be more important to look at the fact that it can suggest something else to somebody. The events themselves will be argued over, but the fact that you are still arguing over them is probably a greater contribution to an idea than any historical events will be. I hope that we can reflect that and do not make it out to be some great, almost religious, experience on the part of those imposing it. It was not. It was somebody saying, “We will deal with our problems now”. When they did not get their own way, they called in a French army to get rid of the king. That does not sound like the start of democracy to me.

6.05 pm

Baroness Lane-Fox of Soho (CB): My Lords, I, too, thank the noble Baroness, Lady Boothroyd, for proposing this debate. To me, a novice in this House, she is a titan in it and an inspiration. I admit some relief in speaking before the noble Lord, Lord Bourne, who will make his maiden speech, and I wish him well.

I agree that the reach of the Magna Carta has been profound, but I suggest that this is an opportunity to increase it dramatically. The idea came to me during an experience a couple of weeks ago. I take part in the charity Speakers for Schools, set up by the BBC economics editor, Robert Peston. It sends people doing interesting things into schools to encourage the pupils. Speaking in this Chamber is testing; it is matched only by speaking to 200 or 300 15 to 16 year-olds. Two weeks ago, as I said, I spoke at a fabulous school in a very deprived area of Willesden. To break the ice and calm my nerves, I asked the pupils in the room how many had heard of the website that I co-founded, lastminute.com. To my surprise, around 80% of hands shot up. I then asked how many had heard of the House of Lords. Imagine my surprise when only around 5% of hands shot up.

I tell this story not so that noble Lords may congratulate me on my notorious website but, rather, to share a worry. It is a profound problem for us all if people understand the buying of holidays online better than our Parliament. It is not only in the classrooms of Willesden that there is a lack of knowledge. As noble Lords may remember, even our own Prime Minister struggled to answer when the American chat-show host, David Letterman, asked him the contents of the Magna Carta.

I would like to suggest that this anniversary could be a wonderful opportunity to try to engage a new generation with the history and impact of the institutions in our democracy. Next year is the 25th anniversary of the invention of the world wide web by Sir Tim Berners-Lee, another globally important invention from the United Kingdom. I think we should launch a groundbreaking project, led from this House, to create a Magna Carta for the 21st century, and I think we should use the web to do it.

There is a phenomenon on the internet called crowdsourcing, where you ask for ideas, services or even money by getting contributions from a large group of people. Sites such as Kickstarter or Peoplefund.it are increasingly used by companies wanting to test products or by charities needing money for projects. I think that the original Magna Carta is an amazing early example of crowdsourcing. You have only to read part of its history to see how each clause was debated and how much it was tweaked and changed to reflect a variety of interests. Would it not be phenomenal to use the technologies of today to reimagine the document and, in doing so, try to inspire more interest in and understanding of the work of Parliament?

There are already examples of Governments who have attempted to redraw their constitutions using the power of the internet. In 2010, the Finnish Government approved technology behind a new open ministry platform, which acts as a hub for citizens who want new laws voted on in the country’s Parliament. After the financial collapse of 2008, the Icelandic Government used social media to rebuild their constitution and involve all citizens in new policies. As Minister Thorvaldur Gylfason said:

“The public sees the constitution come into being before their eyes ... This is very different from old times where constitution makers sometimes found it better to find themselves a remote spot out of sight, out of touch”.

This, to me, is the crucial point.

We are living in a time when we know people feel disengaged and disinterested in the process of policy-making, yet this work affects everyone. Noble Lords should have seen the amazed looks on the faces of those pupils in Willesden when I explained some of the legislation going through this House.

Let us build on the anniversary of the web in 2014 and create a Magna Carta for now; not a formal constitution but a living, breathing, open document that could be created and live on the web. With the power of networks in this House and the clever engagement of the technology sector, I think we could create a wonderful mechanism to engage more people—and, crucially, more young people—with the extraordinary legacy of the document so famously sealed, finally, in 1215.

6.09 pm

Lord Bourne of Aberystwyth (Con): My Lords, I am most grateful for the custom of securing the Chamber Doors; it serves to preserve an audience that I might otherwise lose. I have no illusions, at least in my case, that there are hordes of Peers clamouring outside to get in.

When I arrived here just a few short weeks ago, people told me to expect something like school—which I can just about remember—and it is: corridors that all

look the same; bells going off, here Division bells but there class bells; the friendly rivalry of the party system, just like the house system at school; and the kindness of the staff and the encouragement of the Whips, like benevolent prefects and teachers. Before I get barred from the restaurants here, let me make haste to say that the institutional analogy breaks down with the catering—the catering here is like Nigella Lawson, Gary Rhodes and Jamie Oliver all rolled into one, at the top of their form.

As I say, everyone here has been most kind. My two sponsors, my noble friend Lord Hunt of Wirral and the noble Lord, Lord Elis-Thomas, have been helpful, thoughtful and supportive. So, too, has my mentor, my noble friend Lady Fookes. I should also mention one other person who has helped me here. When I was a student at Cambridge, my first public speaking meeting was chaired by a certain councillor, Mrs Jean Barker, now my noble friend Lady Trumpington. She presided with great grace, panache and aplomb. I seem to remember, too, that there was quite a lot of drink and eats. If noble Lords blame anyone for my being here, please blame the noble Baroness.

Before arriving here, I had three distinct careers. First, I was a barrister and company secretary of a public company based in London. I helped to market law and accountancy courses, especially in the Far East—in Malaysia, Singapore and Hong Kong principally, but also in the subcontinent. Secondly, I became professor of law at the Swansea Institute, now Swansea Metropolitan University, and moved to Wales. Thirdly, when I thought my political career was over, having lost a couple of elections for the other place, I became a Member of the National Assembly for Wales in 1999, then Leader of the Conservative Party in the National Assembly and latterly leader of the Opposition in that body. I became convinced that effective devolution was good not only for Wales but for the unity of our United Kingdom.

The Magna Carta of 1215 is the basis of most of our freedoms and a basic statement of the rule of law. I believe that it is rather a significant document. It was described by Lord Denning as,

“the greatest constitutional document of all times—the foundation of the freedom of the individual against the arbitrary authority of the”,

state. Far be it from me to disagree with such a great legal brain.

Its principles have been adopted by the United States and much of the Commonwealth. True, much of it has been superseded and repealed, but it still rightly has immense iconic significance. It is quite right that it should be celebrated. The noble Baroness, Lady Boothroyd, is right: we need to do more, and I hope that people are listening to this debate so that we may. We need to have events, cultural and ceremonial, that give renewal to its central messages, and I applaud efforts being made to do just that. The Magna Carta 800th committee and partner organisations such as the excellent British Council, referred to by the noble Lord, Lord Parekh, are doing excellent work; I declare an interest as a member of the advisory council of the British Council in Wales. I trust that there will be a positive response to the noble Baroness's very passionate and justified appeal.

What lessons are there for us 800 years on? I associate myself with much of what the noble Baroness, Lady Lane-Fox, said—we need to look anew at the issue of having constitutional documents containing our fundamental freedoms. Should our precious freedoms be set out in some constitutional document? I know that this has not been the traditional British approach. Mr Podsnap in Dickens's *Our Mutual Friend* was asked in relation to our unwritten constitution how other countries do:

“They do, Sir”, returned Mr Podsnap, gravely shaking his head; ‘they do—I am sorry to be obliged to say—as they do!’”.

A written constitution, even an entrenched one, is admittedly no guarantor of liberty and rights. Some of the worst despotisms in the world have written constitutions. Yet with democratic roots, and with some of the challenges that we now face that are posed to our liberties, this question needs looking at anew.

Interestingly, Magna Carta has separate provisions for Wales and Scotland. It is perhaps a precursor both of the Union and of devolution. In the light of our relatively new devolution arrangements within the United Kingdom, I wonder whether a constitutional document should now set out the legal rights and duties of the United Kingdom, building, I hope, on the work of the Silk commission—I declare an interest here, as a member of that commission—and after the referendum in Scotland.

What is clear is that it is indisputable that liberty's DNA in these islands can be traced back to Magna Carta, and wherever there is a challenge to liberty:

The whisper wakes, the shudder plays,
Across the reeds at Runnymede”.

as Kipling evocatively said. This anniversary is an important one. We do right to honour it. We must ensure that the event is marked graphically and indelibly, and that it leaves an enduring memory.

6.15 pm

Lord Bew (CB): My Lords, it is a pleasure to follow the excellent maiden speech of the noble Lord, Lord Bourne of Aberystwyth. If, as he says, he owes something to the inspiration of the noble Baroness, Lady Trumpington, I can assure him that he is not the only person in this House who feels the same way. It was clear that, as a former professor of law, the noble Lord is extremely well equipped to discuss the legacy of Magna Carta. He brings to this House experience of, and a contribution to, the political life of Wales, and also to the charitable sector in Wales, which is enormously valuable. Noble Lords have heard the first of what I hope will be many decisive and helpful interventions from the noble Lord.

I thank the noble Baroness, Lady Boothroyd, for her Question, and her keen interest in the plans for 2015. I speak as the co-chair of the Speakers' advisory group for the 2015 anniversaries. I share the post with Peter Luff, MP, from the House of Commons. I pay tribute briefly to Tristram Hunt, MP, who has for the past several months been the Commons co-chair of that committee, but who has recently had to resign because of his promotion to shadow Education Secretary. If, as I very much hope, the celebrations in 2015 turn out to be an event of significance and importance, that will owe something to the work of Tristram Hunt in the past few months.

[LORD BEW]

There are currently seven Peer members and six MP members of this group, and we have additional support from two external members—Canon Jane Hedges from Westminster Abbey and Professor David Carpenter from King's College London. As part of Parliament Week 2013, on 19 November Professor Carpenter will give a lecture in Portcullis House on "Magna Carta and the emergence of Parliament", which we hope Members will wish to attend.

The advisory group has been established to act as a consultative body to support and advise the Speakers and officials on matters relating to the anniversary programme, and we are working to develop a set of activities to run throughout 2015. The group assists parliamentary officials in fulfilling ambitions to deliver an accessible, innovative and engaging programme. The advisory group considers and comments on proposals put forward by officials of both Houses for the anniversary programme, ensures a voice for the Members within the programme, monitors associated risks, and will ultimately participate in the evaluation process. Very importantly, the group advocates for the 2015 programme externally and across both Houses. To that end, I am glad to see here today the noble Lords, Lord Cormack and Lord McNally, whose contribution to the work of our committee has already been outstanding. I am enormously in their debt.

Any critical decisions, in particular those relating to finances, are additionally passed through the usual House committee procedures. Although we have plans for a very full programme for 2015 covering educational, ceremonial and showcase events, much of this work remains in the nascent stages, so it is not yet possible for me to give full details of programme content at this point. However, I am moved to respond to the speech of the noble Baroness, Lady Boothroyd, and to say that I fully understand the points that she made. We are endeavouring to deliver something that she will recognise as satisfactory. We are focused on that and are determined not to disappoint her, if I may put it like that. I hope that the noble Lord, Lord Sewel, may be able to give some further detail in the concluding remarks of this debate. We very much wish to outline our desire to use these important and historic moments as a once-in-a-lifetime opportunity to increase public understanding and appreciation of the tradition and evolution of Parliament.

Beyond Magna Carta, the 2015 programme will commemorate the important anniversaries of the de Montfort Parliament, which can be seen as the beginning of a tradition which led to the House of Commons, and we will also have the anniversaries of Agincourt, Waterloo and the death of Churchill. When Churchill succumbed to a stroke in 1965 he interrupted the 750th and 700th anniversary plans for that year with a number of last-minute alterations and cancellations needed. Particularly in this Chamber, where many of Churchill's most celebrated later speeches were given, it is of tremendous importance that we pay attention to the 50th anniversary of his death. I assure Members that the advisory group is mindful that all these anniversaries are marked appropriately. For instance, we will support the Churchill Alliance with its 2015 plans and are currently exploring the possibility of

working with the History of Parliament Trust on an event to commemorate Members who fought at Agincourt.

Furthermore, we have chosen to use the medieval moments as a stepping stone into the whole story of our democratic heritage. The noble Lord, Lord Addington, is quite right. This is a complicated story. We want to use this approach to highlight other significant events that have led to the rights and representation that we enjoy today. We will develop partnerships which enable us to talk to communities across the United Kingdom about their local contributions to our national story, picking up on key moments and events on both a local and national level to tell the wider narrative of democratic evolution.

In the information pack that Members have received there is a very elegant St Albans Magna Carta lecture by Professor Vernon Bogdanor. He makes the point that, for example, in the 17th century the Levellers employed concepts from Magna Carta as a means of putting pressure on the king. That is an example of the appropriation of Magna Carta in the struggle for change in our country. There is of course a vastly important tradition of legal commentary that dates from the 17th century which might be seen as a similar attempt to assert the rule of law against the divine right of kings. The most celebrated example from the 19th century was referred to by Professor Malcolm Chase in a lecture on the Chartists given in the last fortnight in Speaker's House, at the invitation of the All-Party Group on Archives and History. He pointed to the way in which the Chartists had again appropriated the language of the Magna Carta in a similar way to the Levellers, as part of a particular struggle.

We are trying to develop a partnership with the Riverside Theatre in Newport which I hope will work with us on a project to mark the important contribution of the Chartists. As well as stand-alone events such as this, the programme offers large-scale join-in opportunities for organisations. These will include Parliament Week, which in 2015, after a year of looking back, will take the theme, "What will the next 800 years look like?", and will have the specific aim of engaging young people in forward thinking about the future of democracy. We envisage that by taking this broader approach we will be better able to deliver a programme which is directly relevant to communities across the whole United Kingdom.

The noble Baroness, Lady Lane-Fox, was quite correct to say that we have a problem. It is not so much that people are fundamentally questioning the institutions of liberal democracy in our society—in some ways the intellectual questioning of the institutions of liberal democracy has never been at a lower level, and was more strongly contested 150 years ago than it is today. However, because of events that we are all familiar with, which have lowered the standing of Members of Parliament in the eyes of the public, we have a problem with the perception of Parliament in broader society.

As an historian I am acutely aware of the power of history to provide lessons for our own time. Our long democratic heritage is something which we should be duly proud of and I believe we can use these anniversaries to raise awareness of the work and institutional value

of both Houses to a range of new audiences. More specifically, many of our proposed activities in 2015 are designed for young people, whether in school, university, or informal settings. It is not a question of telling a naïve story about the growth of our democracy. The noble Lord, Lord Parekh, explained very crisply exactly what the relationship is between Magna Carta and the subsequent evolution of the rule of law and democracy in our country. We will be trying to adhere to the same degree of crispness, elegance and accuracy in presentation in all that we do. I conclude by saying that it is our hope that we will succeed in 2015 in not disappointing the noble Baroness.

6.25 pm

Lord Cormack (Con): My Lords, it is very good to be the first on this side of the House to be able to congratulate my noble friend Lord Bourne on an excellent maiden speech. The first maiden speech I had to comment on was that of Mr Dennis Skinner way back in 1970. I said I hoped he would be heard often in the future, I was certainly correct in suggesting he might be, and I hope we will hear more of my noble friend. He was right to make reference to Wales and Scotland. We must not forget that among those to whom Magna Carta is addressed in the preamble is Alan de Galloway, constable of Scotland.

I must declare my interest. Not only am I a member of the committee to which the noble Lord, Lord Bew, referred, but I also have the honour to be the chairman of the History of Parliament Trust and of the Historic Lincoln Trust. In all of those capacities I am seeking to work to ensure that 2015 is a memorable year. We have some marvellous events planned in Lincoln, and I believe that my noble friend—I deliberately call her that—Lady Boothroyd will not be too disappointed by what happens here in Westminster. I agree about the dusting of the statues, I hope something can be done there. The barons and the two bishops who look down on us day by day have not received any housekeeping attention for an extremely long time. As one looks up and thinks of them—the four Williams, the earls of Pembroke, Salisbury, Warren and Arundel, the great barons—one does realise that we owe them a very real debt for what they did to bring the King to account. I do not subscribe to the somewhat jaundiced view of Magna Carta which was advanced in a slightly curmudgeonly way by the noble Lord, Lord Addington. Well, *de gustibus non est disputandum*.

Noble Lords: Oh!

A noble Lord: Order!

Lord Cormack: Quoting Latin is entirely permissible in this Chamber. What I would like to say to the noble Baroness, Lady Boothroyd, in particular, is that I have been able to have discussions with the Deans of Lincoln and Salisbury and with the chief executive and chairman of the British Library, the noble Baroness, Lady Blackstone, and I am not unhopeful that the sort of event to which she referred will take place. Obviously further negotiations have to be conducted, but I believe that it would be wholly appropriate to see the four documents here. Whether Westminster Hall would be the right place because of the climatic conditions is a

different matter, but it would be good to see them here. Westminster Hall should certainly have great events. In 1965, Her Majesty the Queen came to commemorate the 750th anniversary of Magna Carta and the 700th anniversary of the de Montfort Parliament. I very much hope that something similar will be able to happen in 2015. I can also say to noble Lords that I have had some conversations with the Halle Orchestra, and I hope there will be some wonderful performance in Westminster Hall that year.

It wants to be a really resoundingly memorable year in every possible way, and of course it wants to reach out to young people. I hope that we will do symbolic things. On 15 June, the anniversary itself, when we all hope that there will be a great event at Runnymede, it would be appropriate for there to be a public holiday and for Parliament to adjourn, after a brief sitting, to Runnymede and be there with Her Majesty the Queen. That would be entirely right and proper. I hope we might persuade those other countries for which Magna Carta is so important to have a public holiday on that day as well so that we are united in our recognition of the importance of the rule of law.

I would like Westminster Hall to have banners around it with the two ringingly endorsable clauses. Clause 39 reads:

“No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land”.

Then there is the much pithier clause 40:

“To no one will we sell, to no one deny or delay right or justice”.

It would be good to have that right around Westminster Hall so that young people in particular can recognise the continuity of Magna Carta, and its fundamental importance to our very way of life. I hope that the noble Baroness, Lady Boothroyd, will feel that those of us who serve on the Committee from the two Houses of Parliament are entirely at one with her in her sentiments of wanting this to be a really memorable year in the history of our Parliament and country. We are certainly determined in Lincoln, where we have one of the four original copies, to make it one of the most memorable years in our history, with exhibitions, a Three Choirs Festival and many other things—all of these, I say to the noble Baroness, Lady Lane-Fox, reaching out particularly to the young. For the youth of the nation are indeed the trustees of our posterity.

6.32 pm

Lord Dykes (LD): My Lords, it is a great pleasure to follow my former Commons colleague the noble Lord, Lord Cormack. We worked together on a number of schemes, some including human rights, both overseas and in the UK. We, as MPs, came to know of his knowledge of and affection for the history of Parliaments from ancient times and of his experience of reading and writing about those things. We are very grateful. This is an important occasion. I thank the noble Baroness, Lady Boothroyd; I was impressed that she was well under her time limit in her opening, which was commendable.

[LORD DYKES]

I share some of the noble Baroness's anxieties and concerns about some things. Although they will be immensely important, the World War I commemoration period, over several years, will have far more government money attached to it than anything to do with the Magna Carta celebrations. That is a pity. In a historical context, Magna Carta is deeply inspiring.

We are grateful, too, for the excellent maiden speech from the main coalition party Benches of my noble friend Lord Bourne of Aberystwyth. His knowledge of this matter is profound, and I am sure that he will be heavily involved in a number of these activities. I am also grateful for the excellent historical analysis of the noble Lord, Lord Parekh, and my noble friend Lord Addington. They gave the original background to it. We should not get carried away with the starry-eyed Mills and Boon version of Magna Carta which is not really true. The gradual development over hundreds of years of democracy as we now know it, as well as the importance of the rule of law, was opportunistic, episodic and accidental. The Glorious Revolution of 1688 was one stage in that process, as were the United States's declaration of independence and constitution. What a pity we did not pay more attention to the French Revolution's *Declaration of the Rights of Man and of the Citizen* because we were afraid of it; it is a substantial document but little known in this country because of the intellectual and psychological gap between the political cultures of the continent and ourselves, with our Anglo-Saxon and Anglo-American traditions.

I am also grateful—this is a time for mentioning gratitude, I think—to Sir Robert Worcester, that talented and noble son of Kansas as was, but now an English American, for leading the Magna Carta Trust committee and planning a number of events. I am particularly glad he sent me a helpful briefing memorandum about this debate. It reminded me that, speaking at the UN General Assembly in 1948, as she submitted the Universal Declaration of Human Rights, Mrs Eleanor Roosevelt argued that,

“we stand today at the threshold of a great event both in the life of the United Nations and in the life of mankind. This declaration may well become the international Magna Carta for all men everywhere”.

That is very telling in the way it rebounded around the world as more and more countries realised the importance of the various texts in the Magna Carta and the subsequent editions of it and what it meant for us.

Hundreds of events have been considered and planned with the hope, according to this memorandum, that in 2015 more than 100 countries will be commemorating the importance of what began on an open plain 800 years earlier to this generation and many generations to come. The danger is that it will not be noticed enough by the media unless there is real force and psychological strength behind that effort. That does need a lot of attention and organisation. It is amazing how quickly time goes when one is coming up to a deadline of that kind.

I note, too, that after the Second World War Germany and Japan were apprised, quite rightly, of the virtues of the Magna Carta, in its modernised form, the text, what it meant and the rule of law. What a model democracy Germany has become after the nightmare

it went through with the Third Reich. It is a very impressive achievement, and we are proud to be friends with the great German people.

I believe, too, that even though one of our weaknesses—and it is a controversial point, so I apologise in advance for making it—is in not having a written constitution, there is a feeling of pride in many people that we are unusual and unique in not having one, although all the other Commonwealth countries which came from the Anglo-Saxon tradition directly with independence much earlier than the colonies do have commendable written constitutions. At least, though, we have access to the European treaties, which are an international kind of constitutional backcloth to the rule of law and human rights, and the European Convention on Human Rights. All those things started 800 years ago as gradualistic concepts in a very different context with very few people involved. The barons in those days were very exclusive indeed, unlike the huge, overlarge House of Lords Chamber we have now with far too many barons. Despite that reality all of us would like to be considered to be here validly, both the noble Barons and the noble Baronesses. The more noble Baronesses we have, the better.

There is a lot to be done. I think that if all those threads come together and the Government put a reasonable budget figure on the expenditure as well as other organisations and the private fundraising that will go on, this can be a great occasion for all of us to be proud with lessons for the future and particularly for the younger generation.

6.38 pm

Lord Bilimoria (CB): My Lords, Sir Bob Worcester, the chairman of the Magna Carta 800th anniversary commemoration committee, in a recent speech, summed it up really well—foundation of human rights, father of all constitutions, basis of our civil liberties, rights of free men and now women and of legal tradition, the bedrock of our systems of democracy. Then he says, “Who are its guardians?” He says it is our system of rule of law, jurisprudence, of justice. I say the guardian of this nation is this wonderful, unelected House, which is the cornerstone of our democracy.

As the first Zoroastrian Parsee to sit in this House, I would like to talk about Cyrus the Great, one of the greatest emperors of the ancient world, best known for two things. The first is the Cyrus cylinder, perhaps the first recognisable modern legal instrument. In the UK we consider the role of the Magna Carta. Without fail when I take people round this House, I show them the facsimile copy in the Contents Lobby. We think it is great: sealed in 1215 on the field of Runnymede; the first bill of rights; power of the barons over the king; the establishment of the House of Lords and the House of Commons; a Parliament free of the direct control of the monarch.

However, the Magna Carta is juvenile compared to Cyrus's cylinder—a declaration found in the ruins of ancient Babylon that set out the great deeds and genealogy of Emperor Cyrus. Created around 530 BC, the cylinder notes Cyrus's great humility and tolerance, which formed vital aspects of the tradition of the Zoroastrian faith. This is true because of the role that

Cyrus played, not just in the protection but in the active promotion of many religions and faiths that flourished in the Persian empire during his time. It cites his building projects and the territories that he conquered.

Cyrus is well known for his magnanimity. A specific example is the refuge that he gave to the Jews in Egypt. Is that not amazing? Magnanimous—Magna Carta. Neither Cyrus nor the Magi priests in his court who acted as advisers sought to convert the people of the conquered lands to the Zoroastrian faith.

I congratulate the noble Baroness, Lady Boothroyd. What a fabulous speech—as always. “A celebration of democracy”, she said. She says that the House of Lords feels left out, and that the Houses of Parliament should be the headquarters of the celebration in the 800th year. All four original copies should be here. Her idea of a joint session of both Houses to celebrate it is fantastic, and it should take place on 15 June 2015.

We know that the British Library holds two copies of the original Magna Carta. I am proud to be an ambassador for the British Library’s Business & IP Centre, and I assure noble Lords that I will do my best to try to persuade it to play a role. The noble Baroness, Lady Lane-Fox, mentioned the Prime Minister stumbling on American TV when he was asked what Magna Carta stood for. He could not say, “the Great Charter”, and he could not remember the date, 15 June 1215. We need everyone, particularly schoolchildren, to know this. The noble Lord, Lord Bourne, in his excellent maiden speech, mentioned the British Council. We have this wonderful institution, of which the noble Baroness, Lady Prashar, is deputy chairman, to spread to word of the Magna Carta in these celebrations around the world through our British Council centres.

The noble Baroness, Lady Lane-Fox, spoke of a Magna Carta for now. Why do not we—the House of Lords—have a competition around the country for schoolchildren to come up with a Magna Carta for today, and then have the debate in the House of Lords that we have every year? It would be wonderful. We do not have a written constitution. In a recent speech, Vernon Bogdanor said that almost every country has a written constitution, but our constitution has evolved, adapted and developed. It has been spontaneous. We do not want a written constitution; it would not be right for the structure that exists now. But what a wonderful idea to have a competition for a Magna Carta for today.

I am so thrilled to hear the noble Lord, Lord Bew, give his assurance to the noble Baroness, Lady Boothroyd, that she, and we, will not be disappointed. That is very reassuring. I ask the noble Lord, Lord Sewel, to reaffirm this reassurance. There is no question that the Magna Carta celebrations should be held in the magna-Parliament—this Parliament here in Westminster.

6.43 pm

Baroness Prashar (CB): My Lords, as Baroness Prashar of Runnymede, I am most grateful to the noble Baroness, Lady Boothroyd, for initiating this debate with such enthusiasm and passion, and I agree with all that she said. As we know, Magna Carta has

played a critical role in developing our form of democratic government, subject to the rule of law. It is important because of the influence it has had, not only in this country but around the globe, and particularly in the Commonwealth, in establishing the constitutional principles governing any society committed to the rule of law, which as we know is fundamental to any democracy.

It was also influential when the European Convention on Human Rights was drawn up. Its significance was captured by in a lecture in Australia in 2003 by the noble and learned Lord, Lord Irvine—I had the pleasure of hearing it in person—who said:

“In many respects Magna Carta has transcended the distinction between law and politics and its legacy represents a joint commitment by Monarchs, Parliamentarians and the Courts, to the rule of law”.

However, despite the importance of Magna Carta worldwide, it has never had the recognition that it deserves in this country. The monument in Runnymede, to which I always take my visitors, has no information available on the significance of Magna Carta. This illustrates to me the complacency we have about our freedoms. The 800th anniversary is an opportunity to rectify the situation and reaffirm our commitment to the rule of law. It is a golden opportunity to develop activities which will help revitalise and reaffirm the fundamental principles of Magna Carta.

I read with interest the briefing provided by the House of Lords Library and the description of parliamentary plans for the celebrations. I am pleased that the aim of the programme will be to promote wider public engagement with Parliament and create partnerships with external bodies. I think that is very important. I was also pleased to see that Parliament will produce educational materials and will support Magna Carta-related education projects to be delivered by the British Council. I declare that I am a deputy chair of the British Council. I congratulate the noble Lord, Lord Bourne, on his maiden speech and assure the noble Lord, Lord Parekh, that work is in hand by the British Council not only to work on educational materials but to rekindle the spirit of Magna Carta internationally.

It is important that emphasis is placed on education and engagement of the wider public, particularly the young. It is also important that these activities raise awareness, highlight the universal relevance of the Magna Carta in today’s world and make it a living, breathing document. In his St Albans lecture in August, which was referred to by the noble Lord, Lord Bew, Professor Vernon Bogdanor said:

“The era of ... representative democracy, as it has been understood for much of the 20th century, is now coming to an end”.

I agree, so what we need now are initiatives which encourage participation in order to harness civic spirit in our communities and young people. We need to emphasise the importance of the rule of law as a basis of a viable democracy. I emphasise that this anniversary provides that opportunity.

