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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

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| Abbreviation | Party/Group |
|--------------|------------------------------|
| CB | Cross Bench |
| Con | Conservative |
| DUP | Democratic Unionist Party |
| GP | Green Party |
| Ind Lab | Independent Labour |
| Ind LD | Independent Liberal Democrat |
| Ind SD | Independent Social Democrat |
| Ind UU | Independent Ulster Unionist |
| Lab | Labour |
| 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

Friday 26 February 2016

10 am

Prayers—read by the Lord Bishop of Bristol.

NHS (Charitable Trusts Etc) Bill Second Reading

10.07 am

Moved by Baroness Massey of Darwen

That the Bill be now read a second time.

Baroness Massey of Darwen (Lab): My Lords, it is a great pleasure to sponsor this Bill and present it to your Lordships today and seek your support. It is an honour to follow the passage of the Bill in another place, where there was unanimous and enthusiastic support. The debates were led ably and sympathetically by Wendy Morton, MP for Aldridge-Brownhills. It is entirely appropriate that a Bill involving Peter Pan should be introduced by an MP called Wendy. I thank the Minister and Wendy Morton for meeting me, and Department of Health officials for their excellent guidance. I thank also Great Ormond Street Hospital and the Association of NHS Charities for their help. Most importantly, I thank the Library for its most useful briefing pack.

I very much look forward to the maiden speech of the noble Lord, Lord Bird. We have discussed the Bill and I know that he is committed to its principles. I also look forward to the Minister's response. I know that he has connections of long standing with Great Ormond Street. I am delighted that my noble friend Lady Blackstone is taking part today. She has been significant in ensuring that issues relating to NHS trusts are reconsidered. She is of course now the chair of Great Ormond Street Hospital for Children NHS Foundation Trust.

The Bill may seem complex but it is, in fact, fairly simple and its aims are clear. It seeks to do two things. First, it makes provision to remove the Secretary of State's powers to appoint trustees for NHS charities linked to NHS bodies in England, and makes consequential amendments to the removal of those powers. Secondly, it makes provision to amend sections of the Copyright, Designs and Patents Act 1988 to transfer to the new Great Ormond Street Hospital Children's Charity, to be known as GOSH, the right to a royalty in relation to performances or publications of the play "Peter Pan". There are other related and transitional provisions.

At the moment, the right is in the hands of special trustees appointed by the Secretary of State, and I will go into this in greater detail in a moment. It is worth adding that when the NHS was established there was no Charity Commission, and structures for charities were quite different. All that we seek now is a level playing field to improve the ability of charities to work more efficiently to raise money and spend it to the advantage of children, in the case of Great Ormond Street, and of clients generally.

Noble Lords will know that JM Barrie, the author of "Peter Pan", made a bequest in 1929 to Great Ormond Street Hospital so that it might benefit from royalties. As I reread "Peter Pan" over the weekend I realised that it is actually a political thriller, set largely in Neverland and full of idealism, revenge, rescue and battles. We probably have a number of potential cast members here today. Who would play Peter Pan, who Wendy and who the Lost Boys? Would the Minister fancy himself as Captain Hook? Will Tinker Bell suddenly alight on the Dispatch Box? How would the doorkeepers deal with the ticking crocodile?

I shall not go into the Bill in minute detail—noble Lords will be aware of its implications—but I shall set out the main thrusts. I shall give a brief history and then look at the policy issues for the two components of the Bill. First, I shall discuss issues relating to the Great Ormond Street Hospital Children's Charity, GOSH. Since 1929, Sir James Barrie's gift has provided a great deal of income to the charity, which, as we all know, provides superb services for sick children and their families.

In 1987, the former Prime Minister Lord Callaghan successfully proposed an amendment to the Copyright, Designs and Patents Act 1988, giving the charity the unique rights to royalties from the publication or performance of "Peter Pan" in perpetuity. However, there were problems, and my noble friend Lady Blackstone raised the need to amend legislation to benefit from the Barrie bequest during the passage of the Deregulation Act 2015. The Government agreed to introduce legislation, which is what the Bill is all about. The problem is that the so-called Peter Pan rights are vested in special trustees appointed under NHS legislation for Great Ormond Street Hospital. The Department of Health made an agreement with the hospital whereby the existing NHS charity transferred most of its undertaking to an independent charitable company limited by guarantee. That new company was also appointed as corporate special trustee of the existing NHS charity under the Act in 2006.

At present, the GOSH charity is unable to fully complete the conversion to an independent charity as the NHS charity has to be kept in existence until the Copyright, Designs and Patents Act is amended. This complication, according to GOSH, presents a huge risk that legacies to the charity may fail, thus significant charitable donations could be lost to the provision of healthcare at Great Ormond Street Hospital. I know that the GOSH charity has adopted a five-year strategy, aiming to raise £500 million in that period to benefit patients, their families, the hospital and research. If the Bill were not passed, the charity would not be able to complete its move to independence. The hospital would therefore have to run two charities, one the independent arm and the other the existing one, into which royalties from "Peter Pan" would be transferred. This is clearly a waste of time, energy and money, with more duplication of effort and more bureaucracy. That is why the Bill is so important.

I will now briefly go into issues for NHS charities in general. NHS charities are those regulated by charity law but which are linked to NHS bodies and bound by NHS legislation. They are charitable trusts. Their trustees

[BARONESS MASSEY OF DARWEN]

are an NHS body such as a foundation trust, or trustees appointed by the Secretary of State for an NHS body. The Secretary of State has statutory powers to transfer trust property held by NHS charities. Such charities are distinct from independent charities established solely under charity law, and funds donated to the NHS must be held separately from Exchequer funding provided by the taxpayer. NHS bodies can hold properties on trust for any purpose relating to the health service. Charitable funds can be held by NHS trusts, special health authorities, foundation trusts, clinical commissioning groups and NHS England. Boards act as corporate trustees of the charitable funds.

Since 1973, the Secretary of State has had powers to appoint special trustees to manage charitable property on behalf of hospital boards. In 1990, powers for the Secretary of State to appoint trustees to NHS trusts were enacted and are now extended to other NHS bodies, as set out in the National Health Service Act 2006. The NHS Trust Development Authority oversees the appointment and removal of trustees. Separate trustees can be appointed if a business case can be made. The situation, as noble Lords will see, has become complex and somewhat unwieldy.

In 2011, the Department of Health conducted a review and consultation on NHS charities. In consequence of this review, the department announced its intention to allow NHS charities to move, with safeguards, to independent status and be regulated by the Charity Commission. There is detailed guidance on this, which I will not go into.

The bottom line of the Bill is that the Secretary of State will no longer appoint trustees, although he or she can, by order, appoint trustees to hold trust property in respect of certain NHS bodies. Clause 1 sets out the removal of the Secretary of State's powers; Clause 2(1) discusses supplementary provision; Clause 3 discusses the transfer of the rights to the royalties from the play "Peter Pan"; Clauses 4, 5 and 6 detail the extent, commencement and the Title of the Bill; and there are two schedules. Thus, although the Bill is short, it is significant. It will sweep away bureaucracy, clarify and simplify the position of trustees and NHS charities and will give charities more freedom to operate.

In the film "Peter Pan", Peter Pan says:

"To live will be an awfully big adventure".

The Bill will ensure that trusts, such as the Great Ormond Street Hospital trust, are freed from undue bureaucracy to spend more of their charitable donations on patients and, we hope, allow more children to live for that big adventure. I recommend the Bill to your Lordships, I thank all noble Lords who have stayed for this Friday session, and I look forward to their speeches and to the Minister's reply. I beg to move.

10.18 am

Lord Crisp (CB): My Lords, I have very little to add to that extremely eloquent and clear speech, which sets out precisely what the Bill is about and why it is so important. Indeed, the Bill is sensible, practical, simplifying, and in essence we should just get on with it in your Lordships' House. However, I will say a little about NHS charities and their importance, although I will not detain your Lordships' House for too long.

All of us in this House will be familiar with the work of some of these charities and the way in which they provide facilities; however, they are also able to do things which the NHS cannot do as regards making improvement and change. I will pick out three particular areas. Charities can very often fund innovation in ways which the public sector cannot always do. Secondly, they can support staff, which is incredibly important, particularly at times like now, when the NHS is under such pressure; and they can also do what the great charity across the water from us here, Guy's and St Thomas' Charity, does, which is not just to look at the hospital but at the community itself as well, to develop and support innovation and community service. Those are all ways in which charities have modernised and innovated in recent years, and this Bill is very important in bringing about less bureaucracy and more scope for them to do those things.

There is one other way in which charities are moving in this direction globally, nationally and, I hope, within the NHS. When I am not in your Lordships' House, I am quite often engaged in development activities in Africa. We are very well aware that charities are extremely important in Africa, but alongside those charities it is equally important to enable people, giving them the tools to look after themselves and develop their own solutions to their problems. I hope that in future NHS charities will go even further by developing the way in which they help the NHS to adjust during this current massive period of change.

I am delighted that my noble friend Lord Bird is to speak in this debate. I wonder whether he will have something to say about the very important question of how people can do things for themselves rather than just rely on charity. I think that the two things go together. This Bill will be a great help in ensuring that NHS charities have the freedom to use their imagination and creativity to support the development of health and social care in this country.

10.21 am

Baroness Blackstone (Lab): My Lords, I declare an interest as the chairman of the Great Ormond Street Hospital board, and I want to give the reassurance that I am not Captain Hook in disguise.

I thank my noble friend Lady Massey of Darwen for taking forward this Private Member's Bill in this House. I especially thank Wendy Morton, the Member of Parliament for Aldridge-Brownhills, for introducing the Bill in the House of Commons and for her very hard work in helping the passage of the Bill through the other place.

In advance of what the Minister is to say, I also thank him and the Government for their support for the Bill. I say that in particular since, as my noble friend Lady Massey of Darwen has already said, back in 2014 I attempted to make an amendment to the Copyright, Designs and Patents Act 1988, but without success. So it is a great pleasure that it looks as though as we are going to be successful today.

I want to say a little bit—I feel that I am obliged to do so and I want to do so—about the enormous value of the charity to the hospital's work. It cannot be overstated. I thank the charity and its special trustees

for the enormous amount of hard work that they put in to raise funds. Its current strategy is to try to raise £500 million over the next five years, and I want to say a bit about how vital this is by giving a few examples of the support that the charity gives the hospital.

We are now working to complete what will be called the Premier Inn Clinical Building. It will fit seamlessly with the Morgan Stanley Clinical Building, which was opened in June 2012, to complete what we call our Mittal Children's Medical Centre. It is truly state of the art. It houses a new surgery centre, a high-specification respiratory ward and a high-dependency area, where the most unwell children can be carefully helped back to better health. The cost to deliver this is scheduled to be around £300 million, and the charity is still working to raise the final amount to make that happen.

Research is absolutely fundamental to everything that a hospital like Great Ormond Street does. If we have to be innovative, we have to be not just the hospital that does research but a research hospital. I shall give one example, which had some publicity last year, of a world first. One year-old Layla was cured of her leukaemia thanks to a gene editing technique developed and used by Professor Waseem Qasim. He designed a new treatment that uses what are called molecular scissors to edit genes and create designer immune cells programmed to hunt out and kill drug-resistant leukaemia. Research like this is made possible only thanks to charity-funded specialist laboratories dedicated to gene therapy research. Our new centre for research into rare diseases, which will be completed in 2018, will take forward a lot of that really innovative, life-changing research. Again, the money for that is being raised through the charity.

The charity also helps the hospital by securing extremely expensive equipment, such as a 3T magnetic resonance imaging machine and scanners that allow us to take much clearer and more detailed pictures of children's bodies than was ever possible before. That allows faster and more accurate diagnosis, followed by better treatments for the children.

Treating children at home is something that we are also trying to develop at the hospital. Every parent with a very sick child longs for that child to go home, and every very sick child longs to go home. If we can release them from hospital and get them home faster, that makes a huge difference to them. One example of this is that we are now able to allow home dialysis to take place—again, thanks to charity funding. We have been the first hospital in Europe to offer home dialysis for children with serious kidney conditions. Before that, children had to come into the hospital a minimum of three times a week, spending four hours having dialysis. Home dialysis allows them hugely greater freedom and has dramatically improved their quality of life. Those are just a few examples.

I want to finish by asking a question of the Minister. I wonder whether he can clarify the details of the commencement of the provisions of the Bill. As I understand it, a number of NHS charities are still in the process of converting to independent charities. How long will it take for these conversions to be completed, and is it or is it not correct that they have

to be completed before Clauses 1 and 2 and Schedule 1 can come into force? I would be really grateful if he could clarify that.

I end by thanking the many supporters of the charity—some of whom, indeed, are probably in this House—from the corporate sponsors to the big celebrity donors, but, above all, the many, many members of the public who support us by giving regular donations over many years.

Last of all, in his absence, I should thank JM Barrie for his extraordinary legacy when he donated the copyright to the hospital in 1929. “Peter Pan” has raised large sums of money, which has been put to wonderful use. It is now important that this legacy is safeguarded by passing this Peter Pan and Wendy Bill.

10.27 am

Baroness Barker (LD): My Lords, I thank the noble Baroness, Lady Massey, for introducing the Bill today with such clarity. In preparing for today's debate, the words “history” and “innovation” kept coming into my mind. The charitable sector is full of some wonderful historical stories, and the legacy of charity law is that from time to time one comes upon them.

Back in a previous century, when the first ever law was passed requiring a charity to have a board of trustees, one Dr Barnardo thought that he had better be in compliance with the law. He gathered together a few of his friends and acquaintances for a meeting. These august people resolved that they would meet again upon the death of Dr Barnardo, and they duly waited until this great social innovator, who did remarkable things in a wholly independent way, was not there to be hidebound by a board of trustees upholding the law.

It is interesting to think about that on a day when we are to hear the maiden speech of the noble Lord, Lord Bird. As those of us who work in the charitable and voluntary sector know, he has been at the forefront of bringing about innovation and change, not just in what charities and the charitable sector do but in how they do it. He has been at the forefront of bringing to the world of philanthropy and good deeds the disciplines of business. In so doing, he has made it very clear to the sector that some of the old strictures under which charities used to work need to change and, in particular, that we must have different forms of organisations in order to pursue what we need to do. I am very much looking forward to hearing what the noble Lord is going to say.

The legislation talked about by the noble Baronesses, Lady Blackstone and Lady Massey, is, in a sense, historical. It arose when there was a limited form that a charity could take and when there were very strict laws about the ways in which charities could hold property. If they belong to a charity that is an unincorporated association, noble Lords may know that special holding trustees have to be appointed to hold property in trust. So it is quite right today that in trying to bring about the best of business and to free charities up to pursue what they do in the most effective way, we should begin to make the sorts of changes that are in the Bill. It is, I know, very technical stuff, but it means in practice a great deal, and it will make a great difference to the ability of a body to do its basic job.

[BARONESS BARKER]

I want to make one other point that I think is important at the moment. It has been a terrible year for charities. Charities have been in the firing line right, left and centre—sometimes quite fairly but other times not. Being a trustee at the moment is really difficult and I imagine will become more difficult, because, when money is tight, people begin to look in even greater detail at what charities do. There has never been a more important time to support trustees in their governance of charities. Charities and trustees play an important part in our civic and social life and, therefore, anything that helps and supports trustees to do their job properly is to be welcomed. In this Bill, sorting out the anomalies between a charity and the bodies with which it works can be only to the good.

I want to ask one technical question of the Minister. It is a question that has been around before; it arose in your Lordships' House when the Bill setting up foundation trusts and so on was going through. A certain noble Lord, Lord Hunt of Kings Heath, was at the Dispatch Box when we bowled him this question from opposition: will this Bill in any way affect the reporting, and particularly the accounting, burden on charities? NHS charities have always had a double burden of accounting: they have to account for their work as charities but they also have to account for their income and expenditure within NHS accounts. If the Minister could supply an answer to that, I would be very grateful. This is a Bill for the future, as much as a Bill that takes account of anomalies in the past. I wish it well.

10.33 am

Lord Bird (CB) (Maiden Speech): My Lords, I know it is normal to declare an interest, but I have to declare an ignorance: I am not too hot on charitable trusts around hospitals. But I am hot on some things.

In 1991, I started a project called the *Big Issue*. The reason I started it was that the provision from government, and from charities, was completely and utterly lacking in one area, which I will refer to later. I support this Bill which gives trustees their head, the belief that they can make changes and the opportunity to spend money wisely. The very idea of a Minister of State overseeing charity trusts is a situation that I would want to end. I would like to use the opportunity of my maiden speech to get behind freeing up charities and encouraging them. But, as the noble Baroness, Lady Barker, said, charities themselves need to go through some pretty thorough work. When we started the *Big Issue*, we ran into enormous problems with virtually all the charities that acted in and around homelessness.

I am also interested in the subject because, even though I have never used Great Ormond Street Hospital, I am from west London, where Paddington Green kids' hospital was where we went when we harmed ourselves. Unfortunately, it is with us no more. But I was born around the back of where JM Barrie wrote "Peter Pan"—I am a Notting Hill-Bayswater boy, and the swings that the Llewelyn Davies children played on in the early part of the last century are the same swings I was playing on just after the Second World War.

I should give the House an introduction to who I am. Thank God I am in the House; I am really pleased, and I think noble Lords will become aware of

that. I would like to thank my probation officer. When I was 10, my probation officer stood beside me and, instead of chastising me as a post-war statistic, encouraged me to read and to write, even though it took me many years to master those arts, and encouraged me to look upon myself as not simply an underclass boy who, at the age of 10, had already been banged up for a few things, put on probation and fined. They were silly little things for which, today, they slap a child's hand and say, "Don't do that". But in the good old days after the Second World War and in the 1950s, they trod on you hard.

I would also like to thank a wonderful woman, Baroness Wootton. Baroness Wootton was a marvellous woman who, when I was 10, put me on probation; when I was 12, made me a ward of court; when I was 13, put me in a remand home; when I was 14, sent me for a short, sharp shock; when I was 15, took me from a boys' prison and put me back into a reformatory so that I could learn to read and write. Baroness Wootton is very important to this House: in 1958, she became one of only four women who were allowed to sit in this House and broke the male domination of the House—we should be thankful for that. I would love to think that, if she were alive today, Baroness Wootton—who would be now 118—would come running over to me and give me the biggest hug of my life.

I want to pause for a moment and go back to the *Big Issue*. When we started the *Big Issue*, I was rather aggressively anti-charity because I saw a situation where there were 501 organisations in London alone working with the homeless. They supplied you with everything from auricular acupuncture to a place to wash your undies and a shoulder to cry on, but one thing they did not give poor people was the opportunity of making money. One of the reasons they did not give them the opportunity to make money is that the laws around charities meant that you could give all sorts of things but you could not give opportunity in the form of work.

I was born in the slums of post-war London, brought up a Catholic racist—I am not having a go at the Catholics. I was brought up to hate black people, Jewish people and even English people, because we were London-Irish. I was brought up with all that poison. I was sent to all sorts of institutions, I slept rough and I stole. Someone asked me how I got into the House of Lords, and I said, "By lying, cheating and stealing", because if I had not gone through that terrible self-defeat, I would never have been able to get out and learn to read and write in a boys' prison at the age of 16.

Then I had a period of being a Marxist-Engelst-Leninist-Trotskyist—I would not recommend that to anybody—which lasted a considerable time. I tried becoming a working-class Tory, but that did not work very well. I tried everything. But eventually, I realised that I had got out of poverty. I had got into the middle classes, and the most exciting thing about being in the middle classes, which sounds remarkably rude, was how clean their beds were, the fact that they had clean underwear and that they were nice to each other. I thought, "Wouldn't it be good if I could get some of the people I grew up with and who I knew and morph them into the middle class", but how could I do that?

I could not do it politically. There was no party that could get the underclass out of the grief—the long-term unemployed, the drug users and the drunks whom I knew. There was no conceivable way.

When I was 21, I had the misfortune—and the fortune—to be hiding from the police in Edinburgh of all places. I was begging, and I can tell noble Lords that it was not a very good place to beg—that is no reference at all to our Scottish colleagues. I met a very large-nosed Scotsman called Gordon Roddick, who had no money. We became friends. Then he met a young lady called Anita. They got married and they started the Body Shop. I did not see them for 20 years, but 20 years later I saw them on the telly. My son Paddy was with me and I said to him, “I know that big-nosed bugger”—excuse my French. I got hold of him and we became friends again and he said to me, “Are you one of those persons who crawls out of the woodwork when someone becomes incredibly successful?”. And I said, “Yes”. He said, “Well I know where you’re coming from”.

In 1990, Gordon Roddick was walking through New York and a very large man whom he described as looking like a wardrobe came towards him. Gordon blessed himself and thought, “This is it”. The bloke said, “Excuse me Buddy. Would you like to buy a copy of a street paper?”. Gordon said, “Yes, how much is it?” He said, “It’s \$1”. Gordon said, “That’s brilliant. I’ll buy it. How does it work?”. The bloke said, “I buy it for 50 cents and sell it for a dollar”. Gordon said, “Why are you doing this?” The bloke said, “Well, I’ve been in and out of prison and I come from Brownsville”. That is where Mike Tyson comes from and you do not get out of Brownsville without being a sportsman or having a criminal record. That was how predictable the failure rate was for that particular part of New York.

The bloke said, “I’ve got a drug habit. If I go back to where I come from, I’ll be banged up again and they will throw the key away”. So Gordon said, “This is brilliant. What you’re doing is working and poisoning yourself, but you’re not harming anybody else”. The guy said, “Yes. I don’t rob old ladies to feed my habit. I’m like everyone in Manhattan who works in the finance industry. If they want some drugs, they just ring up their dealers”, which is brilliant. So Gordon came back here and tried that. He got the Body Shop Foundation to do a feasibility study, and every one of the homeless organisations said exactly the same thing: “What do you want to give money to homeless people for? They will only drink it all, shove it up their noses or stick it in their arms”. That was that.