I will draw attention to an exemplary initiative in Egham, a town very near to Runnymede, where Magna Carta was sealed. This initiative, “Magna Carta in Egham”, is led by Egham Museum and I am associated

[BARONESS PRASHAR]

with it. The impetus for this project sprang from concern that the planned celebrations would be a passing spectacle which would leave local residents passive bystanders without any involvement or lasting legacy. To ensure that this does not happen, volunteers—I emphasise that they are volunteers—from Egham Museum are working to produce online resources to support debates and are organising a series of Magna Carta constitutional conventions, bringing students from across the UK to Runnymede to debate and draft a modern-day charter. They are also planning an exhibition at Egham Museum with satellite displays at various locations around the area. A lot more activities will also take place using new media. I was delighted to hear what the noble Baroness, Lady Lane-Fox, said in that regard. Perhaps we need to collaborate to ensure that we can harness what is happening.

The important thing is that the focus is on local engagement and participation. It is these types of activities which need support and outreach from this House and Parliament. While symbolic events and celebrations are extremely important, this Parliament needs to reach out. I therefore urge this House to work in partnership with such imaginative and community-based projects and use the occasion of Magna Carta's anniversary to encourage participation, help unleash local civic spirit, and make the best use of new technology to ensure that that happens. We are not a closed House; we must link up with what happens locally.

6.49 pm

Lord Stevenson of Balmacara (Lab): My Lords, I join all noble Lords in thanking the noble Baroness, Lady Boothroyd, for providing the opportunity for today's excellent debate, which has been most interesting and to the high standard usually found in this House. I thank all speakers for their contribution. In particular, I praise the maiden speech of the noble Lord, Lord Bourne, which was excellent and of very high quality. There have been three maiden speeches today, of rising quality, which has set the bar very high for those who have to follow. I noted, as other noble Lords will have done, his early bid to be appointed to the Refreshment Committee. This raises the stakes a bit for those who are yet to come. These days, if you want to put in a bid for where you want to be in a few years, you have to do it in your maiden speech—that sounds a bit daft.

The noble Lord and other speakers mentioned a theme which came out of these discussions—whether or not we should have a written constitution. We do, of course, have a written constitution. The problem is that it is dispersed into so many different documents. What we are really talking about is codifying our existing constitutional documents into a single place. That would have been a fantastic solution to the question of how to celebrate Magna Carta in 2015. It may take us until 2115 but we should not give up the aim to do it. The noble Lord is correct, and I absolutely agree with him on that point.

I also thank the Library for its very high-quality briefing which brought us right into the debate. It was interesting to read Magna Carta again. It is difficult to know what it is these days, because it is hard to imagine what it would have been like when it first

came out. It came across to me, in a curious way, as a bit like a manifesto—that is the nearest analogy I can think of. When you became sovereign you had to engage with those you ruled in order to gain their acceptance of your ability to rule, a bit like a modern-day manifesto.

Other noble Lords have spoken very well about what it means to have a Magna Carta. I endorse a lot of what has been said: it is a fantastic document. It is also very modern. It is fascinating to read in one of its chapters about what to do with payday lenders. The FCA should take note: this has been around for a long time and I am not quite sure why it has taken so long. The sections relating to the City rail against those who might lobby unfairly for advantage: those who are discussing the lobbying Bill might reread that section too.

We have a number of proposals to come from the noble Lord who will respond to this debate and I do not want to delay the House unduly before that. However, I want to run over a couple of things that struck me during the debate. The noble Baronesses, Lady Prashar and Lady Lane-Fox, were right to pick up on the need to engage with the younger generation in a modern way. This has to be done through social media; there is no point in trying to look at old ways of doing this. We have to get real, get into social media and involve them. I hope that that will be picked up and taken forward.

The noble Lords, Lord Cormack and Lord Bew, were a bit unkind to us in raising our anticipation of what is to come. I hope they will be satisfied with what they hear. I like the idea of decamping to Runnymede but, as the noble Baroness, Lady Prashar, said, we would need to do something about the accommodation or there will be an awful lot of tents required. The noble Lord, Lord Bew, reminded us that there are other anniversaries: we must also think about them and find a place for them to be recorded. If we do that then, going back to one of the themes of Magna Carta, which is its UKness, we might also have space for the Declaration of Arbroath which, in Scottish terms, is as important as Magna Carta.

We started with the noble Baroness, Lady Boothroyd, and her immensely interesting proposal of bringing together all the Magna Cartas in Westminster Hall and using that as an opportunity for a debate of both Houses of Parliament. That is a terrific idea which would certainly help convince the Prime Minister of what Magna Carta and its translation mean, which must be good. For me, and others of my generation, it would answer the essential question we remember from "Hancock's Half Hour":

"Magna Carta ... did she die in vain?"

6.53 pm

The Chairman of Committees (Lord Sewel): The answer, my Lords, is blowing in the wind. I start, as you would expect, by thanking the noble Baroness, Lady Boothroyd, for giving us the opportunity to discuss this important issue. She started us off in the expected way: a strong, rumbustious speech which laid down a very clear challenge. I will try to answer at least part of that challenge.

This is the type of debate that your Lordships' House does very well. It does it very well because it is trying to capture the importance of a particular historical event, to place it, and make an assessment of its contribution to the development of our political system over a number of centuries. Importantly, it does this in a way that illuminates and reinforces the values that underpin our current parliamentary liberal democracy. That is the whole basis for why we should celebrate Magna Carta. It did not deliver democracy by any means, but it was the start of a process that developed concepts that, in time, became absolutely essential in underpinning the nature of liberal parliamentary democracy.

Although 2015 may still seem a long way away, it is important that we make plans. I will say later that there are disadvantages and advantages in having this debate at this stage, which were alluded to by the noble Lord, Lord Bew. We want to involve Members in the planning process, and a number of Members made contributions this evening that clearly deserve to be taken further, and I encourage the officials of the House to have contact with them about the extent to which their suggestions can be taken up and further developed.

The Magna Carta is undoubtedly one of the most important documents in the development of—I use the words carefully—our largely unwritten constitution. There is a historic and political science debate to be had about that, but we are not having it now. Although Magna Carta was forced upon King John as the result of a political crisis and drawn together in haste, it was underpinned by key principles that have shaped our legal and constitutional system. In particular—these have been alluded to and explained throughout the debate—are the principles that the Executive in particular must be subject to the rule of law and that there must be no taxation without consent. There were the beginnings of the key concept of holding the Executive to account. All these principles, as I say, were developed further and underpinned parliamentary democracy. As many Members of your Lordships' House pointed out, Magna Carta has also played a significant role in the development of constitutions in many other countries around the world. The statues of the Magna Carta Barons, who keep an eye on us here in the Chamber, reflect the connections between Parliament and Magna Carta, and it is absolutely right that we, as this House—I repeat, this House—should celebrate its anniversary.

In the time I have left, I would like to set out some of the plans that both Houses have started to make. First, those plans need to be considered in the wider context of other anniversaries that the House will be marking in 2015. Secondly, it might be helpful for me to say a little more about how our plans fit in with other events being planned nationally. There has been reference to the other anniversaries that will be celebrated in 2015, because it will be a momentous year for Parliament for many reasons. Obviously, some lesser minds will no doubt be focused on the outcome of the general election in that year but there will be a number of special events happening during the year that look back at the important anniversaries that we are here to celebrate. This debate has already drawn attention to the fact that in 2015 we will mark 800 years since the

sealing of Magna Carta. In addition, 2015 will also be 750 years since the de Montfort Parliament. Together, these two anniversaries can be seen as marking the beginning of a process towards our parliamentary democracy, and the de Montfort Parliament in particular has a unique resonance for us because it met in Westminster Hall. The year 2015 will also mark 600 years since the battle of Agincourt and the creation of the office of the Serjeant at Arms, 200 years since the battle of Waterloo and, as has been mentioned, 50 years since the death of Sir Winston Churchill. Parliament will therefore have a lot to celebrate and commemorate in 2015, and officials and Members—I repeat, and Members—have already begun to develop some ideas for possible ways in which this House, along with the House of Commons, may be able to mark these occasions.

In order to help guide this work, the Speakers of both Houses have appointed a number of Members to sit on a speakers' advisory group for the 2015 anniversaries. I particularly welcome and thank the noble Lord, Lord Bew, as one of the co-chairs of that group. I understand that the group, as we heard this evening, is already bringing forward suggestions on how these events could be celebrated.

As a general outline for the year of 2015, there will be three phases of activity for Parliament. From January to March, celebrations will focus on the De Montfort Parliament. From June to September, celebrations will surround the Magna Carta. In November, Parliament will host its annual Parliament Week, which promotes all aspects of parliamentary work. There will also be a year-long "Journey to Democracy" narrative, which will enable a broader programme covering the De Montfort Parliament and Magna Carta's medieval origins and the development of other concepts and rights, and leading all the way to the 20th century and the Human Rights Act. It will be a continuing narrative of a continuing tradition.

There is a problem about the timing of a debate, and I will absolutely be honest about this, because 2015 is still quite far away; we are still in the early stages, so there is still a lot to be agreed. That is almost inevitable. The disadvantage of holding the debate today is that I am not in a position to confirm details of the programme in any specific way. However, the advantage is that it is still early enough for suggestions to be taken into account and for proposals to be considered further. Knowing the particular parliamentary skills of the noble Baroness, Lady Boothroyd, I think she recognised the opportunity and chose this time for the debate. I am happy to respond to that.

I have a number of examples of how we will operate with partners from Surrey County Council and Runnymede, and how we will run a whole series of activities throughout schools in the whole United Kingdom to concentrate on engagement and make the connection between what we do now in the day-to-day life of politics and the enduring values that underpin that activity.

We are, of course, working with the British Library; we have our own parliamentary archives at work; the National Archives and the City of London will be involved and we will have a series of lectures setting it

[LORD SEWEL]

in an historic context, but in a contemporary context as well. In particular, we will go into schools.

I was particularly taken by the contribution made by the noble Baroness, Lady Lane-Fox, on how we have to use every means available to us to engage, especially with younger members of society. Many of us, I am afraid, still have not made that step towards engagement with a digital and more technological age. I would very much hope that she will allow us to tap her expertise in that area.

Let me return to the noble Baroness, Lady Boothroyd. I thank her not only for her speech, but for bringing forward this issue, particularly because she is a former Speaker of the House of Commons. That lends a particular authority to what she has said. I accept the force of her argument to have a single great parliamentary occasion that, if possible, brings together what are technically the engrossments—the surviving copies of Magna Carta—and thus in a sense bring them home to Parliament. That would provide an opportunity to demonstrate their centrality to the development of our political culture. I cannot give her an assurance that that will happen; I can only give an assurance that it will be fully and properly considered. I mean that as strongly as I can convey to the noble Baroness.

Several references were made to the statues in this Chamber. Every time that happened, the noble Lord, Lord McNally, gave me a quick dig in the ribs. If you look around, you can see the dust on the statues. We have looked at this and it would be a tragedy if, perhaps not in the immediate future but in the medium term, something was not done to improve the statues. The problem is that when the present Parliament building was built, the Victorians were still sending young boys up chimneys to sweep them, and I suspect that they had the same sort of solution in mind when they put the statues so high up. Since then, of course,

we have had health and safety and God knows what else. However, the opportunity to do that will arise in a few years' time when we come to look at the whole building and consider the possibility of renewal and restoration. We will have a chance to do the work in a fully comprehensive way.

Perhaps I may make a few comments about what has been said by individual speakers. I thought that the noble Lord, Lord Brooke of Sutton Mandeville, made an interesting observation about producing a board game. I am always keen to increase the revenue of the House, so it is something that we might wish to look at. The noble Lord, Lord Parekh, gave us an absolutely outstanding and correct theoretical analysis by placing Magna Carta in its wider perspective. The question that has been reflected by many noble Lords, including the noble Lord, Lord Bourne of Aberystwyth, in his excellent maiden speech, is “Why celebrate Magna Carta?”. The vital point to make is the linking of Magna Carta with our enduring liberties. The noble Lord, Lord Addington, blamed me for his lack of historical appreciation and then went on to make a very good critical argument. I am therefore quite happy that in some way I may have been responsible for that.

I have tried to deal with the points that were made in the debate without, I am afraid, dealing with every single contribution. I had 12 minutes in which to speak and I have already overrun by two minutes so I cannot deal with Cyrus the Great, and for that, I apologise.

Humber Bridge Bill

The Bill was reported from the Unopposed Bill Committee with amendments.

House adjourned at 7.08 pm.

Grand Committee

Thursday, 7 November 2013.

Middle East: Situation of Women

Question for Short Debate

1 pm

Asked by **Baroness Hussein-Ece**

To ask Her Majesty's Government what is their assessment of the situation of women in the Middle East after the events of the Arab Spring.

Baroness Hussein-Ece (LD): My Lords, when Tunisian Mohamed Bouazizi set himself on fire in December 2010, he became the catalyst for a wave of protests that triggered revolutions against dictatorial regimes that had ruled the Middle East for decades and generations. These protest movements called for social justice for impoverished citizens who faced rising unemployment, reduced living standards and a lack of political freedom and free speech. Men and women all wanted dignity as well as democracy. While each country had its own specific challenges and difficulties, these common themes emerged as calls from the protestors began to echo across the region. The demand for human rights came from both men and women, with women playing an active and unprecedented role in the protests and revolutions.

The changes sweeping countries affected by the events of the Arab uprisings presented opportunities to establish real progressive changes in the attitudes towards and treatment of women across the Arab world. However, in taking a long, hard look, and despite the existence of international resolutions drafted to protect and empower women, the challenges facing women remain overwhelming. In particular, the initial small gains made by women on the front lines of their respective revolutions are in real danger of regression as religious and male-dominated conservatism occupies the power vacuum in some countries.

The Arab uprisings were, it is fair to say, among the most important and powerful events of the past 100 years, some say since the fall of the Ottoman Empire. The aftermath of the revolutions has brought a backlash against the rights of citizens, particularly women, when we contrast the current status of women's rights in these countries with the roles played by women of all ages, ideologies, ethnicities and social backgrounds in the uprisings in countries such as Tunisia, Egypt and Yemen. When dictators began to fall, there was relief and a sense that women would be able to gain political empowerment. The Arab spring signalled many new beginnings, possibilities and, most of all, hope for a better future. On 25 January 2011, as we watched millions of Egyptians demonstrating in Tahrir Square, demanding jobs, freedom, social justice and the removal of the then President Mubarak, the voices of millions of women, Copts, Muslims and Bedouin stood together in a truly historical moment.

Another triumph for women during the Arab spring was their constant presence throughout the social media sphere. Some commentators dubbed it the "social

media revolution" and debate has continued about the effects and role of social media in the Arab spring. It marked a turning point of instant news and access to what was happening on the ground. I read many tweets from women in real time who were taking part in a revolution. Yet these women found themselves suddenly targeted by the authorities and by factions. We saw the horror of violence against women unfold in Tahrir Square. It was clear that those carrying out gang rapes were organised, well paid and well protected. They were in the hundreds. Did it stop the women? The following days saw the insurgence of women protesters boldly increasing—multiplied, loud and fearless.

The Egyptian experience perhaps brought a sharp focus upon these attacks. During the Tahrir Square protests, most shockingly, there were numerous reports of police sexual attacks on female protestors—and, infamously, the virginity tests. Egyptian military doctors subjected some female demonstrators to invasive virginity tests, following police arrests for demonstrating. A young Egyptian woman, Samira Ibrahim fought to take her case to court, along with other female protestors. While an order was put out demanding an end to the practice, the military court cleared the doctor who had performed the test. These appalling tactics were used to scare off the growing presence of women during the Egyptian protests.

Alongside these reports came stories of the sexual assault of female journalists. CBS reporter Lara Logan came to the attention of western media when she reported her story of having been sexually assaulted by men while she was reporting at the demonstrations. Following this, further stories reported a young British journalist, Natasha Smith, and an American-Egyptian commentator, Mona Eltahawy, were subjected to similar attacks. So when dictators began to fall, there was relief that women would be able to taste what political empowerment felt like. The Arab spring signalled many new beginnings, possibilities and most of all, hope for a better future. However the rise to power of religiously-dominated patriarchal parties in Tunisia, Egypt, Morocco and Libya meant new restrictions imposed on women. The post-revolution regression of female equality has been most acute in Egypt, first and disappointingly under the elected Government of the Muslim Brotherhood, and presently under the transitional Government. Women were not represented at all in the constitutional committee under the Muslim Brotherhood, and though they now make up 5% of the membership under the transitional Government, they remain largely isolated from decision-making positions and structures.

In Morocco, there were eight women in the previous Cabinet; today there is only one. Earlier this year, the Moroccan Parliament adopted a decree lowering the age of marriage for girls from 18 to 16, which is considered a major setback. A first draft of the electoral law in Libya reserved 10% of seats in the constituent assembly for women, but the quota was later abandoned. In Yemen, despite the country's commitment to international women's rights conventions, the transitional Government has failed to implement and enforce even existing laws designed to protect women. In Syria, the situation is most acute and declining. The conflict, ongoing since early 2012, has left more than

[BARONESS HUSSEIN-ECE]

100,000 Syrians dead—including 6,000 children—and estimates for Syrian refugees living in Lebanon now top 1 million. Refugees, in particular women, have faced isolation, marginalisation and violence in refugee camps. Many of these women refugees face sexual harassment in public places such as where they obtain their assistance coupons. Those left fighting for democratic choice within Syria face disproportionate punishment for their actions, including detention, torture and assault. Syrian women leaders have emphasised the urgent need for Geneva II—which has sadly been delayed yet again—and for Syrian women to be part of that political process.

On 29 October, Syrian activists and leaders gathered alongside 80 others in Jordan for the Arab Regional Training on Women, Peace and Security, organised by women's rights organisation Karama in partnership with the UN Women's Fund for Gender Equality and the UN Development Programme. It was held to build the capacity of civil society leaders to implement international resolutions on women, peace and security, and to lobby for national action plans advocating women's inclusion in the transition and the peacebuilding process. When we reflect on what the Arab spring did, it would be impossible to provide a full analysis of its effects on the lives of women, primarily because in many instances the Arab spring—or autumn as it has now been dubbed—continues in various forms, as the many countries continue to adjust constantly to new rules of law, governance and uncertainty. However, for the first time in recent Middle Eastern history, women played a crucial role in defining their country's future. It gave women a platform for their voices to be heard and their stories to be shared, but the news, as I have briefly outlined, is not promising. Many women feel their lives and their rights have deteriorated. Rebeca Grynspan, the UN Under-Secretary-General and associate administrator of the UN Development Programme, stated:

“The character of this century will be determined by our ability to walk towards gender equality. All the studies not only suggest that if you tackle gender equality, you empower women, but you also will be much more effective in fighting poverty and hunger”.

The measure of democratic success is weighed in the treatment of women, their advancements in politics, media and social spaces and the ways in which women's issues are defined and responded to. I would therefore ask for an assurance from the Minister that, when meeting delegations or when Geneva II is finally convened, the United Kingdom will take a strong lead in ensuring that there will be representation from women and that women's rights will be on the table and part of that discussion. It surely cannot be right that women's voices continue to be suppressed by male-dominated talks that affect the lives of 50% of the MENA—Middle East and north Africa—countries. I am grateful for the helpful briefing from Karama, whose founder is Hibaaq Osman. I look forward to hearing from other noble Lords, in particular from my noble friend Lady Hodgson, who will be making her maiden speech.

1.09 pm

Baroness Tonge (Ind LD): My Lords, I congratulate my noble friend on securing this very important debate. The position of women in the Middle East is a constant

source of concern for many of us. At first, I thought that the so-called Arab spring was good news for women in those countries but, sadly, the effects are not proving universally beneficial.

Women played a great role in many countries' demonstrations and protests. As we have heard, they were not afraid to be out on the streets with their men, and they displayed even greater courage than our own sisters in the suffragette movement did at the beginning of the last century. In fact, it is not very long since women in this country had few rights.

The Arab spring started in Tunisia and spread quickly. The leaders of Egypt, Libya and Yemen were overthrown. The protests in Syria have led to a tragic civil war in that most beautiful country. Before the Arab uprisings, women enjoyed some rights—Islam did not mean necessarily that women were oppressed. Although not strictly an Arab country—and I have to put in a plug here—Iran was and is quite remarkable in its encouragement of women's education and their freedom to use contraception. Iran is often quoted in family planning circles for its amazing 1.9 fertility rate. That is less than the replacement level and it means that women are having fewer children.

Family planning, despite the ayatollahs, is thriving in Islamic Iran. In some countries where Islamists predominantly led the uprisings, there has been a falling back for women's rights and freedom, but not in Iran. It was beginning to happen in Egypt under the Morsi presidency, where women's rights were being talked about. However, that was a tragedy for Egypt because, together with other restrictions that we have heard about, it gave a cause célèbre for a coup by the army, which I have to say should have been condemned by our Government. Whether we like them or not, the way for democratically elected Governments in the Middle East—the Hamas-led Government in Palestine was another example in 2006—to be removed is at the ballot box, not at the point of a gun. I do not like the coalition Government very much, as noble Lords may have noticed, but we have to wait until they are dispatched, or not, at the next election. We lose all credibility if we preach democracy and then refuse to recognise the decision of the electorate in other countries.

I want to make a special plea for our Government to recognise what has been going on in Bahrain since the Arab uprisings and to recognise the treatment of women there in particular. Hundreds of women have been sacked for participating in pro-democracy demonstrations, and even those who got their jobs back have had to give up their trade union membership and employment rights. They cannot vote or participate in any way with the political process there. Women have been arrested in their homes in the middle of the night; they have been tortured and sexually abused; and some have gone on hunger strike.

A teacher who led a protest march—I have the details—was arrested, tortured, sentenced and refused permission to work again. A young mother and activist—sick with cancer, as it happened—was made to stand in a doorway while she was sexually abused, all for wearing a political T-shirt. A heavily pregnant woman was jailed with no charge because she objected to her husband's arrest at a checkpoint. At least 13 women have died in Bahrain, with no one being held accountable.

There are many other examples—I have a long list—and the men have suffered too, but this is a country that we are friends with. It is our ally and supplier of oil, and we have done nothing about these abuses during the uprisings in Bahrain. We should be ashamed. Sooner or later, this will all come back to haunt us.

Finally, there is some good news. Over the past 10 years, a quiet revolution has been going on in the Middle East. Health services and education have improved in most countries, although sadly not in Yemen. Iraq had very fine health services but they are subject to great strain at the moment. Gender equality has been achieved in education in most Middle Eastern countries, although, as we have heard, opportunities afterwards are still very limited. Maternal mortality has dropped dramatically, although again, not in Yemen. In Yemen 110 women per 100,000 still lose their lives in childbirth, which is very high indeed, but in other countries the rate has come down and the most remarkable thing of all is that over the past 20 years women have been following the example of their sisters in Iran and accessing family planning to limit their families.

The Arab spring, we are told, was led by the explosion in the number of young people wanting a better, different life. The women want a better, different life but a researcher in the USA, Professor Eberstadt, calls it the “youth quake”, which I rather like. However, the drop in family size all over Middle Eastern countries will balance that out eventually and reap a huge benefit for women. Later marriage, which is also occurring, and fewer babies mean better health for women, a longer time in education, a better family income as mothers join the workforce and, I hope, more time to forge their way into the constipated—if noble Lords will excuse the medical term—male politics all over the Middle East. In the future we can expect a “women quake” and good luck to them. We will be here, ready to help.

1.16 pm

Baroness Hodgson of Abinger (Con): My Lords, it is an enormous honour to enter this House. I rise with some trepidation to make my maiden speech and I am delighted to be able to do so on this important subject. I begin by thanking my supporters and all who have made me so incredibly welcome. I am truly grateful to Peers on all sides of the House and to all the staff. Although new to the Palace of Westminster, I am not new to the political world, having worked for many years as a volunteer in the Conservative Party, including chairing the Conservative Women’s Organisation, being an elected member on the board and chairing the Conservative Party conference in 2011.

On a visit to Washington with the Conservative Women’s Organisation in 2006, we met groups of women from Afghanistan and Iraq. Talking to them made me realise how difficult their lives were and encouraged me on my return to set up the Conservative Women’s Muslim Group to promote understanding and dialogue. That meeting awoke in me a very strong interest in international women’s issues, particularly in conflict and post-conflict countries, which I have continued to work on since, including visiting a number of such countries to listen to the women there. I also sit on the

steering board of the Foreign Secretary’s initiative to prevent sexual violence in conflict countries and I pay him great tribute for his courage and resolve in driving this subject up the global political agenda.

Time is short so I now turn to the subject of our discussion. I pay tribute to the noble Baroness for securing this debate about the situation of women after the Arab spring—or rather, the Arab storm, as described by a Tunisian friend—because where regime change has occurred, women’s rights are rolling backwards. I begin by quoting from a Saferworld report entitled *It’s Dangerous to be the First*:

“Women’s visibility in the 2011 wave of protests that shook the Middle East marked a watershed. Although women’s activism was not new in 2011, their centrality to the uprisings was remarkable. In the political transitions that followed, women appear to have come under increased pressure to ‘leave politics to men’ and ‘return to normalcy’”.

Looking to Egypt, Tunisia and Libya, I should like to raise a couple of the most pressing issues. First, all these countries suffer from an enormous lack of security. This affects women disproportionately, making it extremely hard for them to take part in public life. Security and justice in these countries are in the hands of men. A Tunisian lawyer e-mailed me last week, saying:

“We are really suffering and struggling—terrorism now is a part of our living. The radical Islamist groups are out of control and they can act whenever and wherever they want”.

An activist from Women4Libya wrote similarly to me, saying:

“I’ve known many friends and family members who at the very worst are intimidated and are victims to theft, abductions, sexual harassment/attack and violent death”.

Also, we have seen in our media the reports of violence in Egypt, including women being sexually abused and raped in Tahrir Square. It was Jinnah, the founder of the Islamic Republic of Pakistan, who said:

“No nation can ever be worthy of its existence that cannot take its women along with the men. No struggle can ever succeed without women participating side by side with men”.

Secondly, the writing of new constitutions is a source of much anxiety. Women’s voices need to be heard to ensure that gender equality is embedded. In September 2012, I participated in a British Council workshop in Tunis on drafting constitutions with Libyan women but I understand that only six seats of the 60-member constitutional drafting committee in Libya will be allocated to women.

Article 11 of the new Egyptian constitution of 2012 mandates the state,

“to guarantee equality between men and women in political, social, economic and cultural fields without breaching the principles of Islamic Sharia”.

However, Islamic Sharia can be interpreted to forbid women to go out unaccompanied, to encourage early marriage and to insist on their being veiled. Following the overthrow of the Muslim Brotherhood, a 50-member constituent assembly is tasked with amending this constitution, but only five members are women.

In Tunisia, although 27% of parliamentarians are women, nearly all come from the Islamist party, which fielded politically inexperienced women candidates. Thus, I am told that their participation in the writing of the constitution is almost worthless and they only toe the party line.

[BARONESS HODGSON OF ABINGER]

ACROSS the whole region has crept a dangerous fundamentalist credo suggesting that women's rights belong with the ousted dictators and that women in leadership roles is un-Islamic. To achieve true democracy in these countries there has to be peace, security and equality for everyone, not just for half the population. I would ask the Minister to ensure that the British Government exert all the influence that they can to enable women to play their equal and rightful part in helping to take their countries forward.

1.22 pm

Baroness Berridge (Con): My Lords, it is a privilege to welcome my noble friend Lady Hodgson to your Lordships' House, particularly after such a thoroughly knowledgeable and passionate speech. As a former president of the Conservative Women's Organisation, she joins an illustrious group of women on the Conservative Benches who have previously held that position: my noble friends Lady Byford, Lady Seccombe and Lady Anelay, who are with us this afternoon. I know that in that role she founded the Conservative Women's Muslim Group, whose events I have had the privilege of attending. She is also known for her encouragement of many women in the preparatory stages of standing for election to the other place. Among her other roles outside your Lordships' House, my noble friend Lady Hodgson is patron of the Afghan Connection and a member of the Association of Oxfam. I understand that she not only listens to women's concerns but has unfortunately got a little too close to the action on occasion in Afghanistan. Of course, she is known for her expertise in gender issues and international development and will make a worthy contribution to your Lordships' House, but I also know from having worked alongside her in Conservative Campaign Headquarters that she brings with her a natural warmth and kindness to everyone she meets.

For many women in the Middle East, the Arab spring has brought little change in terms of the law but not in terms of courage. The simple act of a woman driving a car in Saudi Arabia is a protest and putting such footage on YouTube is courageous, as every computer is, I believe, traceable by the regime. That shows how much we women sometimes take for granted in the UK but we should not be too complacent as Tunisia's Parliament now has 27% women and the UK has only 23%. However, all eyes in the Arab world are on Egypt, which is currently writing its new constitution, and it is Egypt that I wish to focus on this afternoon.

The position of women in Egyptian society since the military intervention earlier this year has now arrived at a tipping point. Previously, under President Mubarak, women were sparse in the political arena and were not really visible. The protests in January 2011 included mass protest by women, and it looked as though the tide was turning. However, under the period of rule by SCAF and then President Morsi matters started to decline again.

In my own visit to Egypt in October 2011, I found women in Alexandria scared to go out in public. This was not only because the lack of a police force meant a decline in law and order, but because they felt under

increased pressure to veil themselves whenever in public. Christian families were reportedly asking their daughters to wear headscarves so they could not be picked out in any way. The radicals were empowered as women were objectified. There were reports of acid attacks and other assaults, and the security forces did nothing.

However, I believe that two factors halted this declining trajectory. The Morsi regime tried to hand power to the Al-Azhar University, but the university refused to take it. Its members did not want to be the ultimate interpreters of the constitution in Egypt, which is what President Morsi offered them. They would not allow him to remove the Grand Imam, and I understand that in future that post will not be appointed by the President. These were key moves towards a theocratic state, and they were thwarted. As the only pan-Sunni institution to have survived the fall of the Caliphate in 1924, Al-Azhar's influence extends across the Sunni world. I believe women across the region will in future be very grateful for the institutional independence and courage shown by Al-Azhar. I do hope that Her Majesty's Government have thanked them too.

The second matter is the women themselves, who could see how this trajectory would affect them and their daughters in the future. A fear barrier was broken in 2011 and it was not going to be resurrected. Bishop Angaelos of the Coptic Orthodox Church in the United Kingdom, who was in Egypt during the anti-Morsi protests this year, recalled to me that he saw a young veiled woman in Tahrir Square holding a placard of Morsi with a red cross through it. This action would have been unthinkable three years ago, as would the current presence of women in the Egyptian media as talk show hosts and political commentators, and—due to the cost of living in Egypt—as an increasingly vital part of the labour market. Women have been given a platform and have risen to the occasion. Feminism is not being seen as some kind of foreign import but increasingly as an Egyptian value. Egyptian women were not going to allow the revolution of 2011 to be taken from them.

In Parliament last month, it was a privilege to hear from Mrs Mona Zulficar, vice-president of the Egyptian constitutional drafting committee and an international corporate lawyer. The very fact that a woman is in such a prominent and influential position is remarkable in itself, and her passion to ensure the rights of all Egyptians was matched only by her keenly felt responsibility on behalf of women across the Middle East and north Africa. Women's rights groups from across the region have been contacting the Egyptian constitutional committee to say, "You have to get this right—you are our hope".

Therefore I believe that the UK and the EU's efforts for human rights and democracy need to focus urgently on Egypt. The immediate humanitarian crisis is of course Syria, but for the human rights and democracy brief and budget within the Foreign and Commonwealth Office, Egypt should be the focus. Egypt is pivotal to change in this region.

I hope that my noble friend the Minister can indicate what projects Her Majesty's Government fund in the democracy and human rights programme, and how these prioritise women's rights. Television, particularly

satellite television, has a huge influence in Egypt. Has Her Majesty's Government considered funding programmes that would reinforce the role of women in society?

Much of UK taxpayer support to Egypt goes through the European Union. The disturbing reports of €0.5 billion of aid being unaccounted for are concerning, not least because this should have included at least £70 million of UK taxpayers' money. As Karel Pinxten, the European Court of Auditors member responsible for the report into EU aid to Egypt, said:

"In the past, the Commission set forward some conditions for giving aid to the country in terms of human rights, in terms of democracy, in terms of public finance management, in terms of fighting corruption".

If EU money from female UK taxpayers is to be invested in Egypt, at the moment it should be ploughed into projects that will support the courage of Egyptian women. Respecting the rights of women should be a condition of EU support.

1.29 pm

Baroness Uddin: My Lords, I am proud of the Committee today because there is so much change in the tone of our discussion and so much agreement, which was not always the case across the House when I came in 1998. I thank my noble friend—I consider her to be a friend—Lady Hussein-Ece for allowing us to debate this issue, and I welcome the noble Baroness, Lady Hodgson. We have shared many platforms on gender matters. It is a tribute to her that I never knew that she was such a staunch Tory Party member. I look forward to hearing from her and working with her on many more occasions.

The Arab spring was the people's revolt against dictatorships and authoritarian regimes, although its impact on women remains unclear. Women stood hand in hand and shoulder to shoulder with their men in Tunisia, Egypt, Bahrain, Yemen and elsewhere. They protested and led and organised protesters, spending days and months at the coal face of the revolution and making sure that their voices were heard across the globe.

I had the privilege of visiting Tunisia following the toppling of the military rule—a couple of days after, in fact—and a few of us stood and talked with protesters on the square and with those occupying the presidential palaces. We witnessed men and women standing together for their country's future. As a mere observer, I believed, like many others, that women would participate in the development and building of their new nations and Governments. Political parties on the ground acknowledged the importance of including women in governance. A report by UN Women noted that the high presence of women protesters calling for change raised hopes for freedom and equality for men and women in Arab societies, and it said that it was an exciting moment to hear women's political voices campaigning for democracy. Women were able to express opinions publicly, not only about dictatorship but about their aspirations for a better future, education, employment, justice and peace. Significantly—this is a point on which I want to concentrate—many women reported their experience of violence and sexual assault, particularly at the hands of military personnel, when they took part in protests or were arrested.

As the revolution has descended into chaos, murder, summary justice, judicial killing and civil war, women and children have suffered mortifying violence, the cruellest conditions and punishment. Vulnerable women protestors were raped, beaten and arrested as a way to deter them from being on the street. Rape has been reported in Egypt, Syria and Libya, as well as in the refugee camps, where women are fleeing persecution and seeking shelter from harm.

In 2010, I raised the matter of rape as a weapon of war and conflict, and I drew your Lordships' attention to rape being used as a weapon during the war between Pakistan and Bangladesh, when hundreds of thousands of women were raped, tortured or killed. Many have since died without seeing the perpetrators brought before the courts, without having their struggles believed and without seeing justice. We have come far since then and I applaud the Foreign Secretary for his leadership in getting rape on the agenda. I remain concerned, however, that the practicality of implementing our good intentions has yet to be worked out. Rape, including of children, continues to be used widely in today's global conflicts. Does the Minister believe that measures are in place to ensure that agencies working on the ground can record allegations of rape so that the perpetrators can be identified and brought to justice? More importantly, what resources and medical support are being made available to women who report rape?

The Arab uprising was undoubtedly a crossroads for many women in the Arab world. It opened up dialogue with women in countries and across borders and regional boundaries, aided by technology and the Facebook generation. It gave many more women a platform for their voices to be heard, albeit temporarily. The opinions of women are now extremely divided. Many have argued that the situation of women in the region has worsened post-revolution and that the uprising has eroded many of the legal frameworks that were in place and which provided some protection and some rights for women.

Samira Ibrahim wrote that a revolution has come and gone but done little for Arab women. Domestic violence, forced marriage and female genital mutilation are still part of the status quo across a region covering more than 20 countries and 350 million people. Another journalist, Mona Eltahawy, wrote that:

"Until the rage shifts from the oppressors in our presidential palaces to the oppressors on our streets and in our homes, our revolution has not even begun".

Whatever the reality on the ground, we can be certain that the uprising has wider implications. While the regimes changed in Egypt and Tunisia, calls to introduce democratic reforms have swept the region, and two of them are notable. In 2011, Moroccans overwhelmingly voted for a new constitution to include pledges to achieve equality and to,

"ban and eliminate discrimination according to gender".

In Saudi Arabia, where the uprising may or may not have been seen as a contributory factor, however small, towards enfranchising Saudi women, a number of women have been appointed to the Shura Council and are to be given the right to vote and to stand for election in coming years. Of course, we have to

[BARONESS UDDIN]

be cautious and guarded. Nevertheless, we should acknowledge that the world today is a very different place from the world of 20 to 30 years ago. There have been positive steps; namely, that 139 countries and territories now guarantee gender equality in their constitutions. However, we know that none of this means an end to injustice, violence and inequality either in women's homes or in their working lives, just as we continue our own struggle in the West and elsewhere in the world. The transformation may take generations. Given the volatility in the region, it is difficult to predict the impact of the revolution on the status of Arab women as political, social and economical changes are in transit.

Women were leaders in the uprising, campaigning for democracy, justice and peace, and demanding a say in how their countries and futures are to be shaped. It would be reckless and unwise to conclude that the Arab spring brought equal rights to women and men, but those women made historic efforts which will have defined a generation. I hope that, for our part, we will not abandon them as they march on.

1.36 pm

Lord Collins of Highbury (Lab): My Lords, I, too, thank the noble Baroness, Lady Hussein-Ece, for initiating this debate. I also congratulate the noble Baroness, Lady Hodgson of Abinger, on her excellent maiden speech. As chair of the advisory board, Gender Action for Peace and Security, she has played a pivotal role on a cross-party basis in ensuring that this issue remains high on the policy agenda. I thank her for that. In particular, I pay tribute to GAPS for its No Women No Peace campaign, calling on the UK Government to honour commitments made to women in conflict.

As we have heard, a key characteristic of the popular uprisings in the Middle East and the north Africa region was the prominent role of women. As the noble Baroness, Lady Tonge, described, there were women who were engaged in protesting, blogging, hunger-striking and organising. They were, in the spring of 2011, and continue to be a powerful force for change. However, as the noble Baronesses, Lady Hussein-Ece and Lady Hodgson, described, they are becoming increasingly sidelined from the future of their nations through a lack of inclusion in peace talks and constitution negotiations.

The report published in September by CARE International, circulated in the briefing for today's debate, outlined just how much international donor policy needed to adapt in the wake of the Arab spring. It drew on the experiences of more than 300 men and women in Egypt, Morocco, Yemen and the Occupied Palestinian Territories, and found that the outlook for women in the region remains uncertain. Nearly all Middle Eastern countries in the World Economic Forum's *Global Gender Gap Report* scored more poorly in 2012 than they did in 2011. At the same time, the uprisings created an explosion of new activism by women, and they are making themselves heard in transition processes such as the National Dialogue Conference in Yemen.

What is clear from the heartfelt accounts in the report is that the international community should invest in longer-term development programmes that

will change the attitudes and practices that are a barrier to women's participation in public life. We should support initiatives that will bridge the religious-secular divide that is becoming increasingly polarised. As the noble Baroness, Lady Uddin, said, women's involvement on the front lines of the Arab spring has also been characterised by exclusion and systematic violence. Sexual assault, gang rape and public beatings were used to discourage women from taking part.

The EU meeting with Ministers from the Middle East and north Africa in Paris on 12 September on strengthening the role of women in society coincided with EU negotiations to review and revise aid and trade relations with the countries of the MENA region. While the EU has committed to promoting a "more for more" approach, whereby aid recipient states receive funding if they implement democratic reforms, the approach does not explicitly mention women's rights. That was a point highlighted by the noble Baroness, Lady Berridge. How does the Minister think the EU will hold recipient countries to account if they fail to respect the rights of women to take part in decision-making institutions and processes?

Will the Minister indicate what steps the Government will take to factor benchmarks on women's rights alongside wider benchmarks on good governance and human rights into the UK's and the EU's aid, trade and wider economic co-operation with states in the Middle East? How will he ensure that women's rights organisations are consulted on the development of these benchmarks? An environment should be supported whereby women politicians, women's rights organisations and women's rights activists can freely operate and be protected from intimidation. The Government should ensure flexible funding mechanisms for women's rights organisations so that capacity can be built and improved and communications can be established, and they should ensure that they have the resources to participate in the future direction of their nations.

In the recent debate on Syria, I referred to Oxfam's report *Shifting Sands*, which highlighted that many refugee women and girls no longer have access to the resources and services that they used to have in Syria before the conflict began that enabled them to fulfil their traditional gender roles. I once again ask the Minister what assessment the Government have made and what action they are taking to understand and tailor policies to the impact of the crisis on the women affected, including violence against women and girl refugees. What steps will Her Majesty's Government—both DfID and the FCO—take to work with Jordan, Lebanon and other states that are accepting refugees from Syria to support women refugees in earning a dignified livelihood, recognising the concerns from the local population and national authorities about the uncertain economic impact?

1.43 pm

Lord Ahmad of Wimbledon (Con): My Lords, I thank my noble friend Lady Hussein-Ece for bringing such an important issue to the Committee, and all noble Lords who have participated in this important debate. It would be remiss of me not to single out my noble friend Lady Hodgson, who I welcome to our Benches in the House of Lords and congratulate on

her excellent maiden speech. It was both thoughtful and reflective of her great expertise across many areas, but particularly in the international field in relation to women's rights. I look forward to working with her in the years ahead on this issue and on other matters. I wish her a very warm welcome.

I congratulate all noble Lords on their contributions. The noble Baroness, Lady Uddin, made a point about there being agreement across the board, and I believe that on this issue we all stand as one.

The UK strives to promote gender equality and to tackle violence against women as a matter of principle. We believe that human rights are universal and should apply equally to all people, regardless of gender. Where women have equal access to education, healthcare and political and economic opportunities, societies, as several noble Lords have mentioned, are healthier, more prosperous and more peaceful.

We all remember the Arab spring in 2011. Those who looked at their television screens and those who tweeted or went on to Facebook would have seen those great flags of hope, as young men and, importantly, young women came out in the hope of a new beginning. They took courageous stands in protests across the region, and enduring symbols of the Arab spring stay with us today. Men, women, youngsters and the old participated together in demonstrations, calling for a realisation of their political and economic aspirations. The noble Lord, Lord Collins of Highbury, highlighted that very well.

Since then, some—I use that word carefully—progress has been made. Many women have participated in democratic elections for the first time, shaping new Governments. In Libya, for example, women's groups play an important role in civil society, but as my noble friend Lady Hodgson pointed out, many challenges remain in terms of political participation.

In Yemen, women now hold 126 of the 565—that is, 22%—seats in the National Dialogue Conference. I did a bit of a self-test here. I went to our House of Commons, where there are currently 146 women out of the 650 representatives, which I believe is also 22%, so perhaps the focus is not just, as it is today, on the MENA region; there is also much work for us to do elsewhere.

Prominent women are taking the lead in their societies. Let us not forget Tawakkol Karman, who jointly won the 2011 Nobel Peace Prize for non-violent struggle for the safety of women and for women's rights to full participation in peacebuilding work. I have also learnt recently that she has given back the \$500,000 that she won to be used in greater fights for freedoms and equality in her country. Earlier this year, my noble friend the Senior Minister of State for the Foreign and Commonwealth Office, Lady Warsi, met another prominent woman from the region, the United Arab Emirates' Development Minister, Sheikha Lubna.

However, challenges remain. As my noble friend Lady Hussein-Ece highlighted, the future for many women across the region remains uncertain, and there have not been the gains that we had hoped for—and, more importantly, that those in the region had hoped for—in democratic or political participation and opportunity. Let us be clear: women are underrepresented

at senior levels of government and commerce in the region. Moreover, they often face basic economic inequalities, such as pay gaps.

The challenge is compounded by the political crises affecting parts of the region. Many noble Lords have rightly referred to Syria, where women face the challenges inherent in living in a conflict situation. In Libya, many women have become victims of sexual and domestic violence, as the noble Baroness, Lady Uddin, highlighted, and there is weak access to medical services. In Yemen, increased instability since 2011 has seen a major humanitarian crisis. As my noble friend Lady Berridge highlighted, the hopes that we saw in Tahrir Square in Egypt have not been realised in terms of political participation.

So what is the UK doing? Several noble Lords raised questions, and it is right that we highlight the steps that the Government have taken and continue to take. We recognise that increasing women's participation is a vital part of supporting transitions and building stability in the region. As such, the UK is taking strong action to support women's empowerment through a number of approaches.

The noble Lord, Lord Collins, and my noble friend Lady Berridge raised the issue of the EU fund and the donor policy. We have set up the Arab Partnership Fund, which was created in 2011 to support positive long-term reform in the region, and more than £110 million has been allocated between 2011 and 2015. Last year, approximately £2.6 million of that fund was allocated to projects that specifically benefited women. In Egypt, for example, we have provided assistance to women candidates in local elections. In Libya, we have funded work to strengthen women's participation in the General National Congress. In Morocco, we are working to establish a women's affairs committee in Parliament.

We have supported women's economic empowerment in the region through our presidency of the G8 Deauville partnership. As part of that, we hosted a two-day conference in June on women's economic empowerment, focused on creating business links between female entrepreneurs in the G8 and the region.

The noble Baroness, Lady Tonge, spoke with great clarity about some of the challenges faced by women and raised the issue of Bahrain and the Government's position. Let me assure her that Her Majesty's Government continue to work on supporting the process of national dialogue and political reform in Bahrain, including promoting international human rights standards and political reform. Those are key parts of the dialogue and in all our representations at ministerial level, we remind the Bahraini Government of that.

During the recent event, the DfID Secretary of State, my right honourable friend Justine Greening, announced the creation of an Arab women in business challenge fund. The UK has contributed £10 million to this fund, which will co-finance initiatives with the private sector to deliver new job opportunities for women in the region. The UK has also been working with several major law firms to establish a legal task force to recommend ways to address legal barriers to women's economic participation. Additionally, we have selected women's empowerment as one of the three

[LORD AHMAD OF WIMBLEDON]

themes of our work as co-chair of the G8-BMENA process. The aim of that work is to bring civil society and Governments in the region closer together.

I pay tribute to the work of my noble friend Lady Hodgson on the steering board currently advising the Foreign Secretary on his initiative to prevent sexual violence in conflict and post-conflict countries. The Foreign Secretary has made clear the priority he gives that issue, and it provides a further opportunity to engage with Governments in the region on women's rights. The declaration of commitment to end sexual violence in conflict that the Foreign Secretary launched at the United Nations on 24 September has so far been endorsed by 134 countries, including almost all countries in the region. The noble Baroness, Lady Uddin, also spoke about that issue. I assure her that in all our discussions, whenever we meet Governments from across the MENA region, we raise the issue with them and the instances of human rights abuses, particularly sexual violence against women.

On Syria, we are undertaking gender-focused aid as part of our broader £500 million humanitarian relief effort to Syria and its neighbours. We are encouraging greater women's participation in and around the Geneva II peace talks on Syria. Under the Preventing Sexual Violence Initiative, we are also focusing on improving advocacy for women's rights. We are training doctors and human rights defenders to document human rights abuses, including sexual violence, with a view to assisting future transitional justice efforts.

Picking up a point made by the noble Baroness, Lady Tonge, health services have shown improvement in those countries, but more needs to be done, particularly on sensitivity to some of the issues surrounding women.

As I said, through Geneva II, we recognise the Syrian National Council as the sole legitimate representative of the Syrian people. As part of our efforts with international partners, we seek to ensure that the coalition is able to reflect and meet the aspirations of all Syrian people and reflect the representation of women in its membership.

On Egypt, I assure my noble friend Lady Berridge that FCO Ministers have made clear in their contacts with the Egyptian authorities that women's participation is a key part of supporting transition and building stability. We will continue to raise the issue.

My noble friend Lady Hodgson raised the issue of low female representation—six seats out of 60—in Libya. We continue to urge the Libyan Government to ensure that women's rights are fully protected under the new constitution.

I have given just some of the initiatives we are taking but the UK is working hard to strengthen the role of women across the MENA region. I fully accept that many challenges remain and the opportunities afforded by the transitions in the region have yet to lead to widespread concrete and sustainable gains for women. Now is not the time to draw back our efforts, and we shall not, but rather to maintain and strengthen them. The potential gains are huge. For example, research has shown that if female employment rates in Egypt matched those of men, GDP would increase by 34% by 2020.

In conclusion, women played a key role in the demonstrations of the Arab spring and there is an absolute need to ensure that they continue to take a central and pivotal role as we build the democracies and new constitutions of the region. This Government remain committed to backing those aspirations and to turning that hope into reality. We stood with many of the protesters in these countries—men, women, the elderly and children—as they sought to bring change, and we will stand with them in their transitional progress. We heard about the vision of Muhammad Ali Jinnah in the formation of Pakistan but perhaps many of the countries that put Islam at their centre need to reflect on the origins of Islam, where women played a pivotal and central role in the empowerment and progression of the faith. I end with a quote from another lady who inspired many. Those who wish to give up hope should remember Eleanor Roosevelt's words:

“The future belongs to those who believe in the beauty of their dreams”.

Baroness Hussein-Ece: My Lords, I thank the Minister for that very comprehensive and informative reply. I think it was very well made.

Baroness McIntosh of Hudnall: My Lords, I hesitate to interrupt the noble Baroness but I fear she does not have the right to reply on this occasion.

1.56 pm

Sitting suspended.

OSCE: Helsinki+40 Process

Question for Short Debate

2 pm

Asked by Lord Bowness

To ask Her Majesty's Government what are their priorities for the Organisation for Security and Co-operation in Europe Helsinki+40 discussions; and what progress has been made.

Lord Bowness (Con): My Lords, I will endeavour to comply with the rubric to limit this debate to 60 minutes. I note that the second rubric, however, limits me and all other speakers except the Minister to 10 minutes. Should I err, I will rely on the former rather than the latter.

My Lords, 2015 is the 40th anniversary of the Helsinki Final Act in which the participating states agreed principles to govern relations between member states and to work through three security dimensions or pillars: political and military; economic and environmental; and human aspects. I, the noble Baroness, Lady Hilton of Eggardon, the noble Lord, Lord Dubs, and 10 Members from the other place form the United Kingdom delegation to the OSCE Parliamentary Assembly.

In January 2012 I asked what the Government's assessment was of the role of the OSCE and whether they had any plans to increase awareness of it. On that occasion, the Minister made clear the Government's

support for the organisation and noted the difficulties under which it worked, especially the need for consensus. That is understood.

The Question before the Committee this afternoon was on the Order Paper for debate on a Thursday in late June, but since it attracted no more speakers than are due to participate today, I withdrew the same. Of course, today's tabling now clashes with major debates on China and the Armed Forces. Nevertheless, it is perhaps surprising that in general there is so little interest in the affairs of the OSCE, which should be of some concern to Her Majesty's Government if they still believe in the organisation.

I know that the noble Lord responding for the Opposition and my noble friend the Minister will be familiar with the OSCE and all its works, and for that reason I will not go into its role at great length. However, I should like to point out for the record that the OSCE's own website tells the inquirer that there are 57 participating states. Its membership stretches from Vancouver to Vladivostok. All the largest and smallest countries in Europe and Eurasia are members. Mongolia has recently joined.

The OSCE addresses subjects as important and varied as arms control, confidence and security-building measures, human rights, national minorities, the democratic process, policing, counterterrorism and environmental activities. There is a ministerial council, which normally meets once a year. There is a permanent council and a Forum for Security and Co-Operation, which meet weekly in Vienna. The Office for Democratic Institutions and Human Rights works on the commitment to democracy and human rights and plays a particular role in monitoring elections. Other offices deal with freedom of the media, national minorities and conflict prevention. That is not a comprehensive list.

Important work is done in field missions, which are located in what is a roll call of areas of concern to this country and our European partners. The tasks undertaken include the training of police, judiciary and border control staff.

The OSCE's website tells me that it employs 550 people in the various institutions and 2,330 in the field operations. The 2013 budget is nearly €145 million, of which the UK pays 9.3%. Excluding expenditure on field missions, the EU member states together contribute some 70%. I suggest that the organisation has a potentially important role, which I accept is made more difficult by the need for consensus and the fact that decisions, even if taken, are binding only politically and not legally. It is against that background that I formally ask the Question on the Order Paper this afternoon.

At the ministerial council in December 2012, the then chairman in office, Ireland's Deputy Prime Minister and Minister for Foreign Affairs, said:

"I am delighted that we have agreed to launch the Helsinki+40 process, setting out a clear path from now until 2015 for work which will significantly strengthen the Organization".

The ministerial decision issued by the organisation, in language rather more opaque than that, welcomed,

"the initiative to launch the 'Helsinki+40' process as an inclusive effort by all participating States to provide strong and continuous political impetus to advancing work towards a security community, and further strengthening our co-operation in the OSCE on the way towards 2015".

In that decision, forthcoming chairmanships were tasked with,

"establishing an open-ended informal Helsinki+40 Working Group at the level of ... participating states".

It requested,

"the current and incoming members of the Troika"—

the past, present and immediate future chairmen—

"and forthcoming Chairmanships",

which means Ukraine, Ireland, Switzerland and Serbia,

"to propose the agenda of meetings of the ... Working Group".

It tasked the forthcoming chairmanships and the Secretary-General,

"to regularly take stock of progress made under the Helsinki+40 process, and report to the participating States twice a year, before the summer recess"—

I presume a report was made before the summer recess—

"and before the meeting of the ... Ministerial Council",

which will be in Kiev in December.

The enthusiasm for the whole process was shared by my right honourable friend the Foreign Secretary, who said:

"A key outcome was agreement on a new initiative designed to inject a fresh dynamic into the OSCE as we approach the 40th anniversary of the Helsinki Final Act".

Indeed, the American Permanent Representative, speaking to a working group meeting, said that,

"it is essential that civil society has a voice and prominent role in Helsinki+40 discussions".

I ask Her Majesty's Government what has been achieved in the light of that ambitious decision. What are the goals that Her Majesty's Government are hoping to achieve within the process? What indicatives are they supporting in connection with reform of OSCE? What initiatives have been put forward by others? What initiatives are we taking as the UK within OSCE to try to resolve some of the outstanding so-called frozen conflicts? I cite Moldova/Transnistria, which according to the December ministerial council was a priority, Nagorno-Karabakh and the issues in Georgia.

What is our vision for the scope and role of OSCE? We welcomed Mongolia as a participating state in the past 12 months, but do we as the United Kingdom have a view about which other states might become participating states? What about Afghanistan and Pakistan? I do not expect an answer from my noble friend this afternoon, merely an assurance that issues about expansion are being considered—and not on a purely ad hoc basis.

In discussions about OSCE at Helsinki +40, do Her Majesty's Government see a role for the Parliamentary Assembly? Do they agree that greater involvement for the Parliamentary Assembly would assist in supporting participating states in raising awareness of OSCE's work? The Parliamentary Assembly spends considerable time on election monitoring. While in my opinion that is a valuable and important part of its work, I believe that it could have a wider political role. If Governments wanted the work of OSCE to have a higher profile, this could be a way of achieving that.

[LORD BOWNESS]

The noble Lord, Lord Dubs, reminded me this week that at the annual meeting in July he proposed a resolution on Guantanamo Bay, which was adopted and formed part of the 2013 declaration of the Parliamentary Assembly. Since then, the Office for Democratic Institutions and Human Rights has visited the camp, but strangely enough the noble Lord, Lord Dubs, as a member of a national delegation, has not been able to obtain a copy of the report—the Parliamentary Assembly apparently does not have a copy. Can the Minister tell us how the UK delegation and indeed Parliament are to be informed about such matters? Will he please look into that problem and in due course advise how the information may be obtained?

In its 2012 declaration, the Parliamentary Assembly requested that at the end of every chairmanship in office, the OSCE should submit to the Parliamentary Assembly and its national delegations a concise report of the work of the organisation in time for debate at the winter meeting in Vienna in February. This seemed a fairly modest and reasonable proposal, if only because it was included as the result of an amendment submitted by me. I ask the Minister whether the Ministerial Council expressed a view and whether it is going to happen. What is the United Kingdom view? Lastly, I am grateful to the Minister and indeed the noble Lord, Lord Bach, on behalf of the Front Bench, for tolerating, listening to and having to respond to my monologue. I am sorry there is no one else to add to it.

2.10 pm

Lord Bach (Lab): My Lords, the noble Lord, Lord Bowness, certainly does not have to apologise to me or, I suspect, the Minister. Indeed, we ought to congratulate him on securing this debate. He is right—it deserves a wider turnout because this is an important subject and I am delighted that he has persisted with the debate. Whether it is a small or large number of speakers, the noble Lord, Lord Bowness, has done the subject justice in his impressive and knowledgeable speech. I am delighted that the Minister is responding, because I understand that he has a deep knowledge of international relations, particularly the sort of organisation we are speaking of today.

The only problem with the noble Lord's speech is that it does not leave me very much to say, let alone disagree with. The case for Helsinki +40 is good and it is clear-cut, as was the case for OSCE and its predecessors by name some four decades ago. My party has supported OSCE whether in government or in opposition, both as a forum for high-level political dialogue on security issues and as a platform for practical—and that is an important word—work to improve lives and communities. We believe as OSCE does, that the three dimensions of security, namely politico-military, economic and environmental and, thirdly, human, differences can be bridged and trust can be built through co-operation. From the Helsinki Final Act in 1975 to today is not only a long period in history, but it is obviously a time that has seen fundamental changes to Europe. The creation of CSCE served an important role, as I understand it, during the Cold War, and in 1994 it became OSCE. Now, nearly 20 years later, we believe it continues to play a significant role in today's very different but still very difficult world.