Gordon came to me in the early part of 1991 and he said, “Why don’t you do this free paper? First of all, you have been homeless. Secondly, you’re a printer and you know about magazines and, thirdly, you are a cheeky sort of chappie and a great beggar and ponce”—which is a subdivision of begging. He said, “Also, you do not have one sentimental bone in your body for the poor”, and I do not have one sentimental bone in my body for the poor. I look upon the poor as people who should use poverty as opportunity, which it was intended for. There is nothing wrong with poverty so long as you can get out of it. You will be stronger and fitter

and better. You do not want all this always stopping you and impeding you from getting out of poverty. You only have to scrape the surface and the patina of most people in Britain today and go back a few generations to see someone who burnt the candle at both ends so that they could get out of the grief, and they passed that on to their children. That is what we need to replicate and duplicate.

We started the *Big Issue* and we ran into all the problems. We stood up and we said, “Look, what we want to do more than anything is give people the opportunity to make their own money”—a hand-up, not a hand-out. Later on, we started a charity and we melded those together. We helped them to get ready to become capable of finding the means to help themselves. But many people could not get to self-help, so we held their hands, and we keep on holding them.

My wife is now telling me to wind up, so I should listen—I guess that must be the only reason for that sign. I will wind up. But I end on one point. The simple fact is this. We need to prevent people from falling down, but once they fall down, we have to have the means of getting them up as quickly as possible. The *Big Issue* has invested in 320 businesses—social businesses around Britain and charities—to prevent the next generation of *Big Issue* vendors and the next generation who are using drugs and falling through the net filling up our prisons and our A&E units. I thank noble Lords for their patience.

I was going to go on for another hour and a half, a bit like Ken Dodd, but I will not. Thank you and God bless you all.

Noble Lords: Follow that!

10.46 am

Lord Patel (CB): My Lords, I know why noble Lords are all laughing. I have to follow that. Many a bigger man than me would have found that difficult. It is a privilege to follow my noble friend Lord Bird, and I thank him on behalf of the House for his remarkable, moving, humorous and rather unusual maiden speech.

Lord Bird: You chose me.

Lord Patel: It will go down in the records of maiden speeches. I do not know what words will be used—astounding, eccentric, and I hope not to be repeated. My noble friend has educated noble Lords in words they have not heard for many a decade; they will have to go and look them up in the dictionary. My noble friend is also a truly remarkable person. Today really is a *Big Issue* day.

My noble friend’s personal story is, as he described, also remarkable. If I can encapsulate it in one sentence, I would say that it is poverty to purpose.

Lord Bird: You have stolen my line.

Lord Patel: Brought up in a slum, raised as an orphan, illiterate to start with and sleeping rough, my noble friend Lord Bird went to jail several times. But he has inspired millions. He is a trailblazer. He is a

[LORD PATEL]

social entrepreneur. He has a mission to provide a hand up to thousands of people who are too often forgotten by society.

My noble friend was awarded an MBE in 1995 for services to homeless people and he is a doctor, holding an honorary doctorate from Plymouth Business School at the University of Plymouth. He also tried to stand as Mayor of London—there is a vacancy coming up. Then, as he told us, in 2010 he was asked what his guilty secret was. He said, “I am really a working-class Tory”. He also said that he would actually like to be a Liberal because they are nice people, but that that would be too much like hard work. I cannot repeat what he said about being a socialist. Noble Lords will have to look it up because the language he used cannot be repeated here.

He was also asked whether he has any ambitions, to which he replied that he would like to write a book; I hope that that is correct. The book was to be a different version, or a replacement, of *Fifty Shades of Grey*. I do not know how many here have read the book; it is an education in itself. Noble Lords might not be surprised to learn that the title is *Why Drawing Naked Women is Good for the Soul*. I have given the noble Lord a plug for his book because I am sure that the sales will now go up by millions.

I welcome my noble friend Lord Bird to this House. We look forward to many contributions from him. They are obviously going to be challenging, colourful and, dare I say it, enjoyable.

I now move on to my contribution to the NHS (Charitable Trusts Etc) Bill. Before I do so, I hope that the whole House will join in me congratulating the noble Baroness, Lady Massey, not because she is introducing this Bill but because today is her and her husband Les’s 50th wedding anniversary—I have let the secret out, Doreen, and I offer my congratulations.

Noble Lords: Hear, hear!

Lord Patel: I support this Bill wholeheartedly. As has been said, it was previously introduced by Wendy Morton, the Member of Parliament for Aldridge-Brownhills. I support the two main aspects of the Bill. It will allow for greater independence of NHS charities, which has to be welcomed. Many NHS charities have expressed concerns about demonstrating their independence when they have to fulfil the governance requirements of both NHS and Charity Commission legislation. The arrangements as described in the Bill will also help to remove the perception widely held by both individual and corporate donors that when they donate money to an NHS charity, it simply adds up to a bit more for the healthcare budget. It is important to remove this perception, and I believe the Bill will do that.

We are all familiar—no more so than the likes of me, who worked in the NHS—with the tremendous support given by the NHS charities and the people who work in them. As the noble Baroness, Lady Blackstone, mentioned, they provide funds that are often not available, particularly for early phase research and equipment. Research councils do not provide funds for the earliest stages, and I personally have benefited on several occasions from such funding. They support individual volunteers and charities like the network of

League of Friends for hospitals. What they give to local communities is tremendous and valuable. I am very familiar with the work of such organisations and I declare an interest: I have the great honour to be the current president of the charity Attend. Many other noble Lords are familiar with it because several are past chairmen, presidents, vice-presidents or have served on its governing body. Attend responds to, respects, and gives care. It is an umbrella organisation representing more than 29,000 volunteers who give their time to health and social care issues. Last year, Attend volunteers provided more than 4.3 million hours of their time, equivalent at the minimum wage level to around £21 million. In addition, they raised some £41 million for health and social care needs in local communities. The contribution to making other people’s lives better cannot be measured only in money terms. Attend also brings about effective partnerships with organisations like the League of Friends and others. I hope the Bill will give further publicity to the valuable work being done by such charities and the individuals within them, thus encouraging more people to offer their support to their local NHS charity—not just financially but by getting involved personally.

The Bill will allow NHS charities to grow and develop their charitable activities, and in my view it will also act as a catalyst to bring about greater engagement by the public with their local health providers. In conclusion, I strongly support the Bill.

10.56 am

Baroness Masham of Ilton (CB): My Lords, I am pleased to be supporting the “Peter Pan and Wendy” Bill, which concerns royalties from “Peter Pan” for Great Ormond Street Hospital. The Bill was ably taken through another place by Wendy Morton, Member of Parliament for Aldridge-Brownhills; this seems to be such a happy coincidence of names. The NHS (Charitable Trusts Etc) Bill was strongly supported by Members of another place.

The Bill has been very well explained by the noble Baroness, Lady Massey of Darwen, who for many years has been the chairperson of the All-Party Parliamentary Group for Children. The noble Baroness is very experienced in the needs of children. Legislation is needed to enable the right to those royalties to be given to the new independent Great Ormond Street Hospital Children’s Charity, to which the current NHS charity is in the course of being converted. There was a consultation and the outcome was that NHS charities should be allowed to convert to independence if they so chose, and that the Secretary of State for Health’s powers to appoint trustees to NHS bodies under the National Health Service Act 2006 be removed at the earliest legislative opportunity.

JM Barrie was one of the most generous donors in the history of Great Ormond Street Hospital Children’s Charity. The charity is keen to take advantage of the opportunity to move to independent status. Specific legislation is required to provide for the rights to “Peter Pan” royalties to be given to the new charity. This is a unique situation and a unique solution is required to enable the rights to the crucial royalties to be given to the Great Ormond Street Hospital Children’s Charity so that Great Ormond Street Hospital can continue to benefit from the generous JM Barrie bequest.

Many of your Lordships will have experienced heart-rending situations with ill children, some of whom will have recovered with the help of specialised medical care, which is what Great Ormond Street Hospital can give, but some will not have made it. Recently, I had a young cousin who developed neuroblastoma, an aggressive children's cancer. He was one of the bravest and most resilient young people I have ever known. His parents did everything they could, as did the medical teams, which included a trip to America for treatment, but at the age of eight the cancer won and Jamie died.

Children's hospitals need all the help they can get to treat such children and to continue their research for cures where there is none at the moment. I wish the Bill a speedy journey back to another place and on to the statute book.

10.59 am

Lord Cormack (Con): My Lords, I would like briefly to pay my tribute in the gap—I have given notice—to the noble Baroness, Lady Massey, and to add my congratulations on what is clearly a double golden day for her. I said that I would like to speak in the gap because I noticed there was no voice from this side of the House on the speakers list other than the Minister's. I thought it would be appropriate to underline what general support there is for this small but very important and far-reaching measure.

When I came to the House this morning, I thought I knew what being given the bird meant. A new meaning has been brought today by an extraordinary Member, who encapsulates the importance and worth of your Lordships' House. It is highly unlikely that he would have gone to another place, but here he is, able to contribute from a unique perspective to our deliberations. He is warmly welcomed by us all and we look forward to more hilarious and pertinent speeches, for which I suppose there is only one exclamation, which is GOSH. When the noble Baroness spoke about the charity having that name—a sort of Wodehousian name, rather than a JM Barrie one—I thought, "Oh dear, not another abbreviation that we've all got to remember". But it is a memorable word. I am delighted that the noble Baroness introduced the Bill with her usual quiet skill, and we all pay tribute to a real Wendy in another place for what she did. I am delighted to give my strong support to this small but important measure.

11.01 am

The Lord Bishop of Bristol: My Lords, I am grateful for this opportunity to speak in the gap. For reasons I do not fully understand, my name was missed off the list. I am pleased to stand on behalf of these Benches to say how warmly we support the Bill. I also congratulate the noble Baroness, Lady Massey, on her introduction of the Bill, and her ability to take some of the detail of the legislation and, to quote Garrison Keillor, put the hay where the goats can get it. I am most grateful to her for that.

I also thank the noble Lord, Lord Bird, for his remarkable, spontaneous, interesting and engaging maiden speech. I wonder quite what volume he might muster when his throat recovers.

As I said, I am glad to speak in favour of the Bill. I am in favour both of the principle behind it and of its practical application, as many in your Lordships' House have said, in relation to Great Ormond Street Hospital, which is a remarkable hospital. These charities—260 of them, I believe—have been of huge significance in the NHS in helping to raise funds for research and for other things. I support the principle of giving those charities that wish it the ability to avail themselves of the provision to release themselves from the oversight of the Secretary of State so that they might grow their work.

The particular issue is the Barrie legacy to Great Ormond Street Hospital. We may not all be famous authors, industrialists or entrepreneurs, but I believe that we can all play our part in getting behind the Bill and supporting its important provisions. I was interested to read that Great Ormond Street Hospital opened in 1852 with 10 beds and a nursing complement of one. This is remarkable, given that in 1845, if my memory is correct, of the 2,400 in-patients in hospitals, only 26 were children, despite the fact that overall deaths in London that year were 50,000, with 20,000-odd being children. Great Ormond Street has not just been excellent in care, hope and research but has played its part in the advocacy of the rights of children.

Many noble Lords will recall in Barrie's wonderful children's novel that Peter explains to Wendy that the Lost Boys are lost as they have no one to tell them stories and that they will never grow up because they will not have any stories to hand on. Today, we have an important opportunity to get behind the Bill and make sure that the great, ongoing story of National Health Service trusts, in particular Great Ormond Street, continues. I hope that your Lordships will feel able to support this wonderful piece of legislation.