I am delighted the noble Lord, Lord Bowness, mentioned the figures. It is impressive that of the roughly 2,700 staff, 2,100 or more are actually involved in field operations in south-east Europe, eastern Europe, the south Caucasus and central Asia. I would argue that it is this practical, on-the-ground work that is so crucial, whether it be observing elections, which is important in itself; restoring trust among communities post-conflict; or initiatives to support law enforcement and the rule of law, whether minority rights or legislative reform; or dealing with those protracted conflicts that the noble Lord, Lord Bowness, talked about a few minutes ago. All of it helps in building trust and working towards, in the words of the framework document,

“a free, democratic, common and indivisible Euro-Atlantic and Eurasian security community”.

We are a little way from that, I must confess, even in my most optimistic moments. We must not hide our eyes from the obvious tensions and disagreements, even disagreements about the role of the OSCE itself. It is hardly surprising in a body with 57 participating nations, all of which have their self-interest as well as a common interest. Looking at some of the comments made by Foreign Ministers at the Dublin ministerial, one gets a sense of that. Foreign Minister Lavrov complained about three-quarters of the activity concentrating on the human dimension and the emphasis, as he saw it, of all operations and projects in the Balkans and the territories of the former Soviet Union.

However, it is important to listen to the words of our colleague, the noble Baroness, Lady Ashton of Upholland, in her role as High Representative of the Union for Foreign Affairs and Security Policy, who wrote on the same occasion:

“The OSCE should continue to play an important role in Europe's security architecture based on its comprehensive security concept and the principles and commitments enshrined in the Helsinki Final Act and the Charter of Paris. It should continue making best use of its field operations and autonomous institutions, which provide support to the participating States in putting their commitments into practice. These are valuable assets which no other security Organization possesses ... After almost 40 years as an Organization, it would be worth looking at how to further enhance the efficiency of the OSCE, including its budgetary processes”.

We agree. That seems to be the real rationale for Helsinki +40, and we continue to support it.

I have two questions for the Minister. When we were in government, the UK provided up to 10% of observers to all OSCE election observation missions on an ad hoc basis. Is that still happening under the present Government; is their policy still to provide up to 10%? The second question comes back to something that the noble Lord, Lord Bowness, talked about. It is about parliamentarians, and Afghanistan in particular. The Lithuanian rapporteur's report prepared for the OSCE Parliamentary Association's annual session in June and July this year for the General Committee on Political Affairs and Security included a section on challenges facing the organisation in the wake of the ISAF withdrawal from Afghanistan next year. What is Her Majesty's Government's view of the role that the OSCE, particularly parliamentarians, might play in the next two years in Afghanistan where, as the Committee knows, elections are due in both 2014 and 2015? What

role might the OSCE itself play in wider security issues? I would be grateful if the noble Lord could answer, if not today, in due course. I look forward to his reply.

2.18 pm

Lord Wallace of Saltaire (LD): My Lords, I thank the noble Lord, Lord Bowness, very much for his insistence on having this debate. Like him, I am very disappointed that we have so few participants in it. The OSCE is an important organisation with an interesting history and which links the countries of the European Union, the United States and Canada to all the countries of the former Soviet Union. As such, it provides an opportunity for dialogue among Members of Parliament and Governments in those various countries across a range of issues, which we value.

We are all old enough to have been in at the beginning. I remember the negotiations in Helsinki in 1972 to 1974, which led to the final act of what became the conference on security and co-operation in Europe. The co-operation baskets which were negotiated were in effect a trade-off between an emphasis on security and arms control, confidence-building measures and the economic co-operation which the Soviet Union, as it then was, very much hoped for, including in particular a degree of technological transfer, and the human rights basket which the West wanted in return.

As a lot of us well remember, that led to the establishment of Helsinki groups in a number of eastern European countries. In the 1980s, when I was the British secretary of the UK-Soviet round table it certainly led to some very interesting conversations, in which our Soviet counterparts recognised that if they wanted to be accepted as a European country there were European standards, as expressed in the Helsinki Final Act, to which they had to pay some attention. That is still there in the background of what has become the post-Cold War OSCE. All the countries which emerged from the Soviet Union are of course members of the OSCE, some more enthusiastic than others.

With my London School of Economics hat on, the last time I was involved in the OSCE was in helping to train Kazakh officials in 2008-09 to become part of the presidency of the OSCE. I must say that they started off with slightly overambitious thoughts about how important the OSCE would be as an international organisation. However, we all recognise that it remains a useful organisation, although a very difficult one to work within, because it operates by consensus. That means that we move at the pace of the slowest or most awkward partner, and I think we all understand who the most awkward partner can very often be.

The agenda contains different emphases, including economic co-operation, which also now includes environmental and energy co-operation. These are not easy subjects when we are dealing with one of the world's largest oil and gas exporters as a member of the OSCE. The whole question of conventional arms reduction across the area covered, which has proved more and more difficult, includes confidence-building measures, in which we are supposed to observe each other's manoeuvres and inform each other in advance of major troop movements. Then of course there is the human rights dimension, with the OSCE special

representative for the media, and that extremely valuable agency of the OSCE, the Office for Democratic Institutions and Human Rights.

We value those and we value the field missions that the OSCE has had and continues to have in a number of countries. We may regret that the office in Georgia—which I once visited—was closed in 2008, and that the Belarusians insisted on the office in Minsk being closed in 2011. We also regret that the conflicts with which the OSCE is institutionally engaged in Transnistria, Nagorno-Karabakh, Abkhazia and South Ossetia are stuck and so little progress has been made. The Minsk Group continues to meet over Nagorno-Karabakh in particular. In some ways it is the most potentially dangerous of these three conflicts, with the possibility of active conflict breaking out again. Not enough progress is being made.

We continue to support the OSCE, and it is an organisation in which a certain amount of plain speaking can continue. I very much hope that the noble Lord, Lord Bowness, also feels that the Parliamentary Assembly is an organisation in which a good deal of plain speaking can take place. In that organisation we involve parliamentarians from a number of countries that have not had very much contact with European perceptions of how democratic political systems should operate. That in itself, although no doubt sometimes rather painful and occasionally rather unproductive, is nevertheless a useful activity. As I was explaining to a group of students some time ago, a great deal of diplomacy does not lead to a definite result. Nevertheless, in many ways the conversations are productive and much of what the OSCE does outside its extremely valuable election monitoring is of that character rather than, unfortunately, producing the results that we would like to see.

The noble Lord asked a number of questions about the attitude of the British Government towards further enlargement, in particular with regard to Afghanistan. I have to admit that I am not briefed on that and I shall have to write to the noble Lord. It is an interesting question. After all, this is an organisation that has the word "Europe" in its name; it is the Organisation for Security and Co-operation in Europe. The great expansion was to bring in the countries of the south Caucasus and central Asia when the Soviet Union broke up, which has been very valuable. Mongolia has come in on top of that. As the new countries of central Asia have developed—some of them rather more democratic than others, or perhaps I should say some rather less democratic than others—we have been able to engage at more levels than we would otherwise have been able to. That is not an easy thing to do but we have the standing to be able to do so. The OSCE continues to do that and in many ways it is a worthwhile activity to have Kazakhstan as chair; it did help to bring the Kazakh Government and a number of officials and parliamentarians into a wider view of their place in the world.

The noble Lord asked what role we have in mind for the Parliamentary Assembly. All international parliamentary assemblies are unavoidably talking shops but they help to exchange a large number of messages. I still treasure my memory of a bilateral meeting when a delegation from the British Parliament went to Moscow

[LORD WALLACE OF SALTIRE]

and we had a stand-up row with the foreign affairs committee of the Russian Parliament. I certainly felt that we were exchanging fairly vigorous messages on both sides on that occasion. All of these exchanges help, at the margin, to shift attitudes. The work that members of the Parliamentary Assembly at the OSCE and the Council of Europe do on election monitoring is extremely valuable and we support its continuation.

The noble Lord asked about the Guantanamo Bay visit and what had happened to the reports on that. Let me discover the answer and write to him. Similarly, on the question of what happened to the proposal that there should be a report from the chair at the end of the chairmanship, which sounds like a constructive proposal, I will investigate. I do not know the proportion of personnel in these various things that is provided by the British Government. I will check and perhaps write collectively to all others who have participated in this debate, so to speak.

The potential role in Afghanistan is an interesting question, which perhaps we all need to explore further as Afghanistan comes out from under the ISAF influence.

I hope that has answered many of the questions. Of course, Russia is the most important partner that we have within the OSCE, but the central Asian countries and the countries between Russia and the European Union remain of considerable importance. At present, we are struggling with the issue of whether Ukraine will sign an association agreement with the European Union at Vilnius at the end of this month. The Russian Government are extremely unhappy with the proposal that Ukraine, Georgia and Moldova should sign an association agreement with the European Union. That is very high on our current foreign policy agenda. We are struggling with the enormous problem of how to relate to Belarus, a country where an authoritarian regime has survived on playing off Russia and its western neighbours and hoping to be subsidised by both sides. We struggle to cope with the problems of the south Caucasus and to contribute to development there. We have an active interest in Azerbaijan, which, as we all know, is not one of the world's most open or democratic countries. Indeed, the IHR concluded that the recent elections were not entirely fair, but we have substantial economic interests in that country. We also have interests in Georgia. I visited Georgia and Armenia just before the summer and got a very good impression of the semi-democratic dimensions in both countries. In Tbilisi I had lunch with opposition and government MPs and they had an extremely vigorous argument in front of me, which I thought was a good sign of how they are moving towards development. I could cover the other central Asian countries but I think we all understand the many difficulties there.

I end by saying that Her Majesty's Government continue to value the role of the OSCE. We accept that it will continue to be limited because it is a consensus-based organisation. We recognise that the Parliamentary Assembly plays a valuable role in that and that the agencies, in particular the ODIHR, play a very valuable role. We regret that the security and conflict prevention dimension is stuck in so many ways and we wish to reinsert progress into the frozen conflicts which are so much part of the problem, but

we continue to be committed. We are sorry that we have not raised more interest for this debate. We are extremely grateful for those Members of the British Parliament who participate in the Parliamentary Assembly and we look forward to further reports from them and further questions and calls for debates to keep us all interested.

2.31 pm

Sitting suspended.

Commencement Orders

Question for Short Debate

3 pm

Asked by Lord Norton of Louth

To ask Her Majesty's Government whether they have any plans to reform the use of commencement orders.

Lord Norton of Louth (Con): My Lords, I welcome the opportunity to raise this Question and I am delighted that my noble friends Lord Brooke of Sutton Mandeville and Lord Cormack are contributing.

Commencement orders may seem a dry and obscure subject—one little understood by the public or indeed by Members. When I mentioned to a colleague that I had this Question for Short Debate, I had to explain what commencement orders were. However, they are extremely important, and the fact that they are little understood is a major problem, bearing on public confidence in the political system. Commencement orders are essentially what stand between what Parliament has said can be the law and what is the law.

Unless an Act states otherwise, it takes effect upon Royal Assent. However, it is common to provide for provisions to take effect on dates stipulated by Ministers. Were provisions of Acts of Parliament brought into effect as a matter of course relatively soon after Royal Assent, allowing time for whatever administrative arrangements needed to be made, there would not be a problem. However, that is not what happens. There is a plethora of legislative provisions—agreed by Parliament and embodied in Acts of Parliament—which have never been brought into effect. These provisions are substantial, both qualitatively and quantitatively. The Easter Act 1928 is frequently offered as an example of an Act that was never brought into force. However, there are modern-day equivalents. The statute book is littered with substantial parts of Acts which have never been given effect.

Some noble Lords have tabled Questions to the Government to find out how extensive this practice is of not bringing legislation into force. The noble Lord, Lord Hylton, in June 2010, asked which sections of, or schedules to, Acts passed since 1997 had not been commenced. On my count, the list encompassed no fewer than 147 Acts of Parliament that had sections or schedules that had never been commenced—147 Acts since 1997. They include one Act that is unimplemented in its entirety. The Acts were not minor pieces of legislation, with just one section or schedule unimplemented, although there were a number of those. They included

major pieces of legislation with several sections or schedules unimplemented. One Act, for example, had, on my count, 45 sections and seven schedules unimplemented wholly or in part.

For Parliament to pass legislation that is not then given effect is an inefficient use of Parliament's time—indeed, a waste of time. We spend time discussing the merits of provisions that we expect to become law but which then simply lay on the face of the Act without being brought into effect. Perhaps more importantly, it confuses the public. People think that when Parliament passes an Act the Act is then law and takes effect. They do not realise that its provisions may not take effect until an order is made to bring them into effect and that Ministers may not actually make such orders.

Some provisions are not commenced until the necessary administrative work is completed. I understand that. I know that there are now common commencement dates and departments are expected to comply with those. However, the Government may need to consider how they explain to those affected by a measure the reasons for any delay in giving effect to their provisions.

However, my principal concern is with legislative provisions never given effect at all. I should be interested to hear from my noble friend the justification for government not giving effect to that which Parliament has passed and how he would explain that to the public.

I appreciate that the responsibility for the current situation rests as much with Parliament as with government. The two Houses approve Bills that give power to Ministers to make orders to bring particular provisions into effect. We discuss the substantive provisions of Bills, but rarely give much attention, if any at all, to the supplementary provisions. We see the headings under the supplementary provisions—commencement, transitional provision, extent and Short Title—and tend to see them as standard provisions requiring little consideration. By that stage, Members tend to think that their work is done.

There is a case for Parliament to be more vigilant in future in checking such provisions and perhaps limiting their scope. Why allow Ministers an open-ended power to bring provisions of an Act into effect? Why not be more prescriptive or set a time period within which such orders may be made? My comments are addressed as much to colleagues in the House as they are to the Government. I wanted to get them on the record as a basis for pursuing the issue.

This is not the first time that I have addressed the issue. I chaired the Commission to Strengthen Parliament, which was set up by William Hague as Leader of the Opposition in 1999 and reported in 2000. My noble friend Lord Brooke of Sutton Mandeville was a member of the commission. We included commencement orders in our remit, and in our section on legislative scrutiny we concluded:

“Finally, we wish to see one particular change to existing practice. The commencement clauses normally give power for the Secretary of State to bring provisions in on dates set by the minister. Parliament could, of course, ensure that commencement clauses do not provide excessive latitude. We think there is a case for a more systematic constraint. In the Parliamentary Government Bill that he introduced in 1999, Lord Cranborne included a clause to provide that any provision of an enactment which is not commenced within five years of the passing of the Act shall cease

to have effect. We find the argument for such a provision persuasive. We therefore recommend that there be a statutory provision that any sections of an Act which are not brought into effect within five years of Royal Assent shall cease to have effect”.

In other words, provisions of Acts that have not been brought into effect will be repealed. That will tidy up, and indeed shorten, the statute book. Introducing such a provision would also have a salutary effect on Ministers.

William Hague said that the report of the commission would be a road map for a future Conservative Government. Perhaps my noble friend will confirm that the Government have not lost their sense of direction and will now address the issue. In particular, it will be helpful if my noble friend will put on the record the Government's position on commencement orders and what they will be doing to ensure that in future the statute book is not littered with provisions that occupy the confusing position of being law but not law.

3.07 pm

Lord Brooke of Sutton Mandeville (Con): My Lords, it is a pleasure to follow my noble friend Lord Norton of Louth in speaking to his admirable choice of subject for this short debate and to congratulate him on the speech with which he introduced it.

He has described our mutual participation in the Commission to Strengthen Parliament. It was set up in 1999 by the then Leader of the Conservative Party, my right honourable friend the present Foreign Secretary. It was chaired with characteristic scholarship by my noble friend, who was already in the Lords by that time. It contained three other former Conservative MPs, of whom two were by then Members of your Lordships' House, the third being Matthew Parris, as well as a distinguished woman Oxford academic to counterbalance my noble friend, and finally me, as the only sitting MP.

By a remarkable coincidence, which occurred while I was sorting out books at home over the past fortnight, I came across our final report, which I had not seen for years—my library policy is one of accumulation rather than specific acquisition or ambition. I immediately rescued it from any potential cull, particularly one made by my wife. By a further remarkable coincidence, I received a letter from my noble friend drawing my attention to this debate and reminding me that our report had included the recommendation which underlies this debate and which he has just quoted. I have to confess that I had forgotten the recommendation. Since this debate may become a modest quarry for future students of the subject, I remark that that recommendation appears on page 43 of our report. It is the last major paragraph in a section headed, “Legislative Scrutiny”, and on page 63 it is the final item in a list of seven recommendations entitled “Legislative Scrutiny: Primary Legislation”. Its provenance was in the text of a Bill introduced also in 1999 by Viscount Cranborne, from whom we had taken oral evidence. His Bill was entitled Parliamentary Government.

On rereading our report this week, I was agreeably surprised by its universal good sense and also by how many of the issues that we raised have been taken up since. Nor am I in any way receding from the particular recommendation that we are debating. Its text runs, as

[LORD BROOKE OF SUTTON MANDEVILLE]
 my noble friend has demonstrated, to less than 150 words, so there is no great substance to disembowel, and it possesses a logic that invites agreement without provoking disagreement. The five years that we allocated as the fallow period during which the sections of an Act could survive untrammelled following Royal Assent without commencement orders have the additional virtue of being at a sufficient distance in time from Royal Assent for everyone to have forgotten who the Minister was who had fruitlessly introduced these now lapsed and neglected propositions and invited parliamentarians to use parliamentary time to dissect them. Moreover, those five years were a good test of any continuing relevance or any circumstance that made the sections less relevant after all. In a world where parliamentarians and commentators regret the sheer amount of legislation passed, their removal from availability as law may be a salutary prophylactic.

Of course, it is not as easy as that. There is a school of thought that does not want to throw anything out of Mother Hubbard's cupboard, but parliamentarians have never hesitated to set limits for local authorities to monitor the duration of planning permissions being granted before the permission lapses, and these constraints are a notable stimulus to timely action. Overall, there would be a bonus in parliamentary time saved and intelligent scrutiny and courage.

As ever, I have been helped and my horizons extended by the excellent briefing provided by our Library. In this instance I particularly enjoyed the guidance for co-ordinators and policymakers and appreciated the statistics on Acts passed, especially when reinforced by subjects. The statistics show the volume of Acts passed in given calendar years and the subject breakdown in sessional years, which makes comparison less than totally accurate, but over a period of 30 years that prevents false or distorted impressions. My own computation was that over the period from 1983 to 2012 almost exactly 20% have been devoted to constitutional Acts and those embracing criminal justice.

Finally, there is a moral to be derived from the coincidence of the debates today in which my noble friend Lord Cormack is taking part. Here in the Moses Room, 50 of us have been given 60 minutes on a narrow but important issue, while elsewhere 30 Peers are going to be debating the monumental Magna Carta over 90 minutes and Back-Benchers will have 60% of the time that is allocated to us here to debate that massive subject. Of course it concentrates the mind and of course there is no way to adjust the imbalance but it does cast a searchlight on securing productive returns from the parliamentary time that we invest.

3.13 pm

Lord Cormack (Con): My Lords, it is both a pleasure and an honour to follow my two noble friends. My noble friend Lord Norton of Louth has performed many signal services to our parliamentary democracy in this country and his introducing this subject today with such concise and crisp logic was but another example of the services that he has rendered. Of course, my noble friend Lord Brooke of Sutton Mandeville has also been a marvellous public servant who has

done so much to enhance the reputation of Parliament, which is more than can be said for many Ministers over the time that he served.

I was provoked into taking part in this debate by my noble friend Lord Norton of Louth and I was delighted to respond to that provocation. We devote an enormous amount of time in the two Houses to debating legislation. Frequently, the cry goes up from your Lordships' House that ill digested, ill considered legislation has been placed before us, whole chunks of which have never been debated, or have been debated only very briefly, in the House of Commons. That is bad enough.

Another thing that we complain about, as I did on many occasions in another place, is the number of Henry VIII clauses, as they are called, which give almost untrammelled powers to Ministers to do things within the general purview and ambit of the Act. I deplore both those things. Of course, when we are then brought up sharp by the noble Lord, Lord Norton, as we were by the commission that he chaired all those years ago, and have it pointed out to us that many of the Acts over which we slave and to which we devote many parliamentary hours, either never come into force at all or whole chunks of them never come into force, we face what is no less than a parliamentary scandal. It is incumbent on us to address this subject at last with some vigorous action.

I entirely endorse the clinching recommendation based on the Marquess of Salisbury's Private Member's Bill, but I would go further than that and make one or two suggestions to your Lordships this afternoon. No Bill or Act should be introduced or passed by Parliament unless it is the specific and stated intention of the Government of the day to bring it into force within the lifetime of the Parliament in which it is passed. If any law passed by Parliament has not been brought into force by the end of that Parliament, it should disappear from the statute books. That is a sharpening-up of what I would call the Salisbury/Norton recommendation and something that the Government should take exceptionally seriously.

I am also a great believer in the efficacy of Joint Committees of both Houses and I think that there should be a Joint Committee of both Houses on commencement orders. We talk often about the necessity for pre-legislative scrutiny; we talk about the desirability of post-legislative scrutiny; but we have not, as far as I remember, talked in any detail on the Floor of either Chamber in the 43 years that I have been here about commencement orders. If we had a Joint Committee of both Houses, which had as its remit the constant examination of this subject, surely it could only sharpen the minds of Ministers and make them consider: is this law truly necessary?

We pass far too many laws in this country. The extent to which the statute books have been increased during the time I have been a Member of one House or another is, frankly, horrifying. We should be concentrating our minds on trying to improve the quality of legislation, and the first question before introducing any Bill in either House should be: is this necessary and will it improve things? If the answer to both those questions is in the affirmative, it is indeed incumbent on those who have the ultimate control to ensure that the law in question comes into force.

At the root of all this is the whole question of the balance between the legislature and the Executive. I am often minded to quote Dunning's famous Motion in 1780 that,

"the power of the Crown has increased, is increasing and ought to be diminished",

and apply it to the present moment—whether it is a Government of my party, a coalition Government or a Government of the noble Baroness's party—and say that the power of the Executive has increased, is increasing and ought to be diminished. One way we could diminish that is to ensure that ministerial minds are more concentrated on the need for the legislation that they place before us.

When he was talking about the report produced by the commission of which he was such a distinguished chairman, my noble friend Lord Norton said that our right honourable friend William Hague, who was then the leader of the party, defined it as being a road map. Being Foreign Secretary, Mr Hague knows all about maps now, and I hope that the present leadership of the Government will recognise that this was indeed a road map and that it is about time that it was looked at again and that its suggestions or refinements, such as I have put before your Lordships this afternoon, are thought about seriously and, much more importantly, implemented.

3.20 pm

Lord Skelmersdale (Con): My Lords, there is very rarely an opportunity in a debate such as this for someone to leap into the gap but I am afraid that I am going to sin this afternoon.

I was absolutely horrified by the figures given by my noble friend Lord Norton of 147 Bills since 1977 not being enacted in full and one not implemented at all, and I wondered if there were some very good reasons for this. The first that occurred to me was that Bills that are not fully enacted or commenced straightaway might well suffer from a change of government, with the new Government not wanting a particular section to become law. The other thing that occurs to me is that it may well be a parliamentary accident that a Private Member's Bill is not enacted at all or is enacted only in part.

Some 20 years ago, as Under-Secretary of State in the Department of the Environment, I had responsibility for defending at Question Time the fact that a particular section of the Control of Pollution Act 1974 had not been brought into effect. I have not looked up what I said on that occasion nor to what extent I was criticised by Members of your Lordships' House, but subsequent to that I became involved in the Joint Committee on Statutory Instruments, on which I served for nine years. That also prompted me to look at this particular subject and at statutory instruments in general, not least the terms in which they were couched.

I had always understood that the right body to look at Acts of Parliament and the current state of the statute book was the Law Society, which does such an amazing job at doing just that. The trouble with my noble friend Lord Norton's proposal is that it would have to be done within departments. Civil servants are naturally cautious about changing what

they or their colleagues have drafted with such immaculate care so I do not think that this is a job for civil servants, even in the Cabinet Office. I would leave it to the Law Society with the proviso that the Government then act thereupon.

3.23 pm

Baroness Royall of Blaisdon (Lab): My Lords, I, too, am grateful to the noble Lord, Lord Norton of Louth, for this interesting short debate about the statute book, which is indeed littered with legislation that has never been commenced. I was delighted to learn—for the first time, to my shame—of the important commission and the forthcoming report.

I think that this commission was set up by the Conservative Party but this is very much a non-political point and I would probably sign up to everything in the report—I do not know but I will certainly take a closer look now. As has been noted, Governments of all persuasions are equally culpable. It is an issue that I have thought about in the past in relation to our citizens' trust and the relationship that we have with them because in Parliament we quite rightly spend a lot of time debating legislation and sometimes we incite the interest and concern of the public. The public know about these things going through Parliament and, understandably, they automatically assume that the Acts will be implemented but, as has been pointed out, far too many of them are not. Were the public to know this, they would be deeply concerned. This is one of the many things that we have to do in order to restore confidence with the public.

Interesting things have been said about the time that we as parliamentarians take in scrutinising legislation and, as was pointed out by the noble Lord, Lord Brooke, there is a contrast between what we are doing here today—having a very leisurely, enjoyable debate—and what is happening in the Chamber, and we really have to do something about that. Interestingly, someone told me that they overheard a colleague in the other place talking about a part of a piece of legislation that had not been implemented. It was said that this particular section of the legislation was introduced via an amendment in your Lordships' House and the person down the other end of the Corridor was heard to say, "Well, it doesn't really matter because they won't implement it anyway". That is an interesting view of what can happen and we really must do something about it.

The noble Lord, Lord Cormack, suggested that there should be a Joint Committee of both Houses to look at the issue, which is potentially interesting, but I happen to think that there are two ways forward: first, if every piece of legislation, especially every constitutional piece of legislation, was subject to proper pre-legislative scrutiny, that should obviate the need for that sort of committee; secondly, noble Lords may recall that the Leader's Committee chaired by the noble Lord, Lord Goodlad, who is not in his place today, recommended that there should be a committee on standards in legislation. If that sort of committee were to come into force, it could deal with some of these issues.

As I said, I probably would sign up to many of the recommendations of the report that has been mentioned and I think I would personally favour the

[BARONESS ROYALL OF BLAISON]
 recommendation made by the noble Viscount, Lord Cranborne. I would be interested to hear what the Minister has to say about that today. But I would like to take this slightly further. The noble Lord, Lord Skelmersdale, mentioned statutory instruments and spoke of his experience on what used to be called the Joint Committee on Statutory Instruments. Of course, I well understand that not every statutory instrument deals with enactment or commencement orders but, having looked at the tables that were helpfully produced by the Library, they clearly demonstrate not only that there are far too many SIs but that they have become much more complex over the years. For example, in 1975 there were 1,340 SIs, which amounted to only 8,379 pages, whereas in 2009 there were slightly more SIs—1,420—but there were 11,414 pages. They have become a lot more complex and Governments of all persuasions these days are relying far too much on statutory instruments as a consequence of framework legislation.

I go back to the need that is clearly demonstrated so often for pre-legislative scrutiny and well drafted legislation that knows what it is doing and why it is there. There is much to be done in improving our system of government and the laws that come before us. We also have a duty as parliamentarians to ensure that the structures and systems that we follow are more effective in ensuring that we really can deliver what citizens think we are delivering and, therefore, regain their trust.

3.29 pm

Lord Gardiner of Kimble (Con): My Lords, first, I congratulate my noble friend on securing this debate. I am particularly conscious of his long-standing interest in this issue and his experience in matters of constitutional law and practice. I am aware of the work he undertook for the commission for the Conservative Party. If I may say so, I was conscious that, should we achieve government, we should adhere to many aspects of that piece of work.

I also remark on the long and formidable experience of the noble Baroness, Lady Royall, and my noble friends Lord Brooke of Sutton Mandeville, Lord Cormack and Lord Skelmersdale. It is a daunting prospect to reply when your Lordships have the experience that you all have, but I am glad your Lordships were all, if I may use the word, provoked to speak in this debate. I hope that it is helpful to set out the Government's current policy and practice on the use of commencement orders.

The Government undoubtedly have responsibility for the maintenance of the statute book. I agree with noble Lords that it is not in principle desirable for there to be parts of enacted legislation on the statute book which remain uncommenced for long periods. In briefing myself on the debate, I became aware of the Easter Act—I must say that I was not before—which is of very long standing. I agree with the noble Baroness that that would undoubtedly cause confusion, indeed, probably bewilderment, among the public if they were to hear about that.

Again from study, I am conscious of the amount of legislation. I should say that in a different life, I have been a strong supporter of less legislation rather than more, and of higher quality legislation. My noble

friend Lord Cormack was rightly strong on that point. Given the amount of legislation we have, actually a very small proportion of it is not brought into force within, at most, two to three years of it being passed, although I in no way downgrade the point made by my noble friend Lord Norton.

It has been a long-standing practice of all Governments to treat commencement of legislation on a case-by-case basis. Noble Lords will have seen a wide range of provisions relating to the commencement of legislation in their scrutiny of Bills. That reflects the fact that it is usually necessary to provide a certain amount of notice to those affected by the legislation before it takes effect and that the notice period required will depend on the nature and complexity of the Act concerned. I understand my noble friend Lord Cormack's proposal about the end of a Parliament. The problem would be that in the last part of the Parliament, it would be particularly difficult to transact any sort of legislative programme.

Lord Cormack: That is very good.

Lord Gardiner of Kimble: That might bear out some of my earlier comments, but I believe that the truth is that all Governments seek to have legislation that is in the public interest, so there is a problem with my noble friend's proposal, albeit that it is well meaning.

Sometimes, where legislation is relatively limited in effect or otherwise straightforward, it is possible for that notice period to be stated in the Act. A two-month period is often regarded as the minimum, but sometimes it may be appropriate for Acts to take effect immediately. Commencement orders are used to provide the Government with a degree of flexibility in the timing of implementation; I think that my noble friend Lord Norton agreed with that. That may be necessary to allow time for the establishment of new organisations, for industry to adjust to any new regulatory requirements or for consultation on the detail of implementation, which is often undertaken via secondary legislation—I am conscious of what my noble friend Lord Skelmersdale said about statutory instruments. Sometimes, a commencement order may be required to commence different parts of an Act on different days or for the Act to apply first in specific areas or to specific people or situations. It is also sensible for Ministers to retain the ability to ensure that everyone is fully prepared for implementation before legislation is brought into force.

It would perhaps be unduly restrictive or possibly counterproductive for Ministers to be held to an arbitrary time period fixed in the original legislation. This would not allow Ministers to take into account any changes in circumstance which might quite reasonably delay implementation. Conversely, it would not be wise to risk legislation being lost on account of a failure to agree the details of implementation by a specified time period. This is the potential consequence of certain sorts of sunset provision.

I accept entirely that in the vast majority of cases one should expect legislation to be fully brought into force within a year or two of Royal Assent. However, there may be exceptional circumstances in which it may not be possible to make progress within that timescale, but it is none the less desirable to keep open the possibility of implementation at a future date. However, that is not to say that sunset clauses should

never be used; on the contrary, they may well be justified, but perhaps act to provide a degree of certainty to businesses that new regulations will not be introduced once a period of time has expired, or as a legislative backstop to be used if required.

I was particularly struck by the Electronic Communications Act 2000, which contained a statutory regulatory scheme that would be brought in if self-regulation by industry failed. The statutory scheme was subject to a five-year sunset clause if it was not needed. In the event, self-regulation worked and the provisions were accordingly repealed. I think that is a good example of what all of your Lordships are seeking. My point is that the desirability or otherwise of a sunset clause of this nature should be considered on its merits and on a case-by-case basis. In seeking to answer directly the question posed by my noble friend, I hope I will not shock your Lordships by saying that the Government do not have precise plans to reform the use of commencement orders. But if my noble friend is making the case that very careful consideration should be given to the use of commencement orders and to sunset clauses, I entirely agree and that is what the Government seek to do. I think it is, in good faith, what all Governments should seek and have sought to do.

I now turn to some of the additional ways in which the concerns expressed by your Lordships could be addressed. First, the Government believe that post-legislative scrutiny, which my noble friend Lord Cormack referred to, has a very important part to play in ensuring that the statute book is kept under review and up to date. For the benefit of Parliament and others, the Government publish a post-legislative assessment of every Act between three and five years after enactment. These assessments include an explanation for any provisions that have not been commenced. Indeed, your Lordships are already contributing to this scrutiny process. In the previous Session, the Select Committee on Adoption Legislation examined previous and forthcoming legislation on this subject. There are currently two committees of your Lordships' House undertaking post-legislative scrutiny in respect of the Mental Capacity Act 2005 and the Inquiries Act 2005. Departmental Select Committees in the other place carry out similar inquiries from time to time, particularly in respect of Acts that have not been implemented fully or satisfactorily, so I believe that this scrutiny is entirely welcome.

Secondly, there is the work of the Law Commission—I am not sure whether my noble friend Lord Skelmersdale meant the Law Commission rather than the Law Society.

Lord Skelmersdale: I did.

Lord Gardiner of Kimble: The work of the Law Commission is extremely valuable. It undertakes periodic reviews of particular areas of legislation and does the detailed preparatory work on what we know as Statute Law (Repeals) Bills. These are valuable, if somewhat unsung, exercises which help to tidy up the statute book, by repealing unnecessary and uncommenced legislation. Noble Lords may recall one such Act, the Statute Law (Repeals) Act 2013, which received Royal Assent recently.

I hope, but I am not sure, that all noble Lords are aware of the good law project that is currently being led by the Cabinet Office, in particular by the Office of the Parliamentary Counsel. It is designed to improve the quality of legislation by identifying ways to further improve its drafting and reduce complexity. I entirely agree with the noble Baroness: I have looked at some legislation and found it extremely difficult to understand. To reduce that complexity and make the law more accessible must be a good principle to hold. Among other things, the project is also considering how the law in both printed and digital form can be made more easily understood; for example, it may be possible to examine how information about whether provisions are in force is presented to online users of legislation. Although I am very conscious that many do not use online facilities, I think it is increasingly the case that many do. We should try to facilitate that.

I should have said at the outset that all suggestions from your Lordships are welcome in this project. This is a project of good will and it is in good faith that many of the points that your Lordships made today are understood. We need to find a resolution to how we can best ensure the quality to which my noble friend Lord Cormack referred. The quality of the statute book is important to us all, because we are its creators. If we are not happy with our work, we have not done particularly good work.

This has been an illuminating debate and briefing, and seeking to answer it has certainly been illuminating for me. I believe that your Lordships and my noble friend are right to hold the Government to account to maintain the statute book properly and uphold good legislative practice. I have mentioned post-legislative scrutiny, and I believe that pre-legislative scrutiny is a desirable thing as well. I expect that it is the case that all Governments have had moments—I freely admit it—when pre-legislative scrutiny would have been extremely desirable. I suspect that it is a note of caution to all Governments that pre-legislative scrutiny is a sound thing to do.

I have taken on all the comments made by your Lordships. I freely admit that it is daunting to be up before your Lordships' great experience, but my role is to pass on the comments that have been made today. I will make sure that the good law project officials have a copy of *Hansard*, so that all the points that have been made can be reinforced. They are all good points, and they are all soundly based. I am grateful to all of your Lordships.

3.42 pm

Sitting suspended.

Sudan and the Republic of South Sudan

Question for Short Debate

4 pm

Asked by Baroness Cox

To ask Her Majesty's Government what assessment they have made of the situation in Sudan, and the implications for citizens of the Republic of South Sudan.

Baroness Cox (CB): My Lords, I am very grateful to every noble Lord contributing to the debate as the grave situation in Sudan and South Sudan is largely off the radar screen of the media and a forgotten crisis.

The republic of Sudan is still in the grip of President al-Bashir, who continues to perpetrate crimes for which he was indicted by the International Criminal Court. He has declared his intention to turn Sudan into a “unified, Arabic, Islamic nation” and is putting it into practice with an attempted ethnic and religious cleansing of the predominantly African peoples in Southern Kordofan and Blue Nile state.

I have visited these states and seen the horrendous suffering inflicted by ruthless aerial bombardment and attacks by long-range missiles on civilians and targets such as schools, clinics and markets. Half a million civilians are hiding in caves with deadly snakes, in river banks or under trees. A quarter of a million have fled into exile in overcrowded camps in South Sudan or Ethiopia. With constant aerial bombardment, people cannot plant or harvest crops and are scavenging for roots and leaves—anything to quell the pangs of hunger. Many hundreds have died of starvation or malnutrition-related illnesses.

We visited a village in Blue Nile state where 450 people had already died of starvation. The remnant had fled their homes because they had been bombed recently. We saw the fresh bomb craters. We followed the sound of voices and found survivors hiding under the trees.

My small NGO, Humanitarian Aid Relief Trust, works with courageous partners who risk their lives to take life-saving aid to victims of oppression trapped behind closed borders. We managed to raise funds for food aid in Blue Nile and the money reached these people, enabling them to survive. Poignantly grateful, they said that they now had food and would not have to flee into exile to refugee camps in South Sudan. They said:

“We prefer to stay in our own land, even if we die from bombs. Now we have food, we don’t have to flee from our own homes”.

The people in these states are in desperate need of food and medical aid. SPLM-N has agreed to allow access to international aid organisations, but the regime in Khartoum continues to deny this. What more can Her Majesty’s Government do to put pressure on Khartoum to stop this genocide and allow access for life-saving food and medical supplies? How much longer will the international community allow Khartoum to continue its brutal policies with impunity?

In Khartoum itself, the Government have been ruthlessly suppressing legitimate protest and freedom of speech. Journalists have been arrested and reputable NGOs have been expelled. Therefore, brutality has gone largely unreported. More than 200 protesters were killed by security forces and, in some cases, relatives were forced to sign forged death certificates reporting that their relatives had died from natural causes instead of live munitions.

Turning briefly to the problems of Abyei, earlier this year the Ngok Dinka paramount chief was murdered by Khartoum’s forces while travelling with UN officials—again with impunity. Having given up on the referendum promised by the African Union, the Ngok Dinka

conducted their own referendum in spite of intimidation and boycott by the Khartoum Government, which attempted to bomb bridges to prevent people from returning home to vote. Despite these attempts to sabotage the referendum, it took place with an overwhelming mandate for unification with South Sudan.

The republic of South Sudan, just two years after achieving independence, faces many inevitable problems. As president Salva Kiir said at the time of the birth of a new nation, his people were not rebuilding: there had been nothing left to rebuild. Many problems need to be addressed urgently, including provision of essential services such as immunisation—a critical issue reflected in the return of polio, which had been virtually eradicated.

Of course, there have been serious and well reported problems including corruption and inefficiency. The radical changes in government were undertaken to address some of these issues. However, the situation is clearly not helped by the aggressive and subversive policies of the Government in Khartoum, including exacerbation of intertribal conflicts, especially in Jonglei region. There is evidence that Iran-made, Sudan-origin weapons and ammunition have been made available to David Yau Yau’s and other insurgent forces.

Now, there are very disturbing reports of a massive Sudanese military build-up with sophisticated equipment, including strike aircraft, helicopter gunships, tanks and heavy artillery, in the southern parts of Sudan, particularly in the El Obeid complex and along the border with South Sudan, leading to fears that this is preparation for a new, large-scale dry season offensive that might escalate into a major clash with South Sudan over Abyei.

The Government of Sudan’s continuing aerial bombardment of their own people has forced a quarter of a million to flee into refugee camps in South Sudan and many thousands to flee from Abyei, where the local Ngok Dinka have been subjected to killings, torture and loss of homes and property. Thousands of those poured into Bahr el Ghazal, where they faced hunger and homelessness. Many died.

The suffering inflicted on the innocent civilians in these lands has been allowed to continue for far too long. Again and again, I and many others have urged Her Majesty’s Government to initiate action to end the impunity with which al-Bashir and his Government continue to kill their own people. Again and again, we receive the same answer: “We must continue to talk to Khartoum”. But Khartoum continues to kill while it talks, and has been doing so for more than 20 years. Alternatively, we are told that it is for the UN to act, in the knowledge that it will be highly improbable to attain consensus to do anything effective. This is not good enough. The UK has a special responsibility as one of the three nations mandated to support the implementation of the comprehensive peace agreement.

Therefore, I ask the Minister—again—if Her Majesty’s Government will consider the imposition of targeted sanctions on the Government of Sudan, such as denial of visas, which would at least end the culture of impunity. People in Sudan and South Sudan frequently say to me: “The British Government intervened in Libya, where the suffering was nowhere on the same scale as here. Why do they not intervene to help us? Is

it because we are black and African?”. They fear we are being racist. Can the Minister advise me on how to answer my Sudanese friends?

I hope that the Minister is not going to imply moral equivalence between the Governments of Sudan and South Sudan. We all recognise the widely reported fallibilities of the leaders of South Sudan. But the Government of South Sudan do not attack and kill their own people, whereas the Government of Sudan continue to engage in genocidal warfare against their own people in Darfur and the southern states.

I conclude with two requests, reflecting the passionate wishes of the citizens of Sudan and South Sudan. First, local people are pleading for the African Union or UN to send fact-finding missions to investigate and report on the situation in the Nuba Mountains and Blue Nile, and to Khartoum to investigate human rights abuses there.

Secondly, will Her Majesty’s Government engage constructively with democratic opposition parties in Sudan? During the Cold War, western nations helped opposition groups behind the Iron Curtain, both to resist totalitarian oppression and to prepare for the day when freedom and democracy would come. There are respected opposition parties in Sudan that are working to promote human rights and develop the essentials of civil society. Will Her Majesty’s Government consider some support for democratic initiatives; for example, those promoted by the opposition movement led by Yasir Arman and Malik Agar, who have demonstrated genuine democratic political leadership? Malik Agar was the democratically elected Governor of Blue Nile State before he was ruthlessly deposed by al-Bashir. Any analysis of the writings and policies of these opposition leaders demonstrates their genuine commitment to democratic reform.

I hope that the peoples of Sudan and South Sudan who will read this debate will be reassured that, at last, Her Majesty’s Government will take a lead in calling the Government of Sudan to account and in promoting initiatives to bring justice and genuine peace to all the citizens of these two nations, who currently see the United Kingdom apparently condoning oppression instead of fulfilling our historic and contemporary obligation to call a halt to aggression, bring perpetrators to account and promote justice for all the peoples of Sudan and South Sudan.

4.08 pm

Baroness Kinnock of Holyhead (Lab): My Lords, first, I pay tribute to the noble Baroness, Lady Cox, for her commitment and dedication to the people of Sudan and South Sudan, for initiating this debate and for her excellent speech, which covered all the ground that I think we need to hear.

Ten years ago, few of us imagined we would still be discussing the suffering of the people of Sudan. Yet the misery of Darfur has once again intensified, Khartoum’s campaign of aerial bombardment and systematic ethnic cleansing has spread to Blue Nile and South Kordofan, and after last week’s referendum it is clear that the permanent residents of Abyei wish to be free of a regime that is hostile to their very existence.

Despite all that, the international community has chosen to focus on the low-level conflict that rumbles on between Sudan and South Sudan. That has always been the intention of the Sudanese Government. They know that the world lacks the knowledge and the vigilance needed to see what Bashir is up to in Sudan. There is now no UN special representative after the departure of Robin Gwynn, and the capacity of the FCO’s Sudan unit has been diminished by the exit of staff who have not been replaced. Also, as the excellent Rosalind Marsden departs from her EU role, her replacement, Alexander Rondos, is expected to take on responsibility for the whole of the Horn of Africa. The message that all that conveys to those in power in Khartoum is that the world community is unable or unwilling to focus on Sudan while Syria and Somalia preoccupy security interest. The need for concerted international action to deal with the crisis continues, but international engagement shrinks.

For years, there have been calls for Khartoum to give unhindered humanitarian access to the starving and displaced people sheltering from the Sudanese bombing raids in Blue Nile and South Kordofan. Khartoum knows that it can carry on killing its own citizens with impunity because there is absolutely no response other than media statements and ministerial condemnation. For years, we have expressed concern about Khartoum’s brutal repression of free speech, the disappearance and torture of intellectuals and the sexual abuse of thousands of young women guilty of no greater sin than wanting to go to school or to college.

Symptomatic of the failure to grasp the reality on the ground has been the dogged attempt to impose the Doha peace agreement on Darfur. Officials continue to negotiate debt relief with the very governing regime whose leaders have been indicted on counts of genocide, war crimes and crimes against humanity by the ICC. Meanwhile, assistance is given to British trade missions and British links when we should be warning British companies that Sudan is rated among the worst in the world for corruption, high inflation, opaque banking and dubious overseas payment systems. In addition, DfID still channels aid through a Government run by those indicted war criminals, surely knowing that it reaches only projects and people acceptable to them.

We should be turning the tap off and challenging Khartoum on every occasion when an aid agency travel permit is withheld, an aid shipment delayed due to some fatuous new regulation, a new restriction is invented to stop humanitarian aid reaching needy people or a patrol of peacekeepers is attacked or intimidated by the regime or its proxies.

Can the Minister comment on an analysis that has suggested that our security services and Washington’s apparently count as their partners in the war on terror this regime that has such a terrible, criminal reputation? Does he agree that in view of the evidence against the current regime in Sudan, current debt relief negotiations should immediately be cancelled until such time as the regime, first, abides by its multiple promises under the CPA, and secondly, stops the aerial bombardment of its civilians and allows unfettered access for international humanitarian aid groups in areas of Sudanese aggression?

[BARONESS KINNOCK OF HOLYHEAD]

Anything less will, tragically, guarantee that we will be debating the misery of Sudanese suffering in another 10 years.

4.13 pm

Lord Avebury (LD): My Lords, as the noble Baroness, Lady Cox and Lady Kinnock, pointed out, Sudan is governed by an alleged war criminal charged at the International Criminal Court on five counts of crimes against humanity, two of war crimes and three of genocide. He and the Sudanese armed forces, of which he is supreme commander, continue to commit war crimes in Darfur, South Kordofan and Blue Nile. The Satellite Sentinel project reported last week on the repositioning of SAF military units threatening new attacks on the civilian populations of Abeyi and South Kordofan, which has been subjected to more than two years of relentless bombardment.

Might the UN ask member states with satellites that pass over the conflict areas in Sudan to make their own images and analyses available to the Security Council to reinforce the excellent work being done by the Satellite Sentinel Project?

Has my noble friend seen the *Rapid Food Security and Nutrition* assessment published by the Enough project on South Kordofan? It concludes that the bombardment of civilians, together with the bar on international humanitarian aid has resulted in severe malnutrition and dire food security outlooks. The authors say that the condition of refugees from Blue Nile state indicates that the conditions there may be comparable with those in South Kordofan. These are further war crimes and the Minister may want to say something about the possibility of further indictments at the ICC.

Another group of victims in a desperate state are the 40,000 South Sudanese who were left behind in Khartoum at the time of independence three years ago. Their camp was flooded and latrines are overflowing, spreading disease to these homeless and stateless people, weakened by malnutrition. The UN Central Emergency Response Fund has allocated \$5.5 million for emergency shelter, healthcare, education and public health initiatives for the victims of flooding, including the South Sudanese, but for the latter it is a short-term solution only. The International Organisation for Migration has a plan to airlift 20,000 of the most vulnerable to South Sudan at a cost of \$20 million. Can this plan be expanded so that the IOM repatriated all the people to their homeland with the help of donors such as the UN Central Emergency Response Fund?

Meanwhile, UNHCR is already having to cope with 220,000 refugees in South Sudan and another 40,000 in Ethiopia. Can my noble friend say what the budget for these operations in 2013 is and whether it is being met? These people were mostly bombed out of their homes in South Kordofan and Blue Nile and their plight is the direct result of Bashir's military campaigns against civilians. Now the ground attack is being reinforced by the acquisition of Sukhoi Su-25 aircraft and Mi-24 ground attack helicopters. My noble friend says that these breaches of the UN sanctions will be dealt with by the panel of experts' report in January 2014, but surely where there is credible evidence,

such as we have from Radio Dubanga—a reliable witness in the past—and from the Satellite Sentinel project already mentioned, the Security Council should take prompt action to call Khartoum to account over its breaches of its international obligations.

At the same time, the African Commission on Human and People's Rights should investigate the wave of extrajudicial killings and arbitrary detentions as proposed by 11 international and African organisations last week. At least 170 people have been killed and more than 800 detained following widespread protests against the ending of fuel subsidies. Newspapers and broadcasters have been shut down, editors have been told what they are to say about the protests and the head of the Sudanese Doctors' Union was detained when he spoke on BBC Arabic about the number of casualties admitted to his hospital. The UN rapporteur on extrajudicial executions and the working party on arbitrary detention should collect evidence and report on those events, preferably after visiting Sudan, but in the absence of an invitation, based on witness statements collected in response to a public appeal. I know that that is not the normal method of working by UN special procedures, but their hesitant approach accounts for their lack of effectiveness in stopping these human rights abuses.

How can the international community secure an improvement in Khartoum's behaviour? The IMF persuaded the regime to cancel fuel subsidies in an attempt to control its rocketing external debt, scheduled to reach \$46 billion this year. But the US special envoy to South Sudan and Sudan, Donald Booth, said last month that Khartoum is spending the same on military operations in Darfur, South Kordofan and Blue Nile as it did on the fuel subsidies. If the IMF made the ending of these conflicts and of purchases of sophisticated foreign military equipment a condition of debt relief, there would be a double benefit to the Sudanese economy and to the hundreds of thousands of victims of Khartoum's aggression.

4.19 pm

Lord Alton of Liverpool (CB): My Lords, I thank my noble friend Lady Cox for once again focusing our attention on the suffering peoples of Sudan. I begin by expressing sadness and some shock that, despite all the debates and all the attempts to create a climate for peaceful development, the suffering in that war-torn country continues unabated. My first visit to South Sudan was during the civil war, which claimed 2 million lives, and, in 2004, I went to Darfur and saw first hand a conflict which had claimed between 200,000 and 300,000 lives. While the world looked on, 90% of Darfur's villages were razed to the ground. At the time, I published a report entitled, *If This Isn't Genocide, What Is?* Throughout 2011 and 2012, I tabled questions and spoke in your Lordships' House about the new genocide unravelling, as we have heard, in South Kordofan and Blue Nile, which was described by Dr Mukesh Kapila, a former high-ranking British and United Nations official, as,

“the second genocide of the 21st century”—

Darfur being the first. Those who unleashed this torrent of unconscionable violence on their own people are undoubtedly mass murderers and fugitives from

justice, having been indicted by the International Criminal Court for crimes against humanity. In South Kordofan and Blue Nile, more than 1 million are now displaced, and the perpetrators are attempting to repeat what happened in Darfur, but this time by closing borders and refusing access without witnesses.

Two years ago, Ministers told me that they were urgently seeking access to the affected areas:

“Reports of such atrocities will be investigated and, if they prove true, those responsible will need to be brought to account”.—[*Official Report*, 21/6/11; col. WA 294.]

Three months later, Ministers said that,

“we continue ... to seek urgent access to those most affected by the conflict”.—[*Official Report*, 9/11/11; col. WA 66.]

However, we have lamentably failed to do either, failing both systematically to collect evidence from fleeing refugees and to gain access to the areas on which bombs have been raining down. I hope that the Minister will update us on both of those questions.

Yesterday I attended a briefing of the Associate Parliamentary Group for the Republic of Sudan and South Sudan, of which I am an officer, along with the noble Baronesses, Lady Kinnoek and Lady Cox. What I heard did not just leave me saddened and shocked, it also left me angry.

We heard that in Darfur, where 2.3 million people are already displaced, a further 350,000 people have been displaced since January and 1.3 million people are now in temporary camps; that aerial bombardment is a regular occurrence; that there is a climate of fear and terrorisation and a rapid downward trend in security; and that the situation is getting worse. We heard that there may be another 50,000 people displaced in Adala but no one, including a UNAMID force of more than 20,000 personnel, has access, so no one really knows. For INGOs, the situation is fraught with danger following the killing of two of World Vision's staff in July. There is now virtually no humanitarian access to areas that are not held by the Government.

Yesterday we were told that it is five years since DfID officials have been able to get beyond the state capitals in Darfur to visit projects run by NGOs. I hope that we will hear from the Minister that our commitment to Darfur and the rest of Sudan remains a priority for the UK, that DfID staff are fully informed of the situation, and that we are finally getting to grips with the fact that, as the noble Baroness, Lady Kinnoek, said, the Doha document for peace in Darfur is on its last legs. I hope that the Minister will tell us when we last raised the Darfur and the situation in South Kordofan in the Security Council. The Security Council resolutions banning military flights over Darfur are, we heard yesterday, regularly being broken and those who issue their genocidal orders do so with total impunity.

As I prepared for today's debate, it was with a genuine sense of sadness. It is more than 10 years ago that, on the eve of a breakthrough in negotiations between the Government of Sudan and SPLA rebels, I welcomed the new atmosphere of hope, but also warned that a ceasefire would be no guarantee of democracy or justice for all. More than 10 years later, it is clear that the CPA that followed has failed to bring change, democracy, or justice to the Sudanese peoples of Sudan

or South Sudan. That remains today a distant dream in many of those places. I also feel shock because, despite the ongoing and mounting tragedy of a further decade of war, the attention of the world appears to have turned away from the region.

It is not only Darfur and South Kordofan; consider for a moment the peoples of central and northern Sudan, who flocked to the streets in September of this year and were brutally massacred by the Government of Sudan's security services. More than 200 protesters were shot dead. The awfulness speaks for itself. Consider also the situation in Jonglei, where it is thought that militias loyal to the Government in Khartoum have also been trying to destabilise the situation.

More than 10 years ago, I said to the House that Sudan's modern history is littered with temporary peace agreements which were eventually broken. The CPA has been broken for the people of South Kordofan and Blue Nile, and it has been broken for the people of Abyei. The various Darfur peace processes were flawed and have not been honoured. The eastern Sudan peace agreement does not work for the eastern Sudanese.

It is past time to think strategically. Are we prepared simply to sit back and watch protestors be killed on the streets of Khartoum, or will we get behind calls for fundamental change in Sudan? What are Her Majesty's Government doing to help the African Union High-Level Implementation Panel on Sudan? The panel is tasked with mediating Sudan's internal conflicts and its conflict with South Sudan, but can it really have the necessary capacity required for all the immense tasks which it has been given?

Finally, I wonder if the Minister has seen the report launched by the noble Lord, Lord Williams of Oystermouth, just two weeks ago on behalf of Aid to the Church in Need. The report details the specific persecution of Christians in many parts of the Republic of the Sudan. This is a really troubling phenomenon which is now occurring on a systematic basis. I look forward to the Minister's reply.

4.26 pm

The Lord Bishop of Guildford: My Lords, I completely endorse what has been said so far in this discussion. I want to raise a rather different point, but equally I want to express my distress—and, indeed, my shared anger—about the humanitarian, agrarian and political disaster about which we have been speaking.

My rather different point is a question about the implications of further destabilisation of Sudan for the country's international neighbours. I think that that is an important point. I visit Nigeria regularly, and I am due to fly out to Abuja on Sunday. Four years ago, I was able to go to the province of Maiduguri up in the north-east. I cannot go there now, at the moment anyway, because of the political situation. Maiduguri is a long, long way from Sudan—many miles away. Nevertheless, I believe that there is a connection.

When I was there four years ago I visited some of the townships on Lake Chad itself, and was asked by a small Christian community to go on the lake in a little fishing boat with an outboard motor. I heard of the troubles and the difficulties there—not least the difficult political jurisdictions around Lake Chad, on which I will not elaborate—and of the problem of a receding

[THE LORD BISHOP OF GUILDFORD]

lake and what that will do to those communities. When I got back I was told that the relationship between the small minority Christian communities in one of those townships and the majority Muslim population was very good until people came from Sudan through Chad, over Lake Chad. Then the trouble started.

There is a real question about the escalation of ethnic and religious violence, and its spread from east Africa to west Africa. That is anecdotal, but my intuition is that it is probably right, although at the moment in relatively small scale. The noble Baroness, Lady Cox, could say more about that, as she is very aware of the situation in Nigeria. I therefore ask the Minister perhaps to touch on the risk of a more general destabilisation of east and west Africa spreading from Sudan, as the situation there continues seriously to deteriorate.

4.28 pm

Lord Hussain (LD): My Lords, I thank the noble Baroness, Lady Cox, for initiating this debate. Her hard work in that region is always appreciated by the House, and by me as well. I have had the opportunity to visit both South Sudan and Sudan in the past year or two, but what I am going to say today is largely not part of my findings or experience.

Many of us around the world thought that the conflict in Sudan would be resolved once the partition of Sudan took place and South Sudan became an independent country. Unfortunately, even after two years of South Sudan's independence, the conflict does not seem to be coming to an end. There are many reasons for that. I am glad that the African Union is taking more interest in helping to resolve the outstanding issues between Khartoum and Juba, and the presidents of both countries have met and are talking to each other, which is a good sign. Sitting around and resolving issues by negotiation rather than by taking up arms is good.