11.05 am

Lord Hunt of Kings Heath (Lab): My Lords, I am highly indebted to my noble friend Lady Massey for introducing the Bill. I congratulate her on a remarkable 50th wedding anniversary today. I also congratulate the noble Lord, Lord Bird, on his remarkable maiden speech. The noble Lord, Lord Patel, was so right when he described it as extraordinary, inspiring and heart-warming. As the noble Lord, Lord Cormack, rather subtly put it, it is a great advert for the benefit of an appointed House of Lords.

The point raised about the message to trustees of charities is important. The noble Baroness, Lady Barker, rightly described the last 12 months as being a very difficult time for charities. One does not need to go through the various issues that have arisen. It is clear from what she said—I very much agree with her, certainly in the context of the Bill—that the role of charitable trustees over the years has become ever more onerous and transparent. It has sometimes brought considerable pressure on those trustees. In supporting the Bill, it is right to pay tribute to charitable trustees, but also to say to the Minister that at a time when it is easy to criticise those trustees, the Government need to look at ways trustees can be collectively supported in the very difficult job that they are sometimes called on to do.

The first part of the Bill has arisen mainly from representations from the Association of NHS Charities and a number of individual NHS charities that have

[LORD HUNT OF KINGS HEATH]

called for reform. I very much support the change that would be made. My understanding, and maybe the Minister could confirm this, is that there is a view that removing the current ministerial involvement in the appointment of trustees may encourage donors rather more in the future than in the past. I do not know whether the Minister agrees with that, but if it is true it is certainly to be welcomed.

I can only support Clause 3, on the transfer of rights to “Peter Pan” royalties. We all see Great Ormond Street as a hugely important national and international institution. The more it can be supported the better. My noble friend Lady Blackstone eloquently described the reason for the Bill, and the Opposition are wholly in support.

11.08 am

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, I preface my remarks by saying upfront that the Government wholeheartedly support the Bill. That is to remove any element of doubt over what I might subsequently say. Almost everything that needs to be said about the Bill has already been said. I thank the noble Baroness, Lady Massey, for how she introduced it. She did so with huge clarity. I have a long version and a short version of my speech. All noble Lords will be pleased to know that I can revert to the short version because of the extremely good speech made by the noble Baroness.

I shall give a few acknowledgements. First, I acknowledge my honourable friend Wendy Morton, MP for Aldridge-Brownhills, who steered the Bill through the other place. She has been an MP for only a year. Many MPs go through a lifetime in the other place without ever getting a Bill through; she has done so in her first year, so many congratulations go to her. I congratulate the noble Baroness, Lady Blackstone, whose dogged determination for almost two years has been the driving force getting the Bill through both Houses; I give great thanks to her.

I have a tendentious personal association with GOSH through my father, who some noble Lords will know is still a Member of this House. He was chairman of the Wishing Well appeal in the early 1990s when GOSH raised £54 million, an astonishing amount of money which is just an indication of the extraordinary reputation that Great Ormond Street has, not just in the UK but throughout the world. I was chairman of trustees of the Norfolk and Norwich charitable trust and I echo the words of the noble Lord, Lord Hunt, that there is no doubt that being independent can actually make it easier to raise money, because people otherwise feel that it is part of the NHS and, therefore, why give additional money to it? I think that the Bill will help some trusts to raise money.

I would also like to mention Audrey Callaghan, who was chairman of GOSH in the 1980s at a time when the JM Barrie bequest came to an end after 50 years. She kept it going at that time and her husband, the former Prime Minister, Lord Callaghan, managed to amend the Copyright, Designs and Patents Act 1988 to ensure that Great Ormond Street continued to receive that money. Finally, their daughter, the noble Baroness, Lady Jay, who would like to have been

here today but unfortunately is abroad on business—in America, I think—is chairman of Bringing Research to Life, a joint venture between Great Ormond Street and UCL; that is a very important role.

Of course, it would not be right if I did not mention the extraordinary and very powerful maiden speech from the noble Lord, Lord Bird, which made a huge impression on all of us. His muscular approach to charity—a hand up rather than a handout—was very powerful. The noble Lord, Lord Patel, got the mood of the House absolutely right in how he recognised that remarkable maiden speech.

The Bill will complete the reform of the regulation of NHS charities begun by the government review in 2011. It will revoke the Secretary of State’s powers to appoint trustees to NHS bodies, which are no longer needed now that NHS charities can become independent. In response to the question of the noble Baroness, Lady Blackstone, about timing, the Department of Health has said that the provisions removing the Secretary of State’s powers will be brought into force in April 2018. That allows charities with trustees appointed by the Secretary of State a generous period of grace. I can give the noble Baroness more detail outside the House if that is not sufficient.

The Government support the Bill, which is fully consistent with our policy of giving NHS charities the opportunity to become fully independent where the charities are satisfied that this is in the best interests of their current and future beneficiaries. Great Ormond Street Hospital Children’s Charity was eager to take the opportunity to become independent. It became partially independent on 1 April 2015 but is unable to complete its conversion to an independent charity. This is because the original NHS charity has to be kept in existence until the Copyright, Designs and Patents Act 1988 is amended in order to avoid its statutory rights to the “Peter Pan” royalties being lost. The Bill will confer those rights on the new independent charity for Great Ormond Street Hospital, thereby by allowing the charity to complete its conversion.

Retaining the NHS charity only to receive royalties from “Peter Pan” causes a number of complications for Great Ormond Street Hospital Children’s Charity. Most significantly, running the two charities side by side creates the risk that legacies to the charity may fail. It also duplicates the governance arrangements, requires the production of separate accounts and may require the submission of duplicate returns to the Charity Commission. In response to the question of the noble Baroness, Lady Barker, about potential extra costs, it should actually reduce costs, because the charity will not be regulated both by the Charity Commission and by NHS legislation. I will double-check that with officials, but I think she can take it from me that it will reduce rather than increase costs.

To conclude, the Bill delivers, broadly speaking, what NHS charities asked for. It will remove the Secretary of State’s right to appoint trustees to NHS bodies. Those NHS charities that wish to do so can free themselves from dual regulation by becoming independent charities. As the House has heard, a number of NHS charities have already converted and more are actively considering the option. The Bill amends the Copyright,

Designs and Patents Act 1988 to change the beneficiaries of the rights to the royalties from “Peter Pan”, so that Great Ormond Street Children’s Charity can complete its conversion to full independence. This change has the complete support of the charity, which is eager to see this change become law. The Government wholeheartedly support the Bill.

11.16 am

Baroness Massey of Darwen: My Lords, when I told my husband of 50 years—and I took a long time to say this to him—that as part of our wedding anniversary today I would be leading a Bill in the House of Lords, he said a lot of things. I can only repeat some of them. One of them was, “How can anybody do that on a wedding anniversary?”. Of course, I pleaded parliamentary timetabling, and I think I am forgiven, so I look forward to another wonderful day today and a lovely dinner in peace in our home town of Lewes. However, I am actually glad to have been here today because I have enjoyed myself. I have had great support from the House for the Bill, and I shall come on to the Minister’s comments in a moment, but I have also learned a lot, not only about charities but also about some of the people in the House.

I feel for the noble Baroness, Lady Barker, who said that it has been a terrible year for charities. I have worked in charities and been a trustee of several. Charities constantly have to look at themselves and embrace reform, without losing sight of their charitable objectives and what they are there for, which is to benefit clients. The Bill is part of that process, certainly for Great Ormond Street, but also for other charities which will be affected by the Bill. Some important issues have been brought up today and I will run through a few.

The noble Lord, Lord Crisp, talked about the importance to charities of innovation. Charities are good at innovating, but as was said later, they actually need some framework on which to be innovative. I thank the noble Baroness, Lady Blackstone, for her work on this issue over many years. She paid very moving tribute to GOSH and gave examples of supporting the charity and what it gives the hospital. The noble Baroness, Lady Barker, reminded us of the work of Barnardo’s. We should never forget Dr Barnardo, a great social innovator who talked about the need for reorganisation and reform of charities.

What can I say about the speech of the noble Lord, Lord Bird? A lot, but I will just say one or two things. It was extraordinary, inspiring and enthusiastic. It emphasised serious points about the need for governance and opportunity. His many wise words made me think about how, yes, you can use poverty as opportunity, giving a hand up, not a handout. He is a very good example of this initiative—triumphing over background. We talk about social mobility a lot in this House and today we have seen it and I thank the noble Lord for that.

The noble Lord, Lord Patel, in his short but, as ever, effective speech, spoke eloquently about the work of charities, particularly children’s charities. I am so glad that the noble Lord, Lord Cormack, spoke in the gap with his usual wisdom and charm. He and I share

two passions: one is the House of Lords and its work; and the other is frustration over abbreviations. We both sit on a committee where we fume at the number of abbreviations with which we are presented that we do not understand.

The right reverend Prelate the Bishop of Bristol talked very aptly about passing on stories and themes. This is a story and theme about sick children which is very relevant and important to all of us, and on which Great Ormond Street and other children’s hospitals in this country—we must not forget the other hospitals—do superb work.

My noble friend Lord Hunt talked about the role of trustees. One must not forget either that trustees do an amazing job of holding charities to account and together, and supporting them.

I thank the Minister very much not only for meeting me before this Bill came to your Lordships’ House but for his unequivocal support for it, which he stated today. I realise that he has many personal contacts with GOSH, which he shared with the House. I thank him for his support.

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

Criminal Cases Review Commission (Information) Bill

Second Reading

11.22 am

Moved by Lord Ramsbotham

That the Bill be now read a second time.

Lord Ramsbotham (CB): My Lords, it is a very real pleasure and privilege to be asked to introduce this Private Member’s Bill, which was so admirably introduced in and taken through the other place by William Wragg, MP for Hazel Grove. I thank him and his staff for their careful briefing, before passing on responsibility for its passage through this House to me. I also thank the Chief Whip and his staff in the Government Whips’ Office for their early tabling of the Bill, which I know enjoys strong government support. Finally, I thank the chairman of the Criminal Cases Review Commission, Richard Foster, and his staff for the trouble they have taken to brief me on the Bill.

The purpose of this Bill is to correct an anomaly in the drafting of the Criminal Appeal Act 1995, by which the Criminal Cases Review Commission was created. The task of the commission, an independent public body sponsored and funded by the Ministry of Justice, is to investigate possible miscarriages of justice, following the 1993 report by a royal commission into the circumstances of the mishandling of the cases of the Guildford Four and the Birmingham Six. The commission investigates convictions on application by an offender or, if an offender has died, at the request of relatives. All applications are free. The commission’s remit covers only England, Wales and Northern Ireland, as do the provisions of the Bill.

[LORD RAMSBOTHAM]

If the CCRC concludes that there is a real possibility that the Court of Appeal will overturn a conviction, it can make a referral and send cases back so that an appeal can be heard. Sentences cannot be increased as a result of a defendant's application for review. The commission, whose annual budget is £5.5 million, receives between 1,000 and 1,500 applications a year, of which, in 2015, only 39 were referred back for review. This very low ratio of referrals to convictions indicates how uncommon it is for a sufficient weight of relevant, accurate and compelling new evidence to be put forward to justify an overturn. I put it to the House that it should be taken as an indication of the rigour and fairness of our justice system. It is, however, essential that whenever mistakes are made, they be redressed as quickly as possible. That is why it is so important that any barriers in the way of the public body responsible for investigating these mistakes be removed.

Under Section 17 of the Criminal Appeal Act, the CCRC has the power to obtain any relevant information held in the public sector—an essential weapon in its investigatory armoury. Provided that the power is used reasonably, it is not restricted for any obligation of secrecy or other limitation on disclosure, and includes information relevant to national security and personal information held by the police, prisons, the NHS and the Department for Work and Pensions. It can also request CCTV information from local authorities.

However, thanks to the drafting anomaly which I mentioned earlier, the CCRC does not have the same power in respect of material held outside the public sector, and has to rely on co-operation and favourable responses to requests for voluntary disclosure of relevant material from individuals and organisations. Although voluntary disclosure is not uncommon, an increasing number of organisations are citing a number of reasons why they cannot assist, including recent trends in statutory data protection. Furthermore, voluntary disclosure often only follows protracted negotiations, which cause lengthy and expensive delays in the case review process. The CCRC cites four situations in particular in relation to the private sector which tend to disadvantage an applicant: inability to obtain information from a private individual; inability to obtain information from a private sector organisation; provision of partial information or a summary, which the commission is in no position to scrutinise or verify; and lengthy delays in the case review process caused by protracted negotiations within the private sector. What is particularly unfortunate is that the CCRC has experienced significant or repeated difficulties with some organisations or types of organisation, which has forced it to accept that further pursuit of information from them would be fruitless. This situation could have resulted in its inability to remedy a number of miscarriages of justice.

This problem has become much more acute in recent years because responsibility for much of the required material held by public bodies when the 1995 Act was enacted has now been passed to private sector bodies. Such organisations include some prisons; probation services, the majority of which are now contracted out; forensic science services, following the abolition of the official Forensic Science Service; private health

clinics; and charities, including those treating substance misuse. Other private sector bodies from which material is sought include law firms, expert witnesses, campaign groups, news agencies, banks, private schools, public transport companies and shops and department stores.

The distinction between private bodies, from which the CCRC does not currently have statutory powers to compel disclosure, and those in the public sector, from which it does, is arbitrary because it could be a matter of luck or personal circumstance as to which one holds the relevant information in a case. For example, medical records that are statutorily available if an alleged victim is treated in an NHS hospital are not available if they are treated in a private clinic. Similarly, the CCRC can demand external CCTV footage from a public sector jobcentre on one side of the street but not from a shop on the other, possibly denying it important evidence. I could give many other examples but the point is that this arbitrary, random and unintended distinction should not be allowed to impede the justice system.

It is even more regrettable that a CCRC inquiry into a miscarriage of justice should be impeded by the refusal of a private organisation or witness to provide material, and the inability of the CCRC to compel disclosure of all relevant information can result in a flawed decision for and against an applicant. The victim of a miscarriage of justice could be made to suffer continued imprisonment and the social consequences of a criminal conviction. Conversely, the absence of all relevant information which could have persuaded the CCRC to turn down a case could result in an expensive referral to the Court of Appeal. In either case, unnecessary distress is caused to the victims of the crime in question.

The CCRC has long recognised that the ability to conduct case reviews is detrimentally affected by its lack of afforded legal power to obtain material held in the private sector, recognition of which was officially supported by the 2013-14 CCRC triennial review. There is already a precedent within the United Kingdom because the power the Bill seeks to give the CCRC was granted from the outset to the Scottish Criminal Cases Review Commission under Section 194I of the Criminal Procedure (Scotland) Act 1995. Under this legislation, the SCCRC is entitled to apply for a court order requiring a private individual or organisation to provide relevant material. In practice, the SCCRC finds that a reminder that it has the statutory powers to apply for a court order is usually sufficient to secure voluntary disclosure. Indeed, only one case in 15 years has led to contested court proceedings.

The granting of similar powers subject to similar legal safeguards was recommended by the Justice Committee in another place under the distinguished chairmanship of the noble Lord, Lord Beith, whom I am delighted to see in his place. Its *Twelfth Report of Session 2014-15*, published on 25 March 2015, included the following:

“The extension of the CCRC's section 17 powers to cover private bodies is urgently necessary and commands universal support. It should be a matter of great urgency and priority for the next Government to bring forward legislation to implement the extension of the CCRC's powers so that it can compel material necessary for it to carry out investigations from private

bodies through an application to the courts. No new Criminal Justice Bill should be introduced without the inclusion of such a clause”.

This is that new criminal justice Bill.

To help the House, I will explain briefly how the proposed new power would work in practice. If passed, the Bill would be inserted into the Criminal Appeal Act 1995 as a new Section 18A, enabling the CCRC to obtain a court order requiring a private organisation or individual to disclose a document or other material in their possession or control. As with the current power over public bodies, disclosure requirements will apply notwithstanding any obligations of secrecy or other limitations on disclosure, including statutory obligations or limitations. This means that organisations will not be able to claim exemption because of the Data Protection Act or security classification. The new section will also apply to cases arising from courts martial, which the CCRC has been involved in investigating since the Armed Forces Act 2006.

The CCRC intends that even after the Bill is enacted, it will always attempt to obtain information voluntarily before reverting to a court order. This will result in better relations with the private organisation or individual concerned, and is likely to be quicker than a court application. Except in very specific circumstances where a problem in the criminal justice system requires a proactive trawl for information, the CCRC is a reactive body, responding to applications and not going out to seek custom. It estimates that it may need to request private body material on about 70 occasions a year, of which only 10 are anticipated to require an application for a court order. Those who refuse to respond, including journalists, will have to recognise that such action will amount to contempt of court, not contempt of the CCRC.

Although the British criminal justice system works well for the vast majority of cases, mistakes do occasionally happen. Prisons are not nice places, nor are they supposed to be, but a civilised society, which we contend to be, should ensure that there are adequate safeguards to prevent people being sent there who know that they are innocent or that the system has made errors against them. The chairman of the CCRC has admitted that miscarriages of justice have gone unremedied because of the lack of the power to obtain information from both public and private sources. We have a duty to ensure that this situation is eliminated so that when mistakes are made, they can be investigated swiftly and thoroughly without hindrance. That is what the Bill seeks to achieve and I beg to move.

11.36 am

Lord Beith (LD): My Lords, what a privilege it is to follow the noble Lord, Lord Ramsbotham, and to see a change that the committee I chaired recommended only a year ago being implemented. We are grateful to have his authority in taking the Bill through this House. I record also my appreciation of Mr William Wragg MP for taking the Bill through all its stages in the House of Commons, and I thank Ministers for the support they have given the Bill. February has been rather a good month for the committee I used to chair, with the Supreme Court successfully addressing joint enterprise—another of the issues we brought forward—and redefining the law very helpfully.

The chairman of the Criminal Cases Review Commission, Richard Foster, said in evidence to the Justice Committee that,

“you can be confident that there are miscarriages of justice that have gone unremedied because of the lack of that power”;

namely, the power to compel the disclosure of material from private organisations. That was a pretty serious statement. The Criminal Cases Review Commission exists to remedy miscarriages of justice. We know they occur and we know how wrong it is that someone should serve a long term of imprisonment or have hanging over them a strong sentence for the rest of their lives for something they did not do.

Of course, the problem has become more acute, as the noble Lord, Lord Ramsbotham, pointed out, because a number of services that used to be in the public sector are now provided by the private sector or the non-governmental sector, such as the forensic science service and significant numbers of probation and prison services. Interestingly, in evidence to us the CCRC cited the fact that there was a large charity, mainly publicly funded, from which it had proved extremely difficult to obtain material that the commission believed it needed to deal with a case. Then there is a wider range of private sector organisations—transport companies, commercial suppliers, CCTV operators—which may have material that is necessary to establish whether a case should go to the Court of Appeal. These bodies can all be and are approached on a voluntary basis and in most cases co-operation is secured on a voluntary basis, but without some ultimate sanction we will continue to have a very serious problem.

The kind of material that the commission seeks can be crucial in surmounting the “real possibility” test. One reason the Justice Committee reviewed the work of the CCRC was that there was a deal of frustration about cases which do not get past the CCRC—people who believe they are innocent—but the CCRC does not take to the Court of Appeal cases which it does not believe the Court of Appeal will consider justified to bring forward, such as cases in which there is no new evidence. The “real possibility” test is applied. The new evidence may be in the form of material which can be verified only if the kind of information referred to already is obtained from private organisations.

That being the case, and it being an anomaly, we may wonder why it has taken so long to put it right. The usual argument was about the lack of a legislative vehicle, which I found particularly unpersuasive when we have had about two criminal justice Bills every year for as long as I can remember. The chairman of the commission said of that phrase that it,

“is something that well-meaning officials have been telling us since 2006”.

I am glad to say that wiser counsels have now prevailed. The Government have given assistance to the Bill and support for it is widespread.

There are some questions on which I hope the Minister can help us when he contributes to this debate. One that has been put to me is: are there sufficient safeguards for information to be protected when there is another principle at stake, such as legal privilege, medical information which would be damaging to the patient without materially assisting the appeal case, or journalists’ sources? That issue

[LORD BEITH]

was raised with my noble friend Lord Lester of Herne Hill, who cannot be here this morning. He passed on to me a letter from the News Media Association, which wrote to one of the Justice Ministers, Dominic Raab, on 16 February about this. At Third Reading in the Commons, Mr Raab said there are “safeguards”; I presume that he was relying on the fact that a Crown Court judge, upon whose authority the disclosure is to take place, would certainly have in mind proportionality, necessity and a long-established understanding of the importance of confidentiality in some of the spheres that I have mentioned.

A further point is that where disclosure to the CCRC is found to be necessary, we also rely on the commission’s care in the handling of documents. Its record in that respect is very good. In evidence, the commission told us that security and intelligence organisations, which have every reason to safeguard confidentiality, co-operated with the commission because they felt safe that its document-handling procedures were good enough.

I should add that some recommendations which the Justice Committee made do not feature in the Bill. One was a provision for timely compliance in the public sector, where there is quite a lot of variation. Requests made to the courts have 92% compliance with the timetable but in local authorities it was only 67%, according to the evidence that they gave us. The Government wanted to see more evidence from the CCRC before they would be convinced that this provision was needed. The ball is therefore in the CCRC’s court to demonstrate whether it has been able to secure an improvement in that sector or whether, at some future point, we need to give attention to that.

Secondly, the Government agreed with our recommendation that the CCRC should develop a system of feedback so that all parts of the criminal justice system get a better understanding of how and why miscarriages of justice take place. The Government offered to assist and facilitate this process, which is obviously sensible. After every major miscarriage of justice case we all say, “This really mustn’t happen again—we must look at the kind of factors that led to it happening”. Indeed, the setting up of the CCRC followed just such a reaction. Does the Minister think that progress in getting feedback is happening? I hope that he will encourage it. It does not need to be in the Bill but it is important.