However, today I want to concentrate on something that is not helping the population and that is the role of the new country's armed forces, which have not yet adapted to their new role and are still acting very much like a militant organisation. According to the latest report of Human Rights Watch, dated September 2013, since December 2012 the Sudan People's Liberation Army—the SPLA, South Sudan's army—locked in conflict with the ethnic Murle rebels from the South Sudan Democratic Movement, has committed serious violations of international humanitarian and human rights law. SPLA soldiers have unlawfully killed at least 96 people, mostly civilians, from the Murle ethnic group during the conflict, and they have engaged in the widespread looting of homes, clinics, schools and churches. The abuses by SPLA soldiers have had a devastating and potentially long-lasting impact on this marginalised minority ethnic group from Pibor county and have caused widespread fear and displacement, contributing to a strongly held perception of persecution among the Murle civilian population.

The abuses have taken place against a background of ethnic conflict. Dinka Bor, Lou Nuer and Murle ethnic groups, all in Jonglei State, have been locked in

a cycle of cattle-raiding attacks and increasingly brutal revenge attacks for several years. The rebellion and the SPLA counter-offensive have further aggravated pre-existing ethnic tensions in the area, which, in the case of anti-Murle sentiments, may have played into the extent of the abuses and slow government response. The potential for further grave violations and violence is very high, in part because the SPLA, an army still in transition, faces significant command, control and discipline challenges and also because ethnic tensions are so high in Jonglei, especially anti-Murle sentiment.

Inter-ethnic violence between the Lou Nuer, Dinka and Murle communities has killed thousands of people in recent years. The Government of South Sudan have failed to prevent this violence, despite frequent warnings of impending attacks, to protect civilians or to hold accountable those responsible for these attacks. In early July 2013, according to the report, thousands of Lou Nuer fighters massed and attacked Murle areas. The full extent of the attack is still not known. Murle who were displaced by the conflict and by SPLA abuses may have been especially vulnerable to the attack. Allegations of government support, including the provision of ammunition to the Lou Nuer, reported by credible sources heard by Human Rights Watch, have further deepened Murle perceptions of government persecution.

The Government's failure meaningfully to redress the abuses by the SPLA during the disarmament paved the way for further abuses by soldiers in late 2012 and 2013. This report documents the extent of the SPLA's violations against Murle civilians between December 2012 and July 2013, causing the majority of the Murle population to flee to remote areas of the bush, many of them believed to be cut off from access to emergency food and medical aid. Tens of thousands of Murle are now displaced and too frightened to return, including most of the civilians from all six main population areas in Pibor county, which is now little more than barracks.

SPLA soldiers approached a group of civilians in a village where men were playing a traditional board game. They demanded that the men hand over their guns. The men gave the SPLA two rifles. The SPLA then tied up the men into two groups of seven. The soldiers executed the men in one group at the site and took the men in the other group some distance away and shot them. One man who was shot in the shoulder and left for dead survived the shooting and was later found by other community members.

In conclusion, has the Foreign Secretary raised the issue with his South Sudanese counterpart and will he consider reporting South Sudan to the International Court of Justice for war crimes and crimes against humanity committed by the South Sudanese army against its own people?

4.35 pm

Lord Triesman (Lab): My Lords, in congratulating the noble Baroness, Lady Cox, not least on her tenacity, and other noble Lords who have taken part in this debate, I hope that they will forgive me if I wince and say, "Yet another debate on Sudan". Those of us who have been there often will feel it the most acutely. The noble Lord, Lord Alton, used the word "anger", to

which I subscribe. There have been more years of conflict and more than 1 million additional people have been affected in the past two years. There are 190,000 more Sudanese refugees in South Sudan. There is further conflict and differences between different groups on political objectives, including between the herders and other farmers. There is, I suppose, conflict between settled communities and those who see very little relevance in being settled because they move with their herds and because borders are not particularly relevant to them.

Two months ago, mass demonstrations about the cost of living and the economy of the country were met by a brutal regime with live ammunition and tear gas, and with mass imprisonment. Negotiations on the safe demilitarised border zone have gone into reverse. Nothing is safe. Nothing is demilitarised. No border zone has been agreed. An African Union peace initiative, through the African Union Peace and Security Council, was twice rescheduled amid sharp African Union criticism once again of the Government of Sudan, and was not responded to by that Government. There was a rather better report on the Government of South Sudan, but none of it yet is making a difference.

It has to be said that South Sudan is both a source of and a destination country for men, women and children who have been subjected in some cases to forced labour and sex trafficking, including women and girls from Uganda, Kenya and the DRC. Inter-ethnic abductions continue but at least the South Sudanese Government have recognised the issues and are trying to intervene. The economies of South Sudan and Sudan, with their high level of interdependency, are continuously disrupted by border disputes and oil transmission fees. I understand that oil reserves are set to halve within 10 years if no new fields come on stream. Exploration of new fields is of course almost impossible amid the military clashes.

War crimes are committed with virtual impunity. There has been no action to enforce international criminal arrest warrants. A large United Nations operation, with at least 4,000 troops in Abyei and 7,500 in South Sudan, has had far too little impact. As the right reverend Prelate the Bishop of Guildford said, instability is spreading right through the region—through the DRC, and to a lesser extent in Uganda, and the Central African Republic. Uganda's help for South Sudan historically has been the basis for the Sudanese Government's sponsorship of murderous groups, including the monstrous Lord's Resistance Army and now other groups which have taken its place.

I suppose that, with a feeling of some desperation, we are tempted to ask what is new. There is little point in demanding a great deal more intervention from the UK Government, much as I would wish to. I think that the Government lack the means or the local alliances to do much, and I fear that they lack the will. Of course there will be protests and those protests are important. There will be realism about humanitarian aid. I urge the Government to find alternative routes for aid rather than those through Khartoum. That will not do any longer. Is there more that could be done? Are we destined to return to this debate again and again, to these issues with no real answers? I am one of

life's optimists but this would be a dismal prospect for all of us and I ask if there is new ground we could break. Let me make a modest attempt.

First, of course African issues will be resolved ultimately in Africa for the most part, and by Africans. That must make us focus on the African Union and its machinery and on the sub-continental regional bodies. The issue of capacity in those bodies is critical. It has been for years. The problem is not just money or a lack of outstanding individuals, because there are some outstanding individuals, and it is not just the presence of a mass murderer at the head of the Government of Sudan. Would the Government consider, as a European initiative, a joint EU-AU review of the financial and skills needs of the African Union, carried out routinely at intervals of not more than three years, with a report on the outcome of those discussions and an annual report on the milestones? Then we at least could see some machinery and assess whether it works.

Secondly, would the Government, through the Security Council, advance the case for a standing arrangement—I am not saying a standing force—that can call into existence a peacekeeping force much more rapidly, rather than with the delays during which many more people die? Will the Government through our multinational treaties, alliances and membership organisations, seek the full commitment of everyone in those bodies to act on the arrest warrants in all the jurisdictions that they cover? Al-Bashir is a wanted mass murderer. Will Her Majesty's Government introduce targeted sanctions? The response in the Chamber to a question just a few days ago was that we had talked to the Nigerians about this without any indication of what happened next—that truly will not do now. It will not do.

Thirdly, will the Government, through its aid programme in the multi-national infrastructure initiatives, look for economic developments which would make a much greater difference? There has been a wider discovery of oil far from ports and from infrastructure. Most of it would be transformational but the countries involved need to co-operate in order to make any difference. Will we assist them to make a difference and give some economic hope?

Finally, on occasions I have heard the aspiration to join the Commonwealth expressed in Juba. I do not know whether that is a workable concept—it may not be yet—but it would certainly provide skilled resources in training, including in health and in the treatment of polio. It would provide links to trade and expertise in all Commonwealth countries. It would provide local trade links, for example in Uganda, Kenya and the region, which might be fundamentally helpful in the development of South Sudan. It would provide a secretariat able to assess the capacity needs and the choreography for the provision of greater capacity; and it would tell the enemies of democracy that they face a worldwide community of democratic nations who will not let this pass.

4.43 pm

Lord Wallace of Saltaire (LD): My Lords, it has been an impassioned debate. I am grateful to the noble Baroness, Lady Cox, for pursuing this issue as she has done so vigorously over many years, and

[LORD WALLACE OF SALTAIRE]

I know that the work of the Associate Parliamentary Group for Sudan and South Sudan also continues to do that.

The right reverend Prelate pointed out that what we see happening across the border between Sudan and South Sudan is also happening across Sudan and South Sudan's borders with their neighbouring states. This is part of a set of regional conflicts which now sadly flow across the Sahel and central and east Africa. The Lord's Resistance Army has just made another cross-border attack. As we know, it operates from Uganda, through South Sudan into eastern Congo. Recent events in the Central African Republic, where the Government have been overthrown, have reportedly been supported by groups from Darfur; groups in Darfur have very often obtained their weapons from Libya, Chad or the Central African Republic. Some of these groups move very easily across frontiers. We recognise that part of this is tribal, part of this is ethnic, part of this is racial, and part of this now, sadly, is also the militant Islamic ideology which attracts youths from across those countries. It brings in foreign fighters and foreign ideas of the sort that the right reverend Prelate commented on, breaking up what had been relatively peaceful relations between different communities and different faiths and raising severe problems for all of us, across Africa. I am happy that we will be debating the dreadful situation in eastern Congo in the not too distant future.

Within Sudan, neither the Government in Khartoum nor the Government in Juba control their entire territory. The Government in Khartoum have the advantage of armed forces and external arms supplies and, as we all know, are misusing them in South Kordofan and Blue Nile. There are linked conflicts across the border, with each Government claiming that the other continues to support the rebels within what they regard as their territories; and the border, as established under the comprehensive peace agreement, is not yet accepted by either side. We must recognise that the SPLM in the north refuses to recognise the borders as established.

We have heard a lot about events surrounding the demonstrations in Sudan, which Ministers have condemned both publicly and privately. We certainly want a more democratic space to open up in Sudan. We deeply regret that the Government of Sudan continue to get arms supplies from outside. We are not entirely sure which countries they are coming from, but they are clearly from the forces in what we used to call the Eastern Bloc. We have a fairly good idea where some of them come from. We meet regularly with opposition groups both within and outside the country. That includes meeting the leadership of the SPLM-North, although we do not support its stated aim of overthrowing the regime by force. We also recognise that the Sudan Revolutionary Front is itself a loose coalition of different bodies and not entirely cohesive in its operation.

I must say to the noble Baroness, Lady Kinnock, that we do not channel aid through the Government. We are co-operating with technical preparations for debt relief, but we have made it abundantly clear that debt relief will not be possible until the conflicts are resolved and that the benefits must flow to promoting development in Sudan.

On Darfur, we continue to look with horror at what is happening, while increasingly understanding that some of the militias are not entirely under the control of the central Government in Khartoum. We regret that the Doha document has not in any sense been adopted and that the situation in many ways continues to deteriorate. The question of what we can do about it on our own is difficult.

The noble Lord, Lord Alton, talked about the comparison with Libya. It is much easier to enforce a no-fly zone, or even to intervene, in a country where almost the entire population lives within 50 miles of the coast than it is to enforce a no-fly zone a very long way from the coast—across the borders between South Sudan and northern Sudan—let alone over Darfur. We continue to work with others on the situation in Darfur. We continue to ask within the UN for an effective review of the not very effective UN force in Darfur.

We are doing what we can, but we recognise that it is not enough. Restrictions on access to Darfur are part of the problem. We all understand how appalling what is going on in South Kordofan and Blue Nile is. Local organisations, with support from international partners, are gathering evidence of abuses. We do not have access to those areas to gather evidence first-hand. Noble Lords will know that the two Presidents have met on a number of occasions. We hope that the recent improvement in relations between Sudan and South Sudan will help to resolve the conflict, but we all recognise that the conflict has a dynamic of its own.

Within South Sudan, there are also problems of internal conflict. The noble Lord, Lord Hussain, talked about the conflict in Jonglei, which the South Sudanese Government claim is being supported by the Khartoum Government. We have to recognise that these have aspects of ethnic conflict between tribes. I am tempted to say that some of these are cattle raiding with AK-47s. Unfortunately, with AK-47s you can kill an awful lot more people than you could with spears. There are elements there where government as such—the idea of a settled state—has not developed. In Abyei, as we all understand, the conflict between the Misseriya and the Ngok Dinka has elements of Cain and Abel about it. We are talking about settled tribes versus nomadic tribes. There again, once the weapons are freely available, the challenge is very clear.

On Abyei, we do not recognise the outcome of the unilateral referendum held by the Ngok Dinka community held last week. However, we understand the frustrations that led to it taking place and the extent to which external forces and pressures imposed an extra layer on what were traditional local rivalries and conflicts. Almost three years have elapsed since the referendum should have taken place simultaneously with the wider referendum for South Sudan, but we have seen, as we all know, repeated failure to move forward by honouring existing agreements.

What are the UK Government doing about that? We are no longer an imperial power within the region. We have to work with others. We are working as closely as we can with the African Union and the high-level panel. We are certainly providing the support that we feel will help in the circumstances. We are also, of course, working through and with the United Nations.

We are doing our best to make the EU a more active player than it has been. The United Kingdom and France are pushing our EU partners to be more engaged across the whole of northern, eastern and central Africa. It is not a message that all our EU partners are yet willing to hear. The British and the French continue to be by far the most actively engaged. We have to recognise that, as people like me go round other capitals, we have to try to explain to them why our interests are engaged in some of these areas because the problem of refugee migration across the Mediterranean is not entirely disengaged from what is happening across the Sahel and elsewhere.

We wish that the Arab League was more active—the Arab League of which Sudan is a member. The Doha agreement was after all moderated by the Qataris, but we would like to see stronger Arab League involvement. We would like to see more active Chinese involvement. The Chinese have real interests at stake in the supply of oil from South Sudan through Sudan. I am told that the Chinese have now become something of a moderating influence, but I think we all understand that the Chinese Government are reluctant to get too heavily involved in outside intervention.

DfID has a major commitment to South Sudan. I have not been to Juba or Khartoum but I have talked to a number of people working in the aid field in Abyei, Darfur and Juba itself. We are working to try to build the capacities of that very new and undeveloped Government. We saw the change in the Cabinet as being a positive development, and we continue to support them in every way that we can.

The two Permanent Secretaries of DfID and the Foreign Office visited the two capitals in October, and my honourable friend Mark Simmonds is going to Juba at the end of this month, so we are and remain actively engaged. The noble Lord, Lord Triesman, asked for a joint EU-AU review. That is a highly desirable development and I will take that back. As I said, we have to work hard to make sure that all our 27 partners in the EU are committed to this and we have to recognise that the AU has some severe limitations on its own capacities. Going towards a standing arrangement of a peacekeeping force may stretch the AU further than it is yet able to go.

We should recognise that there are AU forces in place—Ethiopian forces in Abyei and Ugandan forces in Somalia—and a brigade under UN auspices in eastern Congo. So a number of African countries are now quite heavily committed. They lack transport, intelligence and logistics. The Government in Juba are pretty dependent on UN helicopters for transport around the country.

Lord Triesman: I understand only too well the point that is being made about the AU. My suggestion was that the discussion should happen under the auspices of the Security Council because it is possible for other kinds of forces—for example, as we found with Scandinavian police forces in Darfur—to have a very significant role in peacekeeping.

Lord Wallace of Saltaire: I take that point and of course the UN also has to have a large role. With regard to the Nordic countries, I also recall that the

three guarantors of the comprehensive peace agreement were the United Kingdom, the United States and Norway. We continue to raise these issues regularly within the UN Security Council. It is a matter of continuing discussion and we will continue to push very hard. I sincerely hope and trust, and am confident, that noble Lords here, including the noble Baroness herself, will continue to push us to maintain that pressure. Having answered, I hope, most of the points raised in this debate, I will conclude my speech.

4.55 pm

Sitting suspended.

Millennium Development Goals

Question for Short Debate

5 pm

Asked by Lord Loomba

To ask Her Majesty's Government what progress has been made on the Millennium Development Goals covering the improvement of education for girls and young women in developing countries.

Lord Loomba (LD): My Lords, I welcome this opportunity to debate progress towards the millennium development goals concerning the education of women and girls in developing countries. I know that my noble friend Lady Northover was going to respond to this debate but is unable to do so. I welcome the noble Lord, Lord Bates, in her place and I hope he is as passionate about the plight of women and girls in developing countries as she is, and I look forward to his response.

The UN's flagship millennium development goals campaign launched in 2000 gave many of us great hope. It gave us hope that by 2015 important issues, such as education, promoting gender equality and health, will have been significantly improved in developing countries. While I am delighted that some progress has been made in these areas, I remain concerned that 2015 is now on the horizon but not enough progress has been made in order to hit these goals within this timescale.

Education should be the birthright of every child. Unfortunately, the statistics tell us a very different story. More than 57 million children around the world do not go to primary school. Even more shockingly, at least 250 million children cannot read or count, whether or not they go to school. Despite some progress, the UN is falling short of its promise to ensure that, "by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling".

Education is the key to solving many of the health crises across the developing world. It is also the key to minimising conflict. It is well known by the UN, Governments and NGOs that investing in education for women and girls is one of the most effective ways of reducing poverty. I am proud that the UK Government have committed to spending 0.7% of income on aid to help the world's poorest people. They, like I, realise that children are our future. This money from our country will go towards educating 11 million of the

[LORD LOOMBA]

world's poorest and most disadvantaged children. Ring-fencing this money was the right thing to do and I commend my right honourable friend the Deputy Prime Minister, Nick Clegg, for fighting for this to happen.

The Department for International Development's priorities for education focus on improving learning, reaching more children and keeping girls in school. It is right to focus on keeping girls in school as there are so many places around the world where they are stopped from receiving the education they need. Stemming from this important priority is the Girls' Education Challenge, which was set up by the department in 2011 to help up to a million of the world's poorest girls have an opportunity to improve their lives through education. I was disappointed to see on the department's website that only £7.5 million out of the possible budget of £61 million has been spent so far through this initiative. I ask the Minister to look into this and see whether improvements can be made.

The now infamous case of Malala Yousafzai, shot by the Taliban for campaigning for girls to be educated in Pakistan is sadly one of many examples throughout the world of women being held back from education.

The reasons why girls are not on a par with their brothers in education across developing countries are complex and diverse, but in many cases interconnected. Research shows that boys are still favoured by parents to receive education over girls in many countries. Early marriage, early pregnancy, domestic responsibilities and a gender-insensitive curriculum are just some of the reasons cited for that. Those issues must be addressed by the respective Governments in partnership with the UN to make more progress on the MDG framework.

What practical steps can Governments take to get more girls into education across the world? The culture of boys being favoured over girls to be educated must stop, and attitudes need to change. There is a growing body of evidence to demonstrate a strong relationship between the presence of female teachers and the attendance and performance of girls in schools, particularly in rural areas. Female teachers are often seen as role models for the girls and their parents. Breaking down barriers such as that one is essential to success.

Having greater female participation and influence in public life in developing countries is another key to growing the number of girls in education. That will ensure that female-specific needs and interests are promoted and defended. On a practical level, that could be as simple as ensuring that schools have female toilets and drinking water, which will encourage girls to go to school.

Government support and leadership in developing countries is essential to deliver more girls into education. I declare an interest: through my charity, the Loomba Foundation, I have seen that first hand. We do a huge amount of work in India educating the children of widows. There are 500 million children of widows across the world, according to UN figures, and 51% of them are girls. Despite making good progress in many parts of India, we had difficulties in the north-eastern states. That was primarily due to the lack of regional

government support and leadership. That lack of government support is in my view one of the key contributing factors to why MDG framework targets have not been met in many developing countries.

I leave your Lordships with this. It is vital that the UN sets ambitious but achievable goals, targets and indicators within the post-2015 MDG framework, especially about ensuring that more women and girls have the opportunity to be educated. That will have a positive ripple effect on other problems facing developing countries, such as general and maternal health, gender equality and help to reduce child mortality.

Education is the best gift that anyone can give a child, and I welcome the continuing support from our Government to developing countries in that area. However, I ask our Government to do even more to get larger numbers of girls into education and to put pressure on the UN and other Governments to help to achieve that.

5.09 pm

Baroness Chalker of Wallasey (Con): My Lords, I congratulate my noble friend Lord Loomba on raising this issue because now is certainly the time to put pressure not only on our own departments but on all the international organisations in which we work. While girls' education is becoming accepted in some countries, I am afraid the vast majority of girls in the developing world probably have the opportunity of education only in the primary stage and not beyond. Should they marry early or fall pregnant, that opportunity is frequently removed from them by one means or another.

I have been looking at what the United Nations Girls' Education Initiative has been doing across many countries and, while it is laudable, it is very patchy. It does not extend and I have tried to find examples. Most of my mine come from Africa but there are others. I want to highlight a couple that are indicative of what can be done in other places and are known to have worked. In Rwanda, the United Nations Girls' Education Initiative has functioned as a multistakeholder partnership and if that were extended to other countries, it would work very well. It is not just a question of getting parents to send their girls to school; there is also the problem of getting educationalists in national government departments to realise the importance of girls going to school. So you have to work from both ends of the problem—through the individual departments of education and through the families. You also have to work through the churches and the mosques. With the mosques we have a problem, which I am not qualified to talk about, in the sense that so many do not think girls' education is valuable. But I firmly believe that there is much more that can be done by setting an example in government departments, in districts of countries and through the various institutions.

Certainly, the revised education sector strategic plan that came into effect in July this year in Rwanda was easier to enact there because it is a small country. In a huge country like Ethiopia which is difficult to get around and where communications are not yet of a nature where you can rely on the internet, it is notable that since a gender budgeting guideline was developed

there some five years ago, there has been much better debate on capacity building and gender mainstreaming. This is an interesting area which I hope to follow up in December when I am there. There are also new measures in Zambia, helped by the influence of UNICEF, which has some very good ideas, such as its re-entry policy guidelines for teenage mothers, the finalisation of the child protection policy for schools and its gender review of HIV and AIDS policy.

I could quote many other examples, such as in Tanzania and other African countries, but what I note above all else is the fact that there are so many gaps between what is accepted in international forums and what happens in Governments and, based on an understanding of the problems, we have to bring pressure to bear on those national Governments as well as encouraging families to keep girl children in education.

5.13 pm

Lord Browne of Ladyton (Lab): My Lords, I, too, wish to congratulate the noble Lord, Lord Loomba, on securing this important debate and creating an opportunity for this issue to be brought to the attention of your Lordships' House and to engage with the Government on it. It is an enormous privilege to follow the noble Baroness, Lady Chalker, and I commend the previous speeches for setting out the issues which need to be addressed. In the short time I have I intend to address just one discrete point.

Women and girls are marginalised enough but when multiple inequalities intersect, they are marginalised even more. More than one-third of the 57 million children who are not in school have a disability. There are very limited data on disability and they need to address this lacuna and make it one of the key messages of the global disability movement for the post-2015 framework to address. However, if there were statistics they would almost certainly show that girls are unequally represented among the children with disabilities who are out of school. There are a number of reasons for this and the noble Lord, Lord Loomba, enumerated some of them. They include broader gender inequality and entrenched cultural attitudes towards girls and women. Often girls and women in households are responsible for caring, cooking and cleaning or just working to support the family. There are often early and forced marriages of girls and a lack of female teachers or school managers or other female role models to encourage girls to participate. Unfortunately, gender-based violence and harassment, particularly on long journeys to school, make girls feel very unsafe. Among other things, poverty causes families to make choices about which children they should send to school and they often favour sending boys.

The MDGs 2 and 3 on universal primary education of girls have made considerable progress but, as the MDGs make no mention of disability, the harsh fact is that this progress has not reached girls with disabilities. The high-level panel's shift on "leave no one behind" is to be welcomed. The UK Government have a special responsibility to ensure that this emphasis is not lost, as the discussions continue at UN level.

I am aware that girls' education is a major priority for the Department for International Development. One of the headline goals is keeping girls, particularly

the most marginalised, in school. A target for 2011-12 to 2014-15 to support 11 million girls and boys in school is a significant challenge and the sub-target of 1 million of the most marginalised girls is even more challenging. I welcome this focus and DfID's flagship Girls' Education Challenge, which is intended to deliver a step change in ensuring that the barriers that prevent girls from benefiting from education are removed.

I end with one simple but important question to the noble Lord, Lord Bates: how is DfID's Girls' Education Challenge fund reaching girls with disabilities?

5.17 pm

Baroness Walmsley (LD): My Lords, I thank my noble friend Lord Loomba for securing this important debate. I think we would all accept that when you educate a girl you also benefit her family. Although eliminating gender disparity has been a major focus of the MDGs, there are still 31 million girls of primary age not in school.

The poor quality of schooling in many parts of the developing world causes many girls to drop out and return to domestic or agricultural work. In some places the teachers do not turn up, demand bribes or are simply not well enough educated themselves. Among many other charities, the Steve Sinnott Foundation is trying to do something about that by training some of the teachers over here. As has been said, another reason why girls in rural areas do not go to school is because they simply fear for their safety on the journey. Among adult women, literacy rates are rising and the gender gap is narrowing. Even so, women represent two-thirds of the world's illiterate adults.

If we draw any conclusions from the MDGs it should be that development must be holistic to have any real impact. The charity Network for Africa found that Rwandan women were unable to attend their free literacy and numeracy classes or vocational training sessions because they were worried about the safety of their children who were left at home. When childcare was provided, girls were no longer being kept home to care for younger siblings; mothers attended training programmes; and toddlers, who benefited from just one year of nutritious meals and cognitive development games, gained years ahead of their peers in health and mental ability. The women in the project quadrupled their income, on average, after six months. When women know that their babies are safe, they will attend classes and improve their life prospects.

Sadly, MDG progress sometimes disguises the fact that social norms still perpetuate discriminatory behaviour toward girls and women. Until someone challenges the idea that we cannot question traditional culture, no great strides will be made. Therefore, in the MDGs post-2015, we need indicators for social norms embedded into every aspect of development programming.

The MDGs tackle the easy part. The tough part is challenging cultures that keep discrimination against women in every aspect of their lives. The myth that gender equality is culturally sensitive and must be treated with kid gloves has to be challenged and debunked and the importance of universal human rights stressed. The position of adolescent girls is crucial and ought to be one of the focuses post-2015. Adolescence is when girls realise that their dreams are

[BARONESS WALMSLEY]

unattainable because of cultural traditions and persisting views about gender roles. It is all very well aiming attention at schooling but if negative attitudes still exist in the home they will dominate girls' lives.

Finally, I wish to make a point about the importance of education in emergencies; it is an aspect of global education that is often forgotten. Nowhere is this more critical than in complex emergencies like the crisis in Syria. Currently in Syria, 2.3 million children inside the country and 400,000 refugee children are without education. More than 4,000 schools have been destroyed, damaged, used as shelters or occupied. In countries surrounding Syria, refugee children have put a strain on the local education systems. Without education and adequate psycho-social support, these children are at risk of accepting violence as normal and replicating it, undermining their own futures, the future of their nations and the stability of the region. The future of an entire generation lies in the balance; the global community must be more strategic in its planning and take steps now to avoid this lost generation and destruction of the region.

I ask the Minister whether the UK Government will ensure that the post-2015 MDG agenda adopts a 100% target for quality, basic education for all children and that inequalities relating to gender, location, age, and income levels will be tracked in all the targets in the post-2015 framework.

5.21 pm

Lord Crisp (CB): My Lords, I, too, congratulate the noble Lord, Lord Loomba, on keeping up the pressure and the profile of this fantastically important issue, although I recognise that Her Majesty's Government obviously understands this issue well. Nevertheless, we should keep the pressure up and keep producing examples of what works.

I want to make three points. The first is to re-emphasise something that the noble Lord, Lord Loomba, said; namely, that girls' education is not only good in itself but is good as a means for other things. As people probably know, I speak from a background in health and my understanding of the fact that it is empowered women and educated girls who have big impacts in all kinds of areas of life. The noble Baroness, Lady Walmsley, referred to the cultural context. DfID has done some very good work in a number of areas on health where it has engaged traditional leaders, particularly around issues such as maternal mortality. I wonder—simply because I do not know—the extent to which DfID has engaged traditional leaders in Africa and other places to put pressure on their communities to get girls to school, as they have done with maternal mortality.

All my points will repeat what someone else has said because, broadly, we are talking about a common understanding. My second point is about primary education. There is a developing issue in Africa, which is where I notice it, with people who have got primary education asking, "What happens next?". The issues about higher and further education apply not only to girls of course. It would be good to hear from the Minister the Government's view on that and on educating people to a certain level but not recognising the whole system.

My final point is on disability. I chair Sightsavers, which is concerned with the blind. We are very conscious of the point made by the noble Lord, Lord Browne of Ladyton, that people who have multiple disadvantages are the least likely to get educated. If girls are less likely to get educated anyway, a disabled girl is going to have a bigger problem.

I believe the issue is even wider than that. A DfID publication states:

"It is principally the poor, rural children, children of uneducated mothers and children with disabilities that are excluded from education".

There again is the point about this going down the generations and the fact that educating women can help to reverse that cycle.