The third thing that the committee recommended was that the CCRC should have a significant addition to its resources. Of course, we made that recommendation when securing more resources for any public body was particularly difficult. The CCRC has had to live without any significant uplift to its resources but, in the context of the Bill, one has to ask: given that some more cases will probably be pursued because access is obtained to disclose material, will the commission have the resources to enable it to do that?

Although there were other recommendations, as I have mentioned, the recommendation which the committee believed was so urgent and overdue that no criminal justice Bill should pass through Parliament without its inclusion was the one which this Bill addresses. We now have the opportunity to put that matter right.

11.44 am

Lord Black of Brentwood (Con): My Lords, I strongly support the Bill, which was so effectively and comprehensively introduced by the noble Lord, Lord Ramsbotham. Any miscarriage of justice is a travesty in human terms and in its impact on the reputation of justice, and it is right that we have the most effective measures in place to assist those seeking to redress wrongs. I have only one point to make. It relates to the protection of journalists’ sources, which the noble Lord, Lord Beith, mentioned just now. I must declare my interest as executive director of the Telegraph Media Group and draw attention to my other media interests in the register.

The proposed extension of the commission’s power to obtain documents is understandably very broad. The reasons for that have been set out absolutely cogently, but we in this House should always be wary of such sweeping changes by scrutinising them properly and ensuring that they do not cause mischief later on. In doing so we should consider whether, in a small number of sensitive areas, such a power should be subject to some clear safeguards. One of the most obvious, as the noble Lord, Lord Beith, said, is access to journalists’ sources of information, given that the Bill—as was made clear in another place—extends to news agencies and,

“journalists and legal departments of newspapers”.—[*Official Report, Commons, 5/2/16; Col. 1243.*]

In this House, I do not need to dwell on the importance of the protection of sources, which is a vital component of press freedom and indeed of the proper functioning of democracy. But given that the Bill gives the CCRC a right to access sources and therefore potentially undermines that, we should be careful to legislate in a way which minimises the possible damage. Sources are of course already under assault, not least from the misuse of the Regulation of Investigatory Powers Act. The same issues are being robustly debated in the context of the new draft RIP Bill that is before Parliament. We should not do anything that adds to those burdens. This is especially true in the case of the CCRC because, paradoxically, the investigative journalism which has uncovered many miscarriages of justice can be so easily undermined where the confidentiality of sources is called into question. New evidence which could be of real help to the commission in its vital work could be less likely to come forward if people, including whistleblowers, know that their identity might be revealed.

I should make it clear that I am not proposing in any way that journalists and media organisations should somehow be exempt from the Bill. If it is to apply to every private individual and private organisation, reporters and publishers cannot and should not be excluded from that. But we need to see some safeguards which go rather further than the slightly inchoate ones that the Minister in another place put forward. There should be clear requirements on the face of the Bill that orders for the production of material made against private individuals and private organisations where the right to freedom of expression is engaged—and other fundamental rights may fall into that category—should be subject, at the very least, to the same safeguards required under the Police and Criminal Evidence Act

procedures for journalistic material. That means that, before any order can be made, the court must consider: whether the material is of substantial value to the matter under investigation; that it is impossible to obtain it by other means; that the specific disclosure would be in the public interest in the context of the investigation; and the circumstances under which it is then held by the person in possession of it. In those circumstances, the media should also have prior notice of the application for the disclosure order and the right to make representations to the court.

Such a measure would ensure that the CCRC was still able to do its job more effectively in the way that the noble Lord, Lord Ramsbotham, set out, and as this important Bill envisages. It would also ensure that the vital issue of the protection of sources, and therefore the importance of press freedom, is always taken into account before any potentially damaging decision is made. In my view, it is simply a question of balance. Are the noble Lord, Lord Ramsbotham, and my noble friend the Minister prepared to look at such issues during Committee to ensure that we do not do anything that undermines robust, investigative reporting in the public interest?

11.49 am

Lord Trefgarne (Con): My Lords, I have no particular views as to the merits of the Bill itself, although it sounds admirable to me, and I hope and believe that it will soon reach the statute book, which would be a good thing. However, I would just ask my noble friend whether he has any news about the case of Sergeant Blackman, which is currently before the Criminal Cases Review Commission but seems to have been stuck there for some time. Sergeant Blackman was a Royal Marine serving in Afghanistan who was charged and convicted of certain offences relating to his service in that place. His case, as I say, has gone before the Criminal Cases Review Commission—rightly so, in my view—but appears to have got stuck. Does my noble friend have any news on that particular matter?

11.50 am

Lord Falconer of Thoroton (Lab): My Lords, like everybody else who has spoken in this debate, we on this side of the House warmly welcome the Bill and will give it every support. We hope it gets on to the statute book as quickly as possible. I pay tribute to the noble Lord, Lord Ramsbotham, both for his support of the Bill and for the clarity with which he explained it to us. I also pay tribute to Mr Wragg in the other place, who promoted it through all its stages and to the noble Lord, Lord Beith, who drew attention to it when he was the chair of the Justice Select Committee in the other place—all bearing fruit very quickly. I also pay tribute to the Government, who have unreservedly supported it throughout.

On one view, the Bill is quite a small change, but it is a quite important change. Mr Selous in another place identified a number of examples where it would be important: first, where the issue was whether a complainant in a sexual assault case had been paid by a media organisation; secondly, where a bank could give evidence in relation to payment; thirdly, where a shipping company could give evidence about when

material came into the country in the context of a drug importation case; and, finally, in relation to the forensic service, which has been privatised, where the notes that experts make could be relevant to correcting miscarriages of justice. Those are powerful examples of where this will make a difference.

I support the Bill and support the width of the power that would be given to the courts. However, I also strongly support what the noble Lords, Lord Beith and Lord Black, said about the need for safeguards. The width of the power in the Bill would go beyond powers in other areas, and the two big examples are in relation to legal professional privilege and journalistic sources.

It is not possible to override legal professional privilege in the ordinary investigation of crime, but under this power it would be. As the noble Lord, Lord Ramsbotham, said, the power already exists in Scotland. There is no evidence that it causes a problem in Scotland, although I note that the noble Lord said, I think, that there has only been one application under it in Scotland. We need to address in Committee whether there need to be safeguards in the Bill, in particular that the judge, in considering whether to make an order, should have specific regard to the extent that legal professional privilege should be placed in the balance—not because a judge would not do that but because by putting it in the Bill the judge would have to especially think about and refer to it, and be aware that there would need to be a reason if he or she was going to override legal professional privilege. The justification for the power being so wide is that, where somebody is in prison and may be wrongly convicted, exceptional powers may be required.

The second area where we may need to look at putting something in the Bill is in relation to journalistic sources, which the noble Lord, Lord Black, referred to. The courts very recently, in *R (David Miranda) v Secretary of State for the Home Department*, said that in order to protect people's rights to freedom of expression, the freedom of the press and the provisions under Article 10 of the European Convention on Human Rights, there needs to be a power that journalistic sources should only be required to be handed over to the state where there is a prior judicial process that can balance the interests of justice—for example, whether a miscarriage of justice has been caused—against the possible “chilling effect” of making an order for the disclosure of journalistic material. The argument was that, if a court can override protections of confidentiality—the *Miranda* case goes beyond sources—that would have a chilling effect on journalism. Interestingly, in this particularly area, it is journalistic activity that very often is the beginning of the process by which miscarriages of justice are identified.

The noble Lord, Lord Black, referred, in my view correctly, to the special provisions of Section 9 of the Police and Criminal Evidence Act, which specify that an order which may involve the disclosure of journalistic sources can only be made after an *inter partes* hearing before a Crown Court judge. As I understand it, an order under the new Section 18A of the Criminal Appeal Act 1995 proposed in this Bill can only be made by a Crown Court judge—so the first bit is satisfied—but

[LORD FALCONER OF THOROTON]

there is no express provision in relation to the need for an inter partes hearing, as there is under Section 9 of, and Schedule 1 to, the Police and Criminal Evidence Act. I may be wrong in saying that is the best way to deal with this, but again there needs to be some provision in the Bill to deal with it. I do not believe for one moment that there will be dissent around the House as to how we do it or that it will delay the Bill, but it is important that that matter be dealt with.

I will say only in passing that in the incredibly helpful notes on the Bill prepared by the Ministry of Justice, which are in every single respect excellent, paragraph 15 on compatibility with the European Convention on Human Rights says:

“As this is a Private Member’s Bill, no statement under section 19 of the Human Rights Act 1998 is required. Nevertheless, the Government considers the provisions of the Bill to be compatible with the Convention rights, including the right to respect for private life under Article 8, the right to peaceful enjoyment of possessions under Article 1 of Protocol 1 and the right to a fair trial under Article 6”.

However, there is no reference to Article 10, which was specifically referred to in the *Miranda* case. I am absolutely sure that this was not because the department did not consider it, but it would be worth while to hear what its views are in relation to that.

I conclude by strongly commending the Bill to the House. It will have the support of the Labour Party in its passage.

11.57 am

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, I add my congratulations to those of others who have applauded the noble Lord, Lord Ramsbotham, for bringing the Bill forward and for his very lucid exposition of the reasons behind it and the history of legislation which gives rise to the need for this significant change. He has made my task much easier, and I hope I will not repeat too much of what he has so helpfully said about the circumstances in which we in this House consider the Bill.

The Bill inserts a new section into the Criminal Appeal Act 1995, which will mean that the Criminal Cases Review Commission will be able to obtain a court order requiring a private individual or a private organisation to disclose a document or other material in their possession. The court will only be able to make an order if it thinks the document or other material may assist the commission in the exercise of its functions—that of course is, of itself, a restriction which courts will bear very much in mind.

Once the court order has been made, as has been indicated, failure to disclose the documents will be punishable as contempt of court. The Government feel that it is likely that these powers will be needed rarely. I note what the noble Lord, Lord Ramsbotham, said about how rarely this power has been used in Scotland, where it has existed for some time, and how relatively rarely it is anticipated it will be needed in future in this country. Of course it has rightly been pointed out that the existence of the power itself will very much act as an encouragement and an incentive for private bodies to provide the information without a court order. Nevertheless, there will be circumstances

in which organisations may feel it necessary for their position to be covered by a court order, notwithstanding that they do not oppose it. They will then not be vulnerable to any criticism or legal action. So there will be occasions on which this happens.

Examples have helpfully been given of particular bodies which may be required by the provisions to give up material. Reference was made to the Forensic Science Service, an example of the increasing privatisation of certain public bodies. A key part of the commission’s work involves re-examination and retesting of material obtained at crime scenes. Much of that material is initially tested and held by private companies.

The restriction of what the Criminal Cases Review Commission can do was rightly emphasised. It will refer matters to the Court of Appeal only where there is a real possibility that a conviction will not be upheld. Several noble Lords made the point that it is a tribute to our justice system that those occasions are relatively rare, but of course the commission performs a crucial function—often, as was pointed out, assisted by journalists carrying out investigative processes. It is something of an irony, to which I shall come in a moment, that those very journalists will be anxious to protect their sources if any order is made asking them to, as it were, disgorge material which they hold.

The Justice Select Committee investigated the work of the Criminal Cases Review Commission, and we are very fortunate to have its former chairman, in the shape of the noble Lord, Lord Beith, with us. As he rightly said, he has had a profitable few weeks in terms of responses to various recommendations of his Committee. He asked me why we were not implementing one of the recommendations: to give the CCRC powers to sanction public bodies—rather than private ones—that do not provide information. We recognise the burden that delay and non-compliance places on the CCRC; we are considering whether any further steps can be taken to improve the situation.

The noble Lord also asked about his committee’s recommendation to give the CCRC more money. As he acknowledged, there is a shortage of money generally. The CCRC is managed within the same spending review process as the rest of the Ministry of Justice. It is right to applaud the performance of the CCRC. For example, it closed 947 cases in 2010-11, a figure which rose to 1,632 in 2014-15 without an increase in resources. I congratulate the CCRC on its work. Of course, it is very difficult to generalise about how much work will be involved in a particular investigation.

However, the committee’s main recommendation has been well and truly taken forward by this Private Member’s Bill. An anxiety was expressed by several noble Lords—quite correctly—about questions of confidentiality. Of course, the individual or private company from whom material is requested will be able to put their case to the court if they believe that the documents or other material need to remain confidential and should not be disclosed. That, of itself, is a safeguard.

The question of legal professional privilege was raised. This matter was helpfully referred to by the report of the Constitution Committee of your Lordships’ House. It considered the application of the Human

Rights Act, among other things, to the difficult process that judges will have to undertake in this context—as they do in many others—of weighing up the potential conflict between different rights under the Act. The noble and learned Lord, Lord Falconer, referred to the fact that the Ministry of Justice note did not specifically refer to Article 10. Of course, as a public body, the court would be obliged in any event to take into account all the articles of the convention incorporated into the Human Rights Act, so the fact that it was not expressly considered would in no way prevent someone raising the point if the matter were ventilated in a court hearing.

I entirely accept what my noble friend Lord Black said about the importance of preserving journalists' sources. The Government and, I am sure, the noble Lord, Lord Ramsbotham, will have that well in mind, and so should a court. Of course, the restrictions on the way that documents or material are disclosed should safeguard those sources adequately. The CCRC itself has heavy obligations in its duty towards such material. So far, it has an absolutely unblemished record in this regard, so I hope that provides some consolation. It is a matter that a court should have very much in mind.

The noble and learned Lord, Lord Falconer, made the point that, in general terms, legal and professional privilege is inviolate. In fact, of course, it is subject to exceptions in any event, referred to, helpfully, in the Constitution Committee's report on the so-called iniquity principle. It states at paragraph 8 that,

“consultations or communications between a lawyer and his client that are in furtherance of crime or fraud are not protected by”,

legal professional privilege. So it is a rule subject in any event to exceptions, but it is an important rule, and I am sure the courts will be slow to override it unless the circumstances justify doing so. Of course, both journalists and lawyers will know that the possibility of a material injustice being allowed to continue will be a heavy matter to weigh in the balance when deciding whether it is appropriate to make such an order.

The Bill will extend to England, Wales and Northern Ireland. Scotland, as has been said, has a separate Criminal Cases Review Commission, which I think it is fair to say has been a success. The Bill will put in place similar arrangements for England, Wales and Northern Ireland. We feel that it will make an important contribution to ensuring that the justice system meets public expectations, and we welcome it.

I should not conclude before referring to the point raised by my noble friend Lord Trefgarne about Sergeant Blackman, which he has helpfully raised on his behalf in your Lordships' House on a number of occasions. Of course, the CCRC is an independent body, and it is not appropriate for the Government to interfere in what it does. However, I undertake on the Government's behalf to ask it whether there are any developments in that regard. It will certainly read this debate and will have well in mind the anxiety on the part of Sergeant Blackman's family that it investigate this matter as

expeditiously as possible—as is consistent with fairness to both Sergeant Blackman and the bodies responsible for bringing him to court.

The Government welcome the Bill. We feel that it will very much improve a matter which needs improvement.

12.09 pm

Lord Ramsbotham: My Lords, I thank the Minister for his typically helpful and comprehensive response. I also thank all those who have spoken in support of the Bill. In particular, I commend the remarks of the noble Lord, Lord Beith. The excellent report produced by the Justice Committee under his chairmanship has been a notable landmark in helping to move things forward. I am very glad that he mentioned the various other aspects, which are really between the committee and the Government rather than for the Bill. There are other things to do with the CCRC that one is anxious to move forward to make it as efficient as possible.

I am also most grateful to the noble Lord, Lord Black of Brentwood, for raising the question of journalists, which, as the noble Lord, Lord Beith, said, was mentioned by the NMA. It is appropriate for us to consider that in Committee, and I hope that an amendment will be tabled to enable us to do so. I am also most grateful to the noble and learned Lord, Lord Falconer, first, for his support and, secondly, for drawing our attention to the question of legal privilege, which, again, I hope will be explored properly in Committee.

The impression I get from the CCRC is that it feels that the Bill would enable it to do its job better. That is surely the purpose of getting this thing through as quickly as possible—to enable it to do its job. I look forward to Committee.

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

Riot Compensation Bill *Second Reading*

12.11 pm

Moved by Lord Trefgarne

That the Bill be now read a second time.

Lord Trefgarne (Con): My Lords, I am pleased to propose this Bill, which would help individuals and businesses to recover from the devastating impact of rioting in our communities. The Bill has been through the other place in the skilful hands of my honourable friend Mr Wood, and it is on that basis that I bring it before your Lordships.

After the 2011 riots, many vulnerable communities were left counting the cost of some of the most destructive public disorder in a generation. The Government should of course provide a safety net to ensure that the victims of riots are adequately compensated, but they should not attempt to act as an insurer. Yet we still have a system that pays out millions of pounds in riot compensation from police budgets to large businesses, most often insurance companies. That, I suggest, was not the intention of the 1886 Act.

[LORD TREFGARNE]

The Bill before your Lordships today will achieve the following. First, it will remove the archaic language of the current Riot (Damages) Act 1886, which has led to confusion and uncertainty for both claimants and decision-makers. Secondly, it will set a cap of £1 million for each claim, which will allow the vast majority of claimants to be fully compensated and, at the same time, protect the public purse. Thirdly, it will extend time limits for making a claim and submitting evidence. Fourthly, it will allow for the formation of a riot claims bureau to deal with claims arising from widespread disturbances. Fifthly, it will bring in new entitlements for motor vehicles and compensation to cover the cost of alternative accommodation. The Bill also includes a number of other provisions that would improve the process of making a claim and help to ensure that decisions can be made more efficiently in future.

The Bill balances the need to protect the public purse from unlimited liability, on the one hand, and maintains the responsibility of the Government to help the most vulnerable, and of individuals and businesses to make adequate provisions in respect of insurable risks, on the other. It retains the principle that the police are responsible for maintaining order, provides that local accountability remains in place, and ensures that communities have the right mechanisms in place to recover quickly from serious disorder. These measures represent a vastly improved and modernised scheme, with sufficient flexibility to stand the test of time. The Bill protects, above all, the truly vulnerable. I beg to move.

12.14 pm

Lord Pannick (CB): My Lords, I thank the noble Lord, Lord Trefgarne, for introducing this Bill, which is a welcome reform, so far as it goes, of a very odd area of English law. My interest in the subject derives from having argued a case in the Supreme Court last month on behalf of the London Mayor's Office for Policing and Crime resulting from the 2011 riots. The issue was whether the 1886 Act, which this Bill would repeal, permits recovery for consequential losses to the property owner, such as loss of profits and loss of rent. Judgment in that case is awaited. Clause 8 would exclude almost all consequential loss, but I will say no more on that subject.

A bit of history might assist noble Lords. Statutory compensation for riot damages has its origins in the Riot Act 1714, which was enacted to address the widespread riots which occurred on the accession to the throne that year of George I. The 1714 Act made the "hundred"—that is, the local inhabitants—liable for property damage caused by persons who were, as the statute said, and as the 1886 Act repeats, "riotously and tumultuously assembled". As the noble Lord mentioned, one merit of this Bill is that it will remove such antiquated language. The 1886 Act transferred the liability to local police authorities.

The 1714 Act is the origin of the phrase "reading the Riot Act", because Section 1 required the local justice of the peace to approach the rioters, as the Act says, "as near to them as he can safely come", and, "with a loud voice command",

that, in the words of the statutory proclamation, the King wished them to disperse. If they refused, under the Act, any officer of the law assisting the justice of the peace and other authorities would have no liability for "killing, maiming or hurting" any of the rioters.

The Act also made the local inhabitants liable for any damage to buildings caused by the rioters. The 18th century judgments of Lord Mansfield and other judges explained that the liability of the local inhabitants was designed to encourage them to take action to stop the rioting. That statutory liability has persisted even though, in 1886, the obligation to pay compensation was transferred from local inhabitants to police authorities, which need no inducement to take action against rioters.

The Bill perpetuates an anomaly, because there is no statutory right to compensation in the event of a natural disaster, such as flooding, or in the event of an epidemic. Other public bodies, such as hospitals, have a liability only if negligence can be proved. Under the riot compensation law, the police are liable to pay large sums of compensation whether or not they are at fault. That is particularly striking because the general common-law rule, which was confirmed by the Supreme Court last year in the case of *Michael*, is that the police generally owe no liability in negligence for failing to prevent serious crime, even if they are at fault. I represented the police forces in that case.

The anomaly is even more strange because the independent Kingham review, which was conducted on behalf of the Home Office in 2013 to examine the application of the 1886 Act, found that there is no comparable statutory scheme in other countries. Indeed, the anomaly is even worse because the 1886 Act allows insurance companies to claim compensation for sums which they pay out, despite the fact that they have charged premiums to cover the risk. This Bill will perpetuate that right for insurance companies.

The Kingham review found that many people were concerned that, without this statutory scheme, people might find it difficult to obtain insurance to cover riot damage in some parts of the country, but in this respect Kingham proceeded on the basis of concern rather than any hard evidence. The Minister may be able to enlighten the House. Is there any hard evidence that this statutory scheme is actually required because people would be unable to obtain insurance against riot damages?

For all these reasons, I am doubtful that we should be perpetuating the legal anomaly of statutory compensation for riot damage. As the noble Lord, Lord Trefgarne, said, the Bill will limit the compensation to £1 million per claimant, but should there be any special right to compensation at all in this area alone?

If Parliament is to retain this statutory scheme, we need to consider the details of its content, and there are some odd features about it. Since 1714, when this statutory scheme was first enacted, the compensation has been confined to property damage. The exclusion of any compensation for personal injuries caused by a rioter is anomalous but is understandable because, in practice, the victim can nowadays claim under the criminal injuries compensation scheme.

However, there is a very important arbitrary distinction in the 1886 Act which is maintained in this Bill in relation to property damage. The statutory compensation is confined to damage to real property—a house or other building—and to any personal property contained within that building. So I am not entitled under the 1886 Act, and I will not be entitled under the Bill, to compensation if a rioter damages my property on the highway. If a rioter comes into my house and smashes my computer, I will be entitled to compensation, but if I am walking home along my street and a rioter grabs and smashes my computer, I have no right to compensation under the Bill. I ask the Minister: why is that?