I know that the Government, the Prime Minister and the high-level panel have made these pledges about leaving nobody behind, but that makes sense only if we can measure it in some way. It will be critical to understand how the Department for International Development and other agencies around the world will help to ensure that there are some measurement processes in place that will record whether girls with a disability are actually being excluded from education or are getting their fair share of it. How will monitoring be undertaken?

5.25 pm

Lord Moynihan (Con): My Lords, I declare an interest as a member of the International Olympic Committee's International Relations Commission, and will focus my remarks on the importance that sporting opportunities can have in advancing the MDGs and improving education for girls and women in developing countries.

Since the introduction of the MDGs, the world of sport has applied significant resources to development, helping to promote formal education, culture, healthy lifestyles, human rights, sustainability, gender equality, understanding among peoples and peace, to name a few. In my opinion, education underpins the entire set of MDGs. It is similarly the cornerstone of Olympism, a philosophy that aims to educate youth around the world through sport and its values.

The Olympic values reflect the notion of sport as a school of life. The IOC's Olympic Values education programme forms an essential part of this perspective. The project was designed for children and young people, with developing countries in mind. The IOC has now rightly teamed up with the United Nations, with its observer status, and in particular with the work of UNESCO, to apply this programme to its network of schools in line with the organisation's mandate to enhance and enrich quality education worldwide.

Gender equality is also critical to the world of sport in general. It is a matter of fairness. It is a human right that women and girls should be accorded the same opportunities as the other half of humanity. All of us involved in sport accept the universal reality that women are underrepresented in all aspects of life—political, economic and social—and that we all must do our best to contribute to the international agenda of righting that situation. The situation in sport reflects the importance of this balance both on the playing

field and in administrations. The goal was and is to ensure that girls and women across the developing world are given equal opportunities to engage in sport and physical activities throughout their lifespan. The development of women's sport is one aspect of a more general societal, social and cultural evolution which provides increased recognition of the roles and needs of women in society. These roles and needs are very similar to those already enjoyed by men and are signposts of a healthy society.

I am mindful of the many other challenges that the women of the world face in their daily lives, but the issue of women in sport is directly related to human and social rights. Sport is an integral part of society and exerts an influence on our lifestyle and social perceptions. The fundamental principles of the Olympic Charter state that every human being must have the possibility of practising sport in accordance with his or her needs.

I point to just one practical example; namely, the International Olympic Committee's support of the UN Secretary-General's Zero Hunger Challenge leading up to the 2016 Olympics in Rio. There is no level playing field in sport or in life without adequate nutrition for all. Few people appreciate the importance of good nutrition better than athletes, but hunger stunts the potential of 165 million children—one in four around the globe—and we have regrettably failed to meet the millennium development goal to halve hunger by 2015. Athletes can help to get these messages out as they know better than anyone the impact of nutrition on performance.

The UN Secretary-General has made 100% access to food for all an essential element of his Zero Hunger Challenge. Former President Lula's Fome Zero programme in Brazil was the inspiration for the Zero Hunger Challenge, which was launched in Rio in 2012, making it a neat fit with the Brazil 2016 Olympics. At the closing ceremony of the London 2012 Olympics, the Brazilian Government formally promised to make hunger and nutrition a focus of the Rio 2016 Olympics; such is the power of sport. All of us who are involved in sport need to build a coalition of sporting personalities from around the globe—especially from developing countries—to speak in support of the Zero Hunger Challenge. The UN has wisely suggested that leading athletes could promote zero hunger through field project visits, media messages, speeches, editorials or articles.

I close with the reflection that the empowerment of women is at the core of an essential process which we need to put in place. Strengthening leadership and entrepreneurship capacities for women in and through sport will inevitably bring women to the forefront, and enable communities in developing countries to benefit from the increased contribution of more than half of the world's population.

5.30 pm

Baroness Kinnock of Holyhead (Lab): My Lords, education is of course a basic human right, and it is one of the very best ways to reduce poverty within families and indeed across generations. It is key to efforts which have to be made to advance gender equality and women's empowerment. Education provides the building blocks a girl needs if she is to participate

fully in society, earn a living and care for her children and family. It also prepares her to stand up for her right to make her own decisions about her own life and her own future. Education is the one constant positive determinant of practically every single development outcome we seek.

Yesterday I met Manizha and Samira from Afghanistan, who are women's rights activists. They described the regular attacks on girls who walk to school, the girls' schools which have been burnt down, the acid attacks on girls, the poisoning of girls' school drinking water, and the threats and violence that teachers face if they teach girls. Extremists clearly do their best to terrorise girls who still dare to go to school in Afghanistan. They told me about their concerns that there is insufficient monitoring by DfID of funds allocated to the Ministry of Education in Kabul. I would therefore appreciate information from the Minister on what checks and balances are in place to ensure that the funds are properly managed and distributed so that girls get their fair share of those funds.

In the limited time that I have, I also ask the Minister whether he agrees that UN discussions must focus on the urgent need to work to ensure that there is universal literacy by 2030. That has to include tackling the gender gap in access to literacy across the generations. An Education for All statistic tells us that of the 760 million illiterate adults around the world, two-thirds are women. This is despite the clear evidence that, unless there is a much stronger commitment to access to education for women and mothers, they will continue to be excluded and marginalised. Is it not time that Governments placed greater emphasis on tackling the blatantly discriminatory social norms which continue to dictate that boys' education is to be valued more than girls' education? Simply emphasising getting girls into schools is not enough. Unless a firm priority is given to the need to tackle the root causes of gender inequality, frankly it just will not ever happen.

The new global framework to be finalised in 2015 will include access to secondary education. Will the Minister outline DfID's view on how girls' transition to secondary school can be supported? Will the UK move beyond the high-level panel report recommendations and support a stronger position which recognises those underlying causes of gender inequality? I trust that the UK will convey a strong message on the need for a strong and explicit focus on gender inequality and women's rights post-2015. The fact is that millions of women and girls simply cannot wait for the fulfilment of their right to a quality education.

5.34 pm

Lord Bhatia (Non-Aff): My Lords, I thank the noble Lord, Lord Loomba, for raising this important issue today. He is an acknowledged individual who has worked on this issue for many years, particularly in India. I declare my interest as the vice-chair of the India 800 Foundation and as a supporter of a recently established charity called the Pearl Education Foundation.

I believe that the statistics published by various national and international agencies mask some of the realities of the problems facing women and girls in Asia and Africa. I should like to focus on some main issues relating to women and young girls. They are

[LORD BHATIA]

those of education and healthcare for women and, in particular, young girls between the ages of eight and 16. Many young girls are unable to go to school because many schools, both primary and secondary, do not have toilet facilities. That is a big issue and a deterrent that stops young girls attending schools. Many mothers of those young girls who have not been through any formal education are themselves unaware of those problems. The second issue on the health front for young girls is access to affordable sanitary towels. Right on the ground, those NGOs that work on this issue find that rags of clothing are used again and again, causing immense health issues. Please will the Minister inform us whether those two issues form part of Britain's funding for women and girls under the millennium development goals?

Although Britain is contributing substantial funding through DfID in the third world, I draw the Minister's attention to the issues facing many women who come to Britain from third-world countries to join their families. Research shows that many women who come from third-world countries are unable to speak English or connect with the wider community. As a result, finding jobs becomes almost impossible. Their inability to talk to their doctors and those at their children's schools is well known. ESOL for those isolated groups of women, to bring them from the margins to the mainstream, is very important. Very little funding is available from local or central government, and I hope that the Minister will look into the issue and inform the Committee what is being done to increase funding in that area of work in the United Kingdom.

5.37 pm

Baroness Thornton (Lab): My Lords, I congratulate the noble Lord, Lord Loomba, on initiating this debate. I am aware that I am probably the least qualified on international matters to speak in it, given the excellent contributions, particularly when I put myself alongside my noble friends Lady Kinnock and Lord Browne.

The noble Lord, Lord Loomba, outlined the key issues, and I will not repeat them. However, the fact that we know that 123 million young people still lack basic reading and writing skills and that 61% of them are young women is a huge concern. We know that the millennium development goals will not be met in full so, surely, the question for the British Government to address is: what happens next? Are the UK Government involved in discussions about post-2015, particularly as outlined by the noble Baroness, Lady Walmsley?

I want to make two points about how important girls' education is. The first is to do with reproductive rights and control over their own fertility. We know that there are 215 million women in the developing world who want to delay or avoid pregnancy. We also know that all the information available from across the world, some of which was mentioned by the noble Baroness, Lady Chalker, tells us that the whole of their societies and communities benefit when women have control of their sexual health and childbirth.

The second link is between illiteracy and sexual violence. Yesterday, I read an article in the *Nairobi Star* from Kenya. A report had been published on the Ganze sub-county that states that higher literacy levels

are partly to blame for the increase in cases of sexual, gender-based violence. The reason for this is in this report. Basically, the high illiteracy level hinders the conceptualisation of information about gender-based violence. In other words, young women and parents cannot report gender-based violence because they are illiterate. They do not understand how to do these things. Indeed, the children's officer who compiled the report pointed out that literacy classes would be enormously beneficial in this respect.

We should take some hope from initiatives that have been taken and the dedication of people who are determined to effect change across the world to get girls and women educated. I would like to mention that our former Prime Minister Gordon Brown has dedicated a great deal of his time to this issue. He was the person who moderated the United Nations session in September in which Malala made her speech about the importance of education. It is worth quoting from that speech. Among her remarks she calls on leaders to focus on education:

"This is our demand, our request to all the responsible people—that instead of sending weapons, instead of sending tanks to Afghanistan and all these countries that are suffering from terrorism, send books. Instead of sending tanks, send pens. Instead of sending soldiers, send teachers. This is the only way we can fight for education"—

well, exactly.

I would also like to pay tribute to Hillary Clinton and the work that the Clinton Foundation is doing. No Ceilings: the Full Participation Project links education to women's control over their lives, fertility and health. It is important to end my remarks on a note of hope. There is hope and there are people who are dedicated. I would like the Minister to assure us that the British Government are taking part in the hopeful nature of what comes next.

5.42 pm

Lord Bates (Con): I thank all noble Lords for taking part in this debate. I particularly pay tribute to my noble friend Lord Loomba for introducing this debate so effectively and comprehensively. He has great authority from his work over many decades in this area of levelling the playing field to help women and girls around the world. He was also quite right to refer to the fact that my noble friend Lady Northover, the lead Minister for DfID in the House of Lords, particularly wanted to be here, but due to a close family bereavement she is unable to be. I am sure that the whole Committee will want to send our condolences to my noble friend.

As the 2015 deadline for the millennium development goals approaches, it is right that we come together today to explore the core issues around the progress of education for girls and women. Progress on MDGs 2 and 3 has been made. Globally, more girls go to school; in sub-Saharan Africa, the net enrolment rate for girls rose from 47% to 75% between 1990 and 2011. Gender parity in primary enrolment has improved significantly in regions that started the decade with the greatest gender gaps. Literacy rates are on the rise, and gender gaps are narrowing.

However, under Millennium Development Goal 3, the target of gender parity in primary and secondary education has been achieved by only two out of

130 countries. Gender gaps in access to education have narrowed, but girls are still disproportionately absent from the classroom; 31 million girls are still out of school, and 70% of these are from the most disadvantaged communities in the world. In 10 countries, at least half of poor, rural girls have never been to school. Girls suffer double discrimination; first because they are poor and secondly because they are female.

I now turn to the points raised in the debate to give them maximum time because there were some excellent points and pertinent questions.

The noble Lord, Lord Loomba, asked a specific question about allocations of the gender fund which has been established. He mentioned his disappointment with the information from the website which showed that perhaps not much of it had been drawn down. Of course, the updating of websites is an essential part of communication; I looked into that and found that the figure was from April. As of now, £225 million has been allocated, and £25 million has been spent. This is an innovative process where people are bidding for funds and therefore to ensure that there are the correct checks and balances, the period during which those funds get distributed is longer than normal.

By 2015 the UK will have supported 11 million children in education in primary and secondary schools and 190,000 teachers. There are some very innovative examples taking place in the Punjab region, which will be of particular interest to the noble Lord. Stipends have been introduced for children to encourage them to take part in school. This means actually sending them the books and the pens and giving them some resource to enable them to attend school. That applies to 400,000 children in the Punjab area, which I think is a positive initiative.

I remember serving in the other place with my noble friend Lady Chalker when she was Minister for Overseas Development, before it was so fashionable. She served in that role with great distinction for eight years and it is thanks to her that much of the legacy continues. She mentioned Rwanda and Ethiopia and I listened carefully to her points, particularly about the importance of having supportive governance in place at a provincial level to encourage education and make it a priority. It reminds us that educating girls is only the first step towards empowering them to take greater control of their whole lives, and to then move on to becoming more economically active, to have a greater base and then to move into government, governance and institutions. It was well pointed out that as well as being educated, women are also educators; if you have an educated parent then you will have an educated child.

The noble Lord, Lord Browne, asked a specific question about disability. There is some progress there. The noble Lord highlighted—and with astute knowledge because of his experience—where the canards are in this particular debate, because the absence of reliable data is one of the things that the high-level panel noted needed a great deal more work. One of the new millennium development goals was a data revolution, and how you disaggregate that data to show gender differences and then disaggregate that further to show differences between disability. I would just mention two points to the noble Lord. First, DfID has a strong

commitment to the education of people with disabilities and it seeks to ensure all new educational construction directly funded by DfID is accessible to people with disabilities. Secondly, it is also working with other organisations, including the World Bank and NGOs, to improve and get better data so that they can tackle this issue. One of the pieces of data which quite shocked me does not relate to a specific area, but says that the limited statistics that are available indicate that only 3% of adults with disabilities are literate in the poorest countries of the world, and only 1% of women with disabilities. The data issue is a key part and that is something which DfID is looking at.

The noble Baroness, Lady Walmsley, spoke powerfully about Syria in particular, and she used the words “the lost generation”, which is a great tragedy with so many refugees who are coming. On a recent visit, the Secretary of State established the lost generation fund of £30 million for children in Syria and the surrounding areas to ensure that they have better access to education. Therefore, we hope that the diplomatic efforts will be gathering pace, although that might take time. Of course, these are critical years for these children, some of whom I have seen myself in schools in the Bekaa area. She also mentioned access to good-quality education, which is important.

The noble Lord, Lord Crisp, mentioned completing education as well as making a point on data. He referred to his work with Sightsavers, which I know makes a huge difference around the world. Some 10 million children drop out from primary school education every year. The Girls' Education Challenge will ensure that barriers preventing girls from benefiting from education are tackled at root by collecting data in a systematic way, by trying to track progress through the secondary school system and by asking those who qualify for the fund to collate data on the proportion of women marrying by the age of 15, attitudes towards age of marriage and choice of marriage partners. That data will help inform further work and further allocations.

My noble friend Lord Moynihan spoke about Olympic values, which of course have equality at their heart. As an Olympian of note, he has done a huge amount in this area. Last year, he rightly was awarded the Olympic Order of Merit for his work not just on the London Olympic Games but over many years on the international side and the development side. He works as a trustee of International Inspiration as well. He mentioned the Hunger Summit and the Hunger Challenge which came out of 2012. Before I came to the Moses Room, I read the new IOC president's speech to the General Assembly of the United Nations yesterday to mark the Olympic Truce, which he and I worked on last year. He will have been heartened by that. It referred to the millennium development goals and the hunger pledges that were made, particularly towards Rio, which reminds us that education is body, mind and soul.

The noble Baroness, Lady Kinnock, served in the Foreign Office as a Minister and knows this area well. She spoke about the importance of ensuring funds to help and support Afghanistan in particular. The point is that women and girls are up front and central in all DfID's considerations. The funding of £47 million over three years which DfID has allocated to the

[LORD BATES]

Ministry of Education is being supervised with that very much in mind. Just yesterday, my noble friend Lady Warsi met with officials from Afghanistan on that very point.

The noble Lord, Lord Bhatia, raised a specific point on the experience of migrants in education in the UK. Perhaps I may write to him on that. I would be very happy to meet on the margins of this debate to take better note of that issue. The noble Baroness, Lady Thornton, spoke about reproductive rights, which of course is a key part of giving women control over their own lives and bodies. It is a critical area that we need to look at. She also recognised the work of Gordon Brown as the UN Secretary-General's envoy, particularly on global education. All who saw the incredibly moving speech by Malala in the margins of the General Assembly really brought hope to us about the importance of education. The more that her voice is heard, the better.

It is right therefore that the Government place women and girls at the centre of their approach. All

UK education programmes in developing countries prioritise the education of girls and, where needed, have specific interventions to address gender-specific barriers to educational opportunities. UK aid has so far supported 6.4 million children at primary and secondary level, of which 3.1 million were girls. Looking beyond 2015, the UK, through the Prime Minister and his co-chairmanship of the high-level panel, has been at the forefront of building momentum around the standalone goal for women and girls in the new development framework. However, this battle is far from won. We will continue to work with others to push this important agenda forward over the next two years.

To conclude, it is important that we focus on keeping NGOs, charities and the private sector engaged in developing projects that will expand education opportunities for women and girls. The noble Lord, Lord Loomba, began our debate by reminding us that education is the best gift you can give any child. Much has been done but more needs to be done.

Committee adjourned at 5.56 pm.

Written Statements

Thursday 7 November 2013

Energy: Electricity Market Reform

Statement

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): My right honourable friend the Secretary of State for Energy and Climate Change (Edward Davey MP) has made the following Written Ministerial Statement.

The Department of Energy and Climate Change requires a cash advance of £4,069,000 from the Contingencies Fund to support urgent preparatory work to fund external advisers in relation to transitional arrangements for early investors and to fund an interim Panel of Technical Experts before Parliamentary approval of both the specific enabling legislation and the necessary Estimate.

Contracts for Difference (CfDs) are designed to ensure sufficient investment comes forward in time to replace old generating plant due to close from 2016 onwards with new low carbon plant, thus ensuring continued security of supply for the UK and contributing significantly towards achievement of our legally binding EU renewable energy target.

The Energy Bill will, subject to Royal Assent, make provision for transitional arrangements to enable developers to take investment decisions, where required, ahead of full implementation of electricity market reform. The Department needs to engage external advisers before the Bill receives Royal Assent to support the negotiation of any such arrangements to ensure they represent value for money for consumers. Accordingly, Parliamentary approval for additional resources of £4,069,000 for this new service will be sought in a Supplementary Estimate for the Department of Energy and Climate Change. Pending that approval, urgent expenditure estimated at £4,069,000 will be met by repayable cash advances from the Contingencies Fund.

Energy: Gas

Statement

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Baroness Verma) (Con): My right honourable friend the Secretary of State for Energy and Climate Change (Edward Davey MP) has made the following Written Ministerial Statement.

Almost a year ago I informed Parliament that my Department and the Treasury had just been notified about allegations of manipulation of the UK gas market. As I said at that time, I take these allegations extremely seriously. Market abuse is always wrong, and where it exists it must be identified and the full force of the law applied.

The specific allegations were that there had been manipulation of the gas market in Great Britain on 28 September 2012. These allegations concerned trading

on that day in the period leading up to 4.30 pm, when price reporting agencies produce a benchmark price for the day. Such benchmark prices are often used in a range of other contracts. It was alleged that gas was sold at a lower price than necessary, in order to manipulate downwards the benchmark price produced by price reporting agencies.

As is right and proper, these allegations were scrutinised by the independent regulators for the affected sectors. Ofgem has the lead responsibility for the physical energy markets, with the FCA leading on financial markets. The reviews entailed detailed analysis of relevant information in order to understand the market conditions and the trading positions of relevant market participants, including contracts priced by reference to price reporting agencies' closing prices. Both reviews have now concluded.

Both regulators concluded that they could find no evidence in this instance of market manipulation, and Ofgem considers that the interests of energy consumers were therefore not harmed. They consider that the explanations provided by the sellers for the relevant trades are credible, and they have not found evidence which disputes the explanations provided. In light of this, they conclude that no further action is required in connection with these allegations.

Regardless of the outcome of these particular allegations I am fully committed to ensuring we have a transparent energy market where the risk of abuse is reduced. If any abuse does take place, it must be identified and robustly dealt with. The Government has a strong record of providing regulators with the powers they need to tackle market abuse, and we will continue to take further action where necessary.

We took a leading role in developing the EU regulation on wholesale energy market integrity and transparency—known as REMIT. REMIT prohibits insider trading and market manipulation in wholesale energy markets across the EU and has been in force since 28 December 2011. The UK was one of the first countries to implement REMIT in full, when we put in place civil powers to allow the regulator to tackle manipulation of the energy markets, in June 2013. In view of the importance of the energy markets set out in the Annual Energy Statement I now plan to consult on the introduction of criminal sanctions for energy market manipulation activities.

Ofgem continues to monitor wholesale energy markets, and has an established whistleblower policy to encourage people to bring any examples of market abuse to its attention. REMIT already requires those organising transactions in wholesale markets to report suspicious trades to Ofgem. Ofgem is also working with European colleagues to further develop our cross-border REMIT market monitoring systems.

The allegations in this case were that prices used by Price Reporting Agencies were manipulated. We need confidence that there is a rigorous price assessment process, providing a fair assessment of the market. Ofgem therefore ran a call for evidence on benchmarks in gas and electricity sectors on: potential risks; whether the current processes are fit for purpose; and whether further action is necessary. Ofgem is currently analysing

the responses received. It will be for Ofgem to set out their approach, but if action is warranted their responses could range from facilitating effective self-regulation by PRAs, to more significant regulatory interventions. Whatever approach is adopted must take account of international initiatives in this area. PRAs are already implementing Principles for oil benchmarks developed by the International Organization of Securities Commissions (IOSCO) at the G20's request. We are working within the EU to ensure that any new regulation of PRAs under their proposed Benchmarks Regulation enhances the robustness of energy benchmarks.

Transparency in the energy market is another important element of our overall approach to deterring market abuse. That is why I have asked Ofgem to carry out a detailed assessment of energy suppliers' financial reporting practices and set out the necessary steps to improve transparency. This assessment will be delivered by Spring 2014. In addition, the Prime Minister has announced that Ofgem, OFT and the new Competition Markets Authority will lead a new annual review into the state of the competition of the market.

Ofgem and FCA work independently of Government to ensure that regulations are not being breached. In this case, they have concluded that they could find no evidence of manipulation and Ofgem considers the interests of consumers have therefore not been harmed. But it is right and proper that they continue to be vigilant and we will continue to support them by ensuring the right regulatory framework is in place and that there are appropriate deterrents.

Pensions

Statement

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): My honourable friend the Minister for Pensions (Steve Webb MP) has made the following Written Ministerial Statement.

Today I am publishing the Command Paper *Reshaping Workplace Pensions for Future Generations*. This sets out proposals to enable new forms of risk sharing in pension schemes. It builds on our strategy for reinvigorating workplace pensions, published in November 2012.

The current defined benefit and defined contribution pension arrangements place risk at polar extremes. In defined benefit schemes the risks are borne by the employer who sponsors the scheme, whereas in defined contribution schemes the risks lie with the individual scheme member.

The shift away from traditional defined benefit is a long-term trend which, given the very different social and economic environment we are now in, is not going to change, unless we act now.

Automatic enrolment and the single-tier State Pension will provide a firm foundation for saving for retirement. But if the current forms of defined contribution pension saving become the default alternative to traditional defined benefit pensions, scheme members will face uncertainty over the level of income they can expect in retirement.

Over the last year we have worked closely with employers and with representatives from across the pension industry to explore options for creating a new defined ambition pension category where risks (including inflation, investment and longevity) can be shared between a number of parties.

The consultation sets out our proposals for defined ambition pensions. These include:

1. Creating a new pensions regulatory framework that would allow for greater risk sharing between parties, which could include employers, members, and insurers and investment managers.
2. Deregulating to allow a new flexible form of defined benefit pensions, that will enable employers to continue to offer pensions to members with a high level of certainty, but with much greater flexibility over the nature of benefits provided.
3. Enabling the development of new forms of defined contribution schemes that could provide more certainty for members without adding to employer liabilities.
4. Enabling new models of collective defined contribution schemes that could provide for risk sharing between members.

The Command Paper will also be available on the GOV.uk website and the consultation closes on 19 December 2013. Subject to the outcome of the consultation, we aim to consult on draft legislation in the New Year.

Young Offenders: Custody

Statement

The Minister of State, Ministry of Justice (Lord McNally) (LD): My honourable friend the Parliamentary Under-Secretary of State for Justice (Jeremy Wright) had made the following Written Ministerial Statement.

I am today announcing the publication of the Government's consultation *Transforming Management of Young Adults in Custody*.

This Government feels that current provision for young adults in custody, who are 18 to 20, does not adequately meet their needs and does not make the best use of available resources for this age group.

With that in mind, this consultation document outlines the Government's proposed fresh approach to managing young adults in custody, which moves the focus from age-specific institutions to looking at how we can better meet their rehabilitation and resettlement needs.

We have already taken substantial steps towards reforming how we manage adults in custody, particularly in terms of ensuring that prisoners are better aligned towards release into their home communities. We want to ensure that young adults can fully benefit from our proposals around Transforming Rehabilitation, including resettlement prisons and through the gate provision. We want to make sure that young adults who are on longer term sentences are allocated to the most suitable institutions to meet their rehabilitation needs.

The Government accepts that some young adults have complex needs, and we want to target our resources more effectively to meet these. We strongly welcome

the views of those with an interest in young adult offenders, which will inform this work as it moves forward.

The consultation period will last for 6 weeks during which time the MoJ will actively engage with stakeholders.

Copies of this Government consultation will be available in the Vote Office and the Printed Paper Office.

An online version of the consultation will be available at www.gov.uk/moj”

Written Answers

Thursday 7 November 2013

Alcohol

Question

Asked by **Baroness Hayter of Kentish Town**

To ask Her Majesty's Government what was the total amount spent on alcohol during 2012–13 by the Department for International Development.

[HL2980]

The Deputy Chairman of Committees (Lord Bates) (Con): The Department's central finance system does not enable expenditure to be tracked at this level of detail and it would incur disproportionate cost to collect the information manually. DFID policy does not permit the reimbursement of staff for their cost of alcohol.

Asylum Seekers

Question

Asked by **Lord Roberts of Llandudno**

To ask Her Majesty's Government what is the average amount of time an applicant's identity or travel documentation is held by the Home Office in the case of (1) seekers of asylum, and (2) tier 1 visa applicants.

[HL2917]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): The information you have requested is not available in the format requested and can only be obtained at disproportionate cost.

Courts: Buildings

Questions

Asked by **Lord Beecham**

To ask Her Majesty's Government how much has been spent to date on the proposed new court complex in Sunderland since the project was approved in 2009.

[HL2955]

To ask Her Majesty's Government what is the estimated final cost of the new court complex in Sunderland.

[HL2956]

To ask Her Majesty's Government whether a decision has been made to proceed with the construction of the new court complex in Sunderland; and, if so, when it is estimated that the project will be completed.

[HL2957]

The Minister of State, Ministry of Justice (Lord McNally) (LD): A total of around £3.3m was spent on the proposed Sunderland Justice Centre.

In July 2009, the estimated build cost of the proposed Justice Centre was in excess of £90m.

All major build projects have been reconsidered in light of the Spending Review 2010. It remains the position that no decision has yet been made on the future use of the site.

Deaf and Deafblind People

Question

Asked by **Lord Hunt of Kings Heath**

To ask Her Majesty's Government whether they will introduce specialist services for deaf and deafblind people with acquired neurological impairments.

[HL3018]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): Clinical commissioning groups are responsible for commissioning services for deaf and deafblind people with acquired neurological impairments to meet the needs of their local populations.

Employment: Work Programme

Question

Asked by **Lord Roberts of Llandudno**

To ask Her Majesty's Government what is their rationale in obliging certain recipients of Jobseeker's and Employment and Support Allowance to join the Work Programme.

[HL3016]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The Work Programme provides tailored support to help people move into lasting work. The programme is focused on supporting the long term unemployed or those at significant risk of becoming long term unemployed. Claimants are initially supported by Jobcentre Plus when they make a claim for out of work benefits, for up to a year before being referred to the Work Programme. Where claimants have not moved off benefits during their time with Jobcentre Plus, it is entirely right that we provided them with the extra support the Work Programme offers to help them overcome their barriers to work and break the cycle of benefit dependency. It is entirely right we require them to take up that support.

Enterprise Zones

Question

Asked by **Lord Bourne of Aberystwyth**

To ask Her Majesty's Government what assessment they have made of the proposed restriction of Enhanced Capital Allowances in relation to energy projects in enterprise zones.

[HL2769]

The Commercial Secretary to the Treasury (Lord Deighton) (Con): The Government is continuing to engage with the Commission on Regional Aid and will be in a position to make an assessment once the General Block Exemption Regulations are finalised. Enterprise Zones remain a key priority within these negotiations.

EU: Toilets and Urinals

Question

Asked by *Lord Stoddart of Swindon*

To ask Her Majesty's Government what assessment they have made of regulations proposed by the European Commission concerning the flushing of toilets and urinals; whether those regulations would apply to the United Kingdom if adopted; and what effect those regulations would have on United Kingdom manufacturers and users. [HL3071]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): No such regulations have been proposed. Criteria are about to enter into force to extend the EU Ecolabel scheme to domestic and non-domestic WCs and urinals, but this is a voluntary scheme rather than a regulatory one.

Government Departments: Staff

Question

Asked by *Lord Roberts of Llandudno*

To ask Her Majesty's Government what qualifications, competencies and past work-experience are required of immigration officials working in (1) the Home Office visa and immigration service, and (2) the immigration law enforcement division of the Home Office; and whether they have any plans to legislate to alter those requirements. [HL2914]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): Across the Home Office, including (1) UK Visas and Immigration and (2) Immigration Enforcement, recruitment and selection for posts is undertaken through open and fair competition. Appointments are based on identifying those with the best skills, competencies and behaviours for the post. Applicants for posts are selected through a competency based process which assesses how an applicant's skills and experience match those required for the post.

A new Civil Service Competency Framework was adopted across government from April 2013. The new framework focuses as much on behaviours as on skills. It includes promoting and supporting behaviour that focuses on achieving results, continuous improvement and breaking down hierarchies and silos. It will support the delivery of a pacier, innovative, results-orientated culture and ensure consistent high standards are used for recruitment, promotion and performance management across the Civil Service.

The range of posts and grades within the Home Office, including (1) UK Visas and Immigration and (2) Immigration Enforcement, mean that some posts may attract specific qualifications, competencies and past work-experience whilst others will not. Where there is a need for specific skills and for these to be tested a specific skills assessment would be used as part of the process.

The most recently advertised posts which required specific qualifications and/or past work experience were for the post of Assistant Immigration Officers required to undertake arrest work in Immigration Enforcement. The requirements of the post were that applicants must have either a degree or a minimum of two years' relevant experience in a law enforcement role or in HM Forces.

All staff across UK Visas and Immigration and Immigration Enforcement will receive mandatory e-learning in Information Management and Information Assurance, Keeping Children Safe, Human Trafficking, Health and Safety Awareness, Introduction to Diversity & Equality, Bribery & Corruption and Counter Fraud. Staff will also receive training relevant to the roles they undertake.

There are currently no plans to legislate to change any of these requirements.

Grangemouth Refinery

Question

Asked by *Lord Taylor of Warwick*

To ask Her Majesty's Government whether they intend to put in place measures to ensure that a repeat of the Grangemouth dispute does not occur in the future. [HL3033]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Viscount Younger of Leckie) (Con): The Government welcomed the announcement from INEOS on 25 October that the Grangemouth petrochemical plant will remain open. The events at Grangemouth have demonstrated the importance of management and the workforce coming together to agree an approach that will ensure the long-term future of the plant, including major new investment and a three year no strike agreement. The Government continues to work with INEOS to secure the future of the plant, following the positive news that INEOS has achieved pre-qualification status on a loan guarantee under the UK Guarantee Scheme.

The Government will continue to work with the chemicals sector to maximise growth opportunities and address challenges. The chemicals industry is the UK's leading manufacturing exporter and underpins the UK's manufacturing base.

In recognition of this, Government and Industry have formed the Chemistry Growth Partnership (CGP), a sector council for the chemicals industry co-chaired by Michael Fallon, Minister of State for Business and Energy, and Neil Carson, Chief Executive of Johnson Matthey. The partnership launched its sector growth strategy at its inaugural meeting on 22 October, which was attended by Vince Cable, Secretary of State for Business, Innovation and Skills, and by Michael Fallon.

This strategy sets out a trajectory for Gross Value Added in the chemicals sector to increase by more than 50 per cent by 2030 (from £195bn to £300bn). To fulfil this potential and encourage further private sector investment, the Government will work with the Partnership on a long term basis to address priority issues identified by industry, namely, securing competitive energy and feedstocks, accelerating innovation and rebuilding UK Chemistry Supply Chains.

Health: Complementary and Alternative Medicines

Question

Asked by **Lord Willis of Knaresborough**

To ask Her Majesty's Government how many complementary treatments, potions, therapies or cures are currently approved for use in the NHS by the National Institute for Health and Care Excellence; and what is their annual cost to the NHS budget. [HL3101]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The National Institute for Health and Care Excellence (NICE) has referenced in its guidance a number of complementary and alternative therapies that it considers may be of some benefit to patients, as detailed below. Information on how much is spent in the National Health Service on the provision of such therapies is not collected centrally.

<i>NICE guidance</i>	<i>Therapy</i>
Supportive and palliative care (Cancer Service Guidance), 2004	Recommends that providers should work in partnership across a Cancer Network to decide how to best meet the needs of patients for complementary therapies where there is evidence to support their use
Management of multiple sclerosis in primary and secondary care (CG8), 2003	Reflexology and massage Fish oils Magnetic field therapy Neural therapy Massage plus body work T'ai chi Multi-modal therapy
Parkinson's disease: diagnosis and management in primary and secondary care (CG35), 2006	The Alexander Technique
Dementia: Supporting people with dementia and their carers in health and social care (CG42), 2006	Aromatherapy Multisensory stimulation Therapeutic use of music and/or dancing Animal-assisted therapy Massage
Diagnosis and management of irritable bowel syndrome in primary care (CG61), 2008	Psychological interventions (cognitive behavioural therapy [CBT], hypnotherapy and/or psychological therapy)
Antenatal care (CG62), 2008	For morning sickness: Ginger P6 acupressure
Early management of persistent non-specific low back pain (CG88), 2009	Manual therapy, including spinal manipulation, spinal mobilisation and massage Acupuncture needling

NICE guidance

Therapy

Generalised anxiety disorder and panic disorder (with or without agoraphobia) in adults (CG113), 2011	Either cognitive behaviour therapy or applied relaxation
The epilepsies: the diagnosis and management of the epilepsies in adults and children in primary and secondary care (CG137), 2012	Psychological interventions (relaxation, cognitive behaviour therapy, biofeedback)
Management of an acute painful sickle cell episode in hospital (CG143), 2012	Relaxation techniques
Diagnosis and management of headaches in young people and adults (CG150), 2012	Acupuncture
Psychosis and schizophrenia in children and young people (CG155), 2013	Arts therapies (for example, dance movement, drama, music or art therapy)
Urinary incontinence in women (CG171), 2013	Electrical stimulation and/or biofeedback

Source: provided by the National Institute for Health and Care Excellence

Health: Dementia

Question

Asked by **Lord Hunt of Kings Heath**

To ask Her Majesty's Government whether they have plans to include hearing screening as part of the standard process when people are investigated for dementia. [HL3006]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): There are no plans to include hearing screening as part of the dementia investigation process. However, it is good clinical practice to take into account a person's general health, including their hearing, when people are investigated for dementia.

Health: Mesothelioma

Question

Asked by **Lord Alton of Liverpool**

To ask Her Majesty's Government what assessment they have made of the funds to be made available by the insurance industry over the next 12 months to support research into mesothelioma; and whether they plan to reconsider their opposition to a statutory duty to fund such research. [HL3143]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): Insurers continue to consider their position in relation to funding research and we continue to encourage them to provide further funding.

As we debated in the Lords during the passage of the Mesothelioma Bill, to introduce a statutory duty to fund mesothelioma research would fundamentally undermine the way in which all medical research is funded. As such there are no plans to reconsider our position on a statutory duty to fund mesothelioma research.

In addition to the fundamental concerns over the funding model for medical research, imposing a duty to fund research would increase the mesothelioma levy above the threshold that insurers have indicated they can absorb and therefore risks costs being passed onto British business.

As you are aware there is a cross-Government commitment to support more quality research into mesothelioma. The work that the Department of Health are taking forward on this issue is designed to encourage researchers to pursue projects that will hopefully benefit sufferers of this terrible disease.

Health: Ophthalmology

Question

Asked by Lord Hunt of Kings Heath

To ask Her Majesty's Government what plans they have to tackle avoidable visual impairment.

[HL3160]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): Early detection is essential to tackling avoidable visual impairment. A range of treatment and services is in place in the National Health Service to deal with the key causes of avoidable visual impairment. The provision of free sight tests for children, older people and those at risk of eye disease remains central to our plans; with 12.3 million NHS sight tests provided in England in 2012-13. A comprehensive programme of diabetic retinopathy screening in England has ensured that in the 12 months up to March 2013, 99% of people with diabetes were offered screening. The NHS continues to provide a range of successful treatment for cataracts, wet age related macular degeneration and glaucoma. The Public Health Outcomes Framework for 2013-16 will include an indicator on avoidable visual impairment. This will support commissioners in planning eye care services for local populations.

House of Lords: Staff

Question

Asked by Baroness Hayter of Kentish Town

To ask Her Majesty's Government how many officials are employed, and at what grades, to provide direct support to the special advisers of the Leader of the House of Lords.

[HL3149]

The Chancellor of the Duchy of Lancaster (Lord Hill of Oareford) (Con): Nobody is employed exclusively to provide support to the special advisers of the Leader of the House of Lords, One Band C official does, however, provide some basic diary support as a small part of that post's administrative functions within the Leader's office. In line with the special adviser code and civil service guidance this official is not managed by special advisers.

Housing: Prices

Questions

Asked by Lord Oakeshott of Seagrove Bay

To ask Her Majesty's Government, further to the comments by the then Minister of State for Housing and Local Government, Grant Shapps, on 12 October 2010 published on the Department for Communities and Local Government website, whether house price stability remains Government policy.

[HL2833]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Stowell of Beeston) (Con): This Government is committed to delivering long-term economic stability and economic growth. The last Administration oversaw a housing boom and bust, and this Government has been picking up the pieces. We have a series of initiatives to boost housing supply, increase the provision of affordable housing and support a healthy private rented sector. By tackling the deficit left by the last Administration, we are helping keep down both interest rates and the number of repossessions.

The housing market has turned the corner, but mortgage lending activity in the housing market and loan-to-value ratios on new mortgage lending remain below their historic averages. Relative to earnings, median house prices across England are around the same level they were in 2005.

I would also note that ensuring financial stability is the primary goal of the Bank of England's new Financial Policy Committee. They have analysed the housing market and the Financial Policy Committee statement from its policy meeting on 18 September 2013 stated:

"The recovery in the housing market appeared to have gained momentum and to be broadening. Mortgage approvals in July were 30% higher than a year earlier and average house prices in August were 5% higher than a year earlier and have risen more in some parts of the country, particularly London. Nevertheless, activity in the housing market and loan-to-value ratios on new mortgage lending remained below their historic averages. Households' debt servicing costs were low and the ratio of house prices to earnings was at its level of a decade ago".

In view of that, the Committee judged that it should closely monitor developments in the housing market and banks' underwriting standards. The Committee would be vigilant to potential emerging vulnerabilities'

Asked by Lord Taylor of Warwick

To ask Her Majesty's Government what assessment they have made of the impact of the Help to Buy scheme on housing prices in England.

[HL3030]

The Commercial Secretary to the Treasury (Lord Deighton) (Con): The Office for Budget Responsibility (OBR) is responsible for producing independent economic and fiscal forecasts, including house price forecasts. They will publish the next Economic and Fiscal Outlook at Autumn Statement which will take the impact of Help to Buy into account.

Immigration

Question

Asked by Lord Roberts of Llandudno

To ask Her Majesty's Government whether they will take action to facilitate an improvement in the quality of first-instance decision-making in immigration cases, in the light of the success rate of immigration appeals in 2011–12, and the proposed changes to the appeal system. [HL2694]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): The Home Office success rate in immigration appeals for decisions where appeal system changes are proposed has improved by 2% from 2011-12. Furthermore the data on allowed appeals should be seen in the context of all decisions made; in 2012-13 there were 10,618 allowed "managed migration" appeals but this is from a total of 228,353 decisions made by the Home Office. Less than 5% of those decisions were overturned.

The improvement in 2012-13 reflects UK Visas and Immigration's system of continuous improvement for decision making. This improvement is driven by learning lessons from allowed appeals. The UK Visas and Immigration Appeals and Litigation team provides decision makers with bi-monthly analytical reports that analyse why appeals have been allowed and make recommendations on key trends and themes. This forms part of our action on reporting all cases where the right decision was not made first time. The report will allow us to understand better where any weaknesses are in our processes and drive improvements in our decision quality. It will involve further analysis of the information we already hold on allowed appeals, as well as data from other areas of work such as judicial reviews and official complaints. It will supplement the 2% mandatory case sampling undertaken by all casework areas to ensure that decisions are good quality.

The proposed changes to the appeals system will not remove the opportunity for applicants to seek redress on incorrect decision. Administrative reviews will be introduced in order to overturn caseworker errors. In comparison with the current appeals system, administrative reviews will be undertaken more quickly and in a more cost effective way for the applicant.

Immigration Removal Centres: Transfers

Question

Asked by Baroness Stern

To ask Her Majesty's Government what action they have taken in response to the comment of HM Chief Inspector of Prisons in a report on Brook House Immigration Removal Centre (published on 1 October) that "many exhausting and unnecessary inter-centre transfers took place at night, with detainees arriving in the early hours". [HL2844]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): Officials are considering the recommendations arising from HM Chief Inspector of Prisons' report of Brook House Immigration Removal Centre and will respond in due course.

The Home Office requires its escorting service provider, Tascor, to carry out moves 24 hours a day. Whilst Tascor aims to keep the number of night time moves to a minimum, some are essential to meet flight times, for welfare reasons such as collections from port holding rooms and to meet time critical elements such as collections from police stations, hospital appointment and court hearings.

All proposed moves consider the impact on the care and welfare of individual detainees so that unreasonable moves at night are avoided. Where moves do take place during the night individuals are given as much advance notice as possible

Infrastructure

Question

Asked by Lord Kennedy of Southwark

To ask Her Majesty's Government what progress they have made in delivering major infrastructure projects. [HL2953]

The Commercial Secretary to the Treasury (Lord Deighton) (Con): The 2011 National Infrastructure Plan set out the Government's Top 40 priority infrastructure investments.

The Government will publish a comprehensive infrastructure delivery update in the next version of the National Infrastructure Plan, due before the end of the year.

Already, 150 railway station upgrades have been completed, including the refurbishment of Kings Cross Station. Others, such as the £600m investment at Birmingham New Street are over half way complete and the upgrade of Reading Station has been accelerated by a year.

30 road projects have been completed since the 2010 Spending Round and 96 per cent of national major road schemes announced this Parliament are on, or ahead of, schedule.

London's two largest international airports are being upgraded. Gatwick is two thirds through the biggest transformation in its history and Heathrow Terminal 2 will open in June 2014, handling 20 million passengers a year.

81 new free schools have now opened, 84,000 affordable new homes have been built and National Grid have begun a programme to replace 2,000km of mains network.

The Government is also implementing Infrastructure Capacity Plans with four key Departments (DCLG, DCMS, DfT, DEFRA). These plans will assist Departments in developing their infrastructure delivery capability, including assessing their need for and use of commercial expertise, and the governance of their infrastructure projects and programmes.

Israel and Palestine: West Bank

Question

Asked by Lord Warner

To ask Her Majesty's Government what assessment they have made of the estimate by the World Bank in its report West Bank and Gaza: Area C and the Future of the Palestinian Economy that alleviating

restrictions placed by the government of Israel on access to, and activity and production in, Area C, could add \$3.4 billion per year to the Palestinian economy; and what action they intend to take as a result of that report. [HL2911]

The Deputy Chairman of Committees (Lord Bates) (Con): The World Bank report is consistent with a number of previous reports which have detailed the impact of Israeli restrictions on trade, movement and access on the Palestinian economy. The UK supports this position and has frequently pressed the Israeli authorities to lift restrictions.

DfID already supports Palestinians living in Area C, including efforts to strengthen the competitiveness of the Palestinian private sector through our new Palestinian Market Development Programme. This supports efforts by the US Secretary of State John Kerry and the Office of the Quartet Representative to boost economic growth through galvanising private sector investment and encouraging actions from both Israelis and Palestinians to make this possible. Discussions are also underway about how DfID could support the potential development of infrastructure in Area C.

NHS: Migrant Access

Question

Asked by *Lord Roberts of Llandudno*

To ask Her Majesty's Government what analysis they have made, or will make, of the extent to which general tax contributions from visitors and migrants cover the costs of health and social care in relation to the provisions contained within the Immigration Bill, in the light of section 2.8 of the report by

Prederi, Quantitative Assessment of Visitor and Migrant use of the NHS In England: Exploring the data. [HL2912]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): The Immigration Bill includes the introduction of a Health Surcharge, which would be applicable to non-EEA temporary migrants in non-visitor immigration categories who come to the UK for more than six months. The Impact Assessment (IA) for this policy estimates the net exchequer cost which arises from the change in migrants as a result of the surcharge. Tables 8 and 9 show the annual average tax contributions and public service consumption (which includes health, education and welfare) per migrant affected by this policy.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251972/Health_impact_assessment.pdf

No estimates have been made on the extent to which general tax contributions from visitors, EEA nationals and migrants not affected by the surcharge cover the costs of health and social care.

Overseas Aid

Question

Asked by *Baroness Tonge*

To ask Her Majesty's Government how much funding has been supplied by the United Kingdom to the Occupied Territories in both direct and indirect aid in the last 10 years. [HL3027]

The Deputy Chairman of Committees (Lord Bates) (Con): The UK has provided the following in direct assistance to the Occupied Palestinian Territories (OPTs):

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Total net ODA (USD millions)	23.77	31.11	29.45	23.52	35.09	22.45	68.18	94.88	97.63	121.11

This data is broken down by recipient territory not DFID country programme, so does not include spending on the United Nations Relief and Works

Agency (UNRWA) which supports Palestinian refugees in the region. This information is outlined below:

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Support to UNRWA (£millions)	21.91	21.44	22.21	15.00	16.36	15.60	19.00	26.93	29.16	30.50

EU funding to the OPTs is provided below along with the approximate UK share where this information is available:

Year	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Total ODA from EU (Euros millions)	160	150	166	207	390	460	387	333	288	247

Year	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
UK share of total EU development assistance	-	-	-	17.3%	16.9%	14.7%	14.5%	15.3%	14.5%	15.3%

Further details of multilateral support to the OPTs is available at <http://stats.oecd.org/> and EU funding at http://ec.europa.eu/europeaid/multimedia/publications/index_en.htm

Railways: Franchises

Question

Asked by **Lord Bradshaw**

To ask Her Majesty's Government whether they intend to clarify with the competition authorities whether the operator of West Coast Trains will be allowed to bid for the East Coast franchise, in the light of the statement by the Secretary of State for Transport on 25 October about "rekindling the spirit of competition on this great route to Scotland". [HL3105]

The Minister of State, Department for Transport (Baroness Kramer) (LD): The Prequalification Process Document (PPD) sets out the process by which applicants to franchise competitions must satisfy themselves of any competition matters. The Department for Transport will be mindful of relevant procurement regulations and competition matters in conducting all franchise competitions.

Railways: Maintenance

Question

Asked by **Lord Kennedy of Southwark**

To ask Her Majesty's Government what assessment they have made of the maintenance Network Rail undertakes of vacant land it owns near to railway lines. [HL3117]

The Minister of State, Department for Transport (Baroness Kramer) (LD): The Government has made no assessment of Network Rail's maintenance of its line-side operational land. Network Rail is a private sector company limited by guarantee and this is an operational matter for the company, in which Ministers have no powers to intervene.

Network Rail has its own operational policies on litter and rubbish clearance, consistent with current legislation. The company operates under a network licence enforced and amended by the independent Office of Rail Regulation.

Religious Intolerance

Question

Asked by **Lord Hylton**

To ask Her Majesty's Government what representations they have made to the governments of Pakistan, Afghanistan, Ethiopia and Eritrea with regard to the needs of the ethnic and religious minorities in those countries. [HL2961]

Lord Wallace of Saltaire (LD): Freedom of religion or belief is a human rights priority for this Government and a personal priority for my noble friend the right Hon. Baroness Warsi, Senior Minister of State for Foreign and Commonwealth Affairs. During the UN General Assembly (UNGA) Ministerial Week at the end of September, Baroness Warsi convened her second meeting of international leaders to discuss what more the international community could do to combat religious intolerance, protect the human rights of minorities and promote pluralism in society.

Baroness Warsi had a frank and open discussion on minority issues with the Prime Minister of Pakistan, Nawaz Sharif, in the margins of UNGA in September. We have urged the government to guarantee fully the human rights of all people, particularly the most vulnerable, as laid down in the Constitution and in accordance with international standards.

We regularly discuss with the Afghan government the need to ensure the security of all their people, regardless of religion or ethnicity, and have made it clear that any political settlement must protect the progress made in Afghanistan and respect the country's constitutional framework, including protecting minority rights.

Our Ambassador in Asmara has requested the release of all prisoners detained on political or religious grounds in Eritrea. The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs, my hon. friend the Member for Boston and Skegness (Mr Simmonds), also urged the Eritrean Foreign Minister in July to engage with the international community on human rights issues.

Our Ambassador in Addis Ababa has raised concerns over the Ethiopian government's approach to Muslim protestors with both the Islamic Supreme Affairs Council and the Ministry of Federal Affairs. Mr Simmonds also raised concerns over human rights issues with the Ethiopian Foreign Minister in May.

St Helena: Airport

Question

Asked by **Lord Ashcroft**

To ask Her Majesty's Government, further to the Written Answer by Baroness Northover on 21 October (WA 139), which company has been appointed to assist the St Helena Government in contracting air services. [HL3034]

The Deputy Chairman of Committees (Lord Bates) (Con): The contract to assist in the procurement of an air service for St Helena has been awarded to Avia Solutions, based in Woking.

Taxation

Question

Asked by **Lord Palmer**

To ask Her Majesty's Government how much is raised annually from (1) inheritance tax, (2) capital gains tax, and (3) stamp duty; and how much it costs to collect each of those taxes. [HL3046]

The Commercial Secretary to the Treasury (Lord Deighton) (Con): The revenue information requested can be found in the Trust Statement section of the published HMRC Annual Accounts:

<https://www.gov.uk/government/publications/annual-report-and-accounts-2012-13--3> (see note 2.7 and 2.8 of the 12-13 Trust Statement).

The following table provides the cost of collection information for 12-13:

<i>Tax Regime</i>	<i>Expenditure</i>
Inheritance Tax	£27,030,853
Capital Gains Tax	£47,712,401
Stamp Duty	£9,735,265

NB: The Expenditure is not published externally to HMRC e.g. in the Annual Report or Pocket Briefing.

Taxation: Tobacco and Alcohol

Questions

Asked by **Lord Palmer**

To ask Her Majesty's Government how much is raised annually by (1) the taxing of all tobacco products, and (2) the taxing of alcohol. [HL3044]

The Commercial Secretary to the Treasury (Lord Deighton) (Con): Information on excise duty receipts from tobacco and alcohol products is published monthly in the Tobacco and Alcohol Bulletins on the UK Trade Statistics website.

Information for the last five financial years is presented in the following table:

	<i>Alcohol</i>	<i>Tobacco</i>
2008-09	£8,470m	£8,219m
2009-10	£9,012m	£8,813m
2010-11	£9,397m	£9,144m
2011-12	£10,036m	£9,551m
2012-13	£10,219m	£9,681m

VAT collected on tobacco and alcohol products is not available. Therefore the total revenue collected from the taxation of tobacco and alcohol is not available.

Asked by **Lord Palmer**

To ask Her Majesty's Government what is their latest estimate of taxation income lost from the sale of illegally imported tobacco products to United Kingdom consumers; and how they arrived at that figure. [HL3045]

Lord Deighton: Estimates of total revenue losses associated with the tobacco illicit market are published in 'Tobacco Tax Gap estimates: 2012-13'. These estimates cannot be disaggregated by the type of illicit activity, e.g. through smuggling, counterfeiting or other fraud.

The methodology for producing the estimates are provided in the 'Methodological Annex for Measuring Tax Gaps 2013'.

Both documents can be accessed via the following page on the HMRC website:

<http://www.hmrc.gov.uk/statistics/tax-gaps.htm>

UK Trade

Questions

Asked by **Lord Bourne of Aberystwyth**

To ask Her Majesty's Government what steps they are taking to promote trade with Vietnam.

[HL3087]

To ask Her Majesty's Government what steps they are taking to promote trade with Malaysia.

[HL3089]

The Minister of State, Department for Business, Innovation and Skills & Foreign and Commonwealth Office (Lord Green of Hurstpierpoint) (Con): In both markets UK Trade and Investment (UKTI) helps British companies in a range of sectors and supports trade missions and businesses at trade fairs. This includes a particular focus on high value commercial opportunities in infrastructure, with activity including business roundtables promoting UK participation in the delivery of the 2019 Asia Games in Hanoi and the Klang Valley Mass Rapid Transit in Kuala Lumpur during Lord Green's visit to the region in June 2013.

As part of our strategic relationship with Vietnam, we have committed to targets of US\$4 billion of bilateral trade and US\$3 billion UK investment in Vietnam by 2013. The Prime Minister has appointed Lord Puttnam of Queensgate as his Trade Envoy for Vietnam, and he recently led a trade mission to the market as part of UKTI's "GREAT" campaign.

During his visit to Malaysia last year, the Prime Minister announced a commitment to double trade to £8 billion by 2016 and grow two-way investment and appointed the UK National Security Advisor Sir Kim Darroch as his Special Representative to Malaysia.

In 2011 UKTI established the UK-ASEAN Business Council (UKABC) to facilitate a step change in the UK's level of trade with Southeast Asia. The UKABC has worked with more than 500 businesses over the past 12 months raising awareness of the commercial opportunities in the region.

Under the Overseas Business Networks initiative announced by the Prime Minister last year, UKTI is working closely with the British chambers of commerce

in Malaysia and Vietnam to help them build capacity to deliver more business-to-business support services on the ground.

The UK is also working within the EU to establish highly ambitious free trade agreements with ASEAN countries and is currently negotiating bilateral agreements with both Malaysia and Vietnam.

Unemployment: Young People

Question

Asked by *Lord Taylor of Warwick*

To ask Her Majesty's Government what steps they are taking to tackle youth unemployment in the north-east of England. [HL2987]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The Government are aware of the challenges facing young jobseekers in the labour market and have put in place a substantial menu of provision to help them move into work.

Support includes:

- The Get Britain Working Programme including Work Clubs, Work Experience, Work Together (voluntary work), New Enterprise Allowance, Enterprise Clubs and sector based work academies.
- The Work Programme which provides tailored support to those claimants furthest from the labour market on a payment by results model.
- The Youth Contract, including intensive support for all 18-24 year olds, additional Work Experience and sector-based work academy places. As part of this, the Wage Incentive scheme enables employers to take advantage of wage incentives worth up to £2,275 each for young people recruited after they have been unemployed for six months.
- The Flexible Support Fund, which provides provision to address locally identified skills needs.
- The SFA-funded Skills Offer, supported by the National Careers Service, provides access to careers advice and occupational training for young people in our Jobcentres.

Water and Sanitation

Question

Asked by *Lord Avebury*

To ask Her Majesty's Government what large studies they are sponsoring to assess the effects of water, sanitation and hygiene interventions on the nutritional status of children. [HL2958]

The Deputy Chairman of Committees (Lord Bates) (Con): Globally, an estimated 26% of children under the age of five years suffer from chronic under-nutrition manifested as short height for their age (or stunting). The two immediate causes of this are inadequate dietary intake and infectious diseases such as diarrhoea—caused by lack of access to adequate water, sanitation and hygiene (WASH).

DFID is addressing these issues by funding “Sanitation and Hygiene Applied Research for Equity” (SHARE), a large £10 million research consortium led by London School of Hygiene and Tropical Medicine. SHARE has funded a Cochrane Review which shows for the first time a statistically significant link between WASH interventions and growth in children under five. DFID is also funding the Sanitation, Hygiene, Infant Nutrition Efficacy (SHINE) study in Zimbabwe. This is a longer term trial that aims to prove and describe in more detail the causal relationship between sanitation and child stunting.

Zimbabwe

Question

Asked by *Lord Maginnis of Drumglass*

To ask Her Majesty's Government, further to the Written Answers by Lord Wallace of Tankerness on 21 June 2011 (WA 290), Lord Howell of Guildford on 22 June 2011 (WA 316), Baroness Browning on 14 July 2011 (WA 213–4), Lord Henley on 19 March 2012 (WA 145) and Lord Taylor of Holbeach on 29 August (WA 408), who was accountable for the decision regarding the residential status in the United Kingdom of Zimbabwean Central Intelligence Organisation operative Philip Machededze, who has admitted kidnapping and torture. [HL2759]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): For reasons of confidentiality, the Home Office does not routinely comment on individual cases.

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