The Bill extends liability a little way: it will allow for compensation claims for some vehicles on the highway and it will allow compensation for property on land being used for the purposes of a business, but what is the justification for otherwise distinguishing between damage to property done in a building and damage done on the highway? I cannot think of any rationale for such a distinction. There is the same riotous conduct and the same damage. The only possible rationale is a wish to limit the scope of compensation, but the distinction is simply perverse.

I want to mention three other provisions in the Bill. I welcome Clause 1(6) which will exclude compensation for a riot in a prison or similar facility. This provision is necessary to reverse the effect of the decision of the Court of Appeal in the case of *Yarl's Wood Immigration Ltd*. The claimants, who maintained and operated an immigration detention centre under contract with the Home Office, applied for compensation under the 1886 Act after it was destroyed in a riot. The Court of Appeal said that in principle compensation was available under the 1886 Act. The Bill is right to remove any such liability. If a company is responsible for a prison or other secure unit, it should bear responsibility for preventing a riot, and it should not be able to claim compensation if a riot occurs on its watch.

I am concerned about Clause 8(3), which will allow the Secretary of State power to make regulations setting out factors to be taken into account in deciding on claims. These matters should, in principle, be in primary legislation so we can debate them and, if necessary, amend them. I appreciate that detail can be in regulations, but surely the principles should be set out in primary legislation. The 1886 Act is more detailed in this respect. Section 4 expressly states some of the factors to be taken into account: any failure by the claimant to take reasonable precautions to protect their property and any provocation offered by them to the rioters.

Finally, I want to mention Clause 9, which will allow a claimant who is dissatisfied with the award of compensation to have both a right of review, which I understand to mean an internal appeal, and a right to appeal, which I understand to mean a right to take the case to court. Again, the detail is to be left to regulations to be made by the Secretary of State. A point of principle arises. I do not see why a claimant should enjoy a *de novo* appeal right to a court. The decision on the compensation claim is an administrative decision by a public body, and if the claimant is aggrieved by that decision after a review they should be left to their

remedy by way of judicial review requiring them to show that the claim has been assessed by an unfair procedure or in breach of the requirements of the statute or in some arbitrary manner.

I hope at least some of these comments are of value to the noble Lord, Lord Trefgarne, and to the Minister.

12.28 pm

Lord Brown of Eaton-under-Heywood (CB): My Lords, as ever when I find myself following the noble Lord, Lord Pannick, in a debate in your Lordships' House, I profoundly regret ever having put my name down in the first place. Either he will have said everything that one had thought worth saying or he will have exploded in advance what one had supposed had been the merits of one's own position. Certainly, from a historical point of view my speech would have been a little more interesting had he not already shot every one of my foxes.

I cannot pretend to any particular expertise in this area of the law, but I have been intrigued by some of the litigation which followed the 2011 riots. Indeed, I have the full 36-page transcript of the Court of Appeal judgment in the *Mitsui Sumitomo* case in which the noble Lord, Lord Pannick, appeared for the Mayor of London in that court. It makes extremely interesting reading, at any rate for lawyers.

Having noted the basic curiosity under the 1886 Act, and indeed before that in the 1714 Act, that the community as a whole is under a strict liability to pay compensation for the consequences of a riot, whereas of course ordinarily, generally speaking, the police, as the noble Lord, Lord Pannick, has made plain, are under no such tortious liability, even in cases where they can be shown to have been at fault, the court quoted the celebrated Lord Mansfield's explanation, given in 1776. The noble Lord, Lord Pannick, has already referred to this but I think that Lord Mansfield is worth a quotation, so I quote him:

"If the act had never been made, the trespassers would have been liable to answer for the whole injury in damages. To encourage people to resist persons thus riotously assembled, and to reward those, who, by doing their duty, shall have incurred their resentment, the same law has made a further provision, that as the trespassers are to be hanged, the country shall pay the damages: And this, by way of inducement to the inhabitants to be active in suppressing such riots, which it is their duty to do: and which being thus made their interest too, they are more likely to execute. This is the great principle of the law, that the inhabitants shall be in the nature of sureties for one another. It is a very ancient principle; as old as the institution of the decennaries by Alfred, whereby the whole neighbourhood or tithing of freemen were mutually pledges for each other's good behaviour. The same principle obtains in the statutes of hue and cry. It is the principle here".

The central reason why I refer to the judgment, besides that pleasing piece of historical elegance, is that it overturned the first-instance decision in that case about the range of allowable compensation in these cases. Unlike the trial judge, as the noble Lord, Lord Pannick, said, the Court of Appeal held that the claimants were entitled to all their losses, which include consequential losses, loss of profits, loss of rent and so forth. Displeased, the Mayor of London, represented by the noble Lord, Lord Pannick, failed to get leave of appeal from the Court of Appeal but got it directly

[LORD BROWN OF EATON-UNDER-HEYWOOD] from the Supreme Court. As the noble Lord has said, the judgment of that court, the argument having concluded, is now awaited.

With Clause 8, this Bill would pre-empt that decision, obviously not in respect of cases past, including that particular one, but for future cases. It would provide in Section 8(2) and (3), as your Lordships have already noted, that direct loss only is to be recoverable except in the case of temporary accommodation required by those whose houses are rendered uninhabitable. It is subject to the cap of £1 million, designed, reasonably and sensibly, to ensure that it is really the smaller people, individual householders, shop owners and so forth—the uninsured, for the most part—who will be benefited by this legislation, rather than the large insurance companies and those who can afford the fees of the noble Lord, Lord Pannick, who, as he himself points out, will already have obtained premium payments to cover these selfsame losses.

Generally speaking, I find myself rather more supportive of the Bill than it would appear the noble Lord, Lord Pannick, is. It introduces a number of clarifications and improvements. True, as all too often these days, rather more than one would wish is left to secondary legislation, regulation and so forth. It may be that one could improve on those aspects in the course of Committee.

It is of course true that Lord Mansfield's justification for this particular type of compensation now seems perhaps a little dated; trespassers are no longer removed from the possibility of paying compensation by being hanged. The fact is, though, that there remains, certainly for the uninsured and the smaller people who suffer from these riots, some wish on the part of the wider public that these outrageous incidents of lawlessness should be compensated beyond those in the way of ordinary day-to-day criminality. It is strongly to be hoped, of course, that this Act will seldom, if ever, need to be invoked in future, but if it is I am confident that once it has been through Committee here, it will serve us better than its now obviously somewhat archaic ancestor. In general terms, I wish the Bill well as it progresses further.

12.35 pm

Lord Deben (Con): My Lords, I shall detain the House only for a short period, I feel that that this is another of those occasions where my intention is never to allow the lawyers to have it all their own way. As a non-lawyer, I should point out that Lord Mansfield was of course extremely prejudiced on this matter because he himself had been the subject of a riot. His house was entirely destroyed and his books thrown out in the Gordon riots. He was saved in his major house, Kenwood, only by ensuring that the rioters were liberally supplied with drink as they appeared on the edge of Hampstead Heath. Most of them having drunk enough, they decided it was better to go home than to burn Kenwood House. We owe our present ability to visit Kenwood entirely to the provision of drink by Lord Mansfield.

The only reason I know this is that the house I live in was occupied at the time by the magistrate who called the Riot Act as far as the Gordon riots were

concerned. As a Catholic, I understand that those sort of riots were very uncomfortable. His house was marked by the rioters; they would go through in the daytime and mark the house with a cross, and because others were on their side you would not dare rub this cross out. However, he stood in front of the doorway and rubbed it out with his hand behind his back and therefore saved his house, although he was unable to save Lord Mansfield's.

When we discuss this later we should not do so with too much dependence upon Lord Mansfield, who had every reason to want compensation.

12.37 pm

Lord Kennedy of Southwark (Lab): My Lords, first, I thank the noble Lord, Lord Trefgarne, for bringing this Bill before the House today. After being on the statute book for 130 years and in that time rarely used, it is not surprising that the Riot (Damages) Act 1886 is no longer fit for purpose.

The riots in August 2011 were a terrible event which I hope will never happen again. They resulted in five people losing their lives, criminality, theft and violent disorder on an unprecedented scale in recent years, and in London alone the damage was estimated to be half a billion pounds. As we have heard, the language of the Act is not what we expect today, which makes it difficult for people to understand and helps no one, as the noble Lord, Lord Trefgarne, said. There are of course important omissions in the Act; for understandable reasons there is no mention of motor vehicles, no consideration of interim compensation for victims while claims are processed, no consideration of “new for old” replacement of damaged goods, and no powers for the police to delegate the administration of the compensation process.

The present legal framework for compensating victims of riots has simply proved inadequate, so it is right that we carefully consider how the financial burden of any future riot is managed. As we have heard, there is an established principle that the police are liable for damages incurred during riots. The thinking here is of course that there is an implied contract between the public and the police, which again, the noble Lord, Lord Trefgarne, referred to.

In the other place my honourable friends Mr Steve Reed and Mr David Lammy have worked tirelessly on this issue. Both their constituencies were badly affected by the 2011 riots. Mr Reed used the Freedom of Information Act to show that, three years after the riots, 133 victims in London had yet to receive a penny in compensation from the police. Victims are still waiting for £40 million to be paid, which is unacceptable. The Prime Minister of course promised that no one would be left out of pocket but some of the victims have been waiting far too long already for that promise to be met.

The Government have recognised the problems that people have had in receiving compensation, commissioning the independent review chaired by Neil Kinghan. The Kinghan review was published in September 2013 and made a series of recommendations, including that the principle that the police are strictly liable for damages incurred during riots should be maintained.

It recommended that legislation ought to protect insurers so as not to deter people from taking out insurance policies, or to inflate insurance costs. It recommended that payments to insurance firms should be limited to businesses insured with an annual turnover of less than £2 million, and it suggested that legislation should allow the police to delegate the administering of claims to a body made up of insurance professionals rather than having to do it themselves. A further important recommendation was that allowance be made for compensating at the cost of replacement goods; that is, “old for new”, as is the case in many modern insurance policies. It was judged by the review that the Act should be replaced.

While we support the principle that the police ought to be strictly liable for damages incurred during the course of a riot, it is important that our police forces are not asked to promise a blank cheque. It is impossible for police forces to plan and budget for the possibility of having to compensate victims of riots without some understanding of the likely costs they will have to bear. To deal with this problem, the Kinghan review originally proposed that insurers would be able to claim only for businesses with an annual turnover lower than £2 million. The Bill instead of course places a £1 million cap on the total claim that can be made, and removes any reference to company turnover, which we think is right.

As I said at the start of my remarks, we welcome the Bill, notwithstanding the very valid points made by noble Lords in this debate. The present arrangements for dealing with compensation after riots are clearly inadequate and a new legal framework is required. We must not fail victims of any future riots as, unfortunately, so many victims of the 2011 riots have been let down and are still waiting for proper redress today.

12.41 pm

The Minister of State, Home Office (Lord Bates) (Con): My Lords, I, too, join noble Lords in paying tribute to my noble friend Lord Trefgarne on securing, bringing forward and outlining the Bill with such clarity today. The noble and learned Lord, Lord Brown of Eaton-under-Heywood, spoke of his profound regret when he discovered that he was to speak after the noble Lord, Lord Pannick, in this debate, such was the noble Lord’s powerful exposition. It is a challenge for me to have to come to the Dispatch Box after the noble Lord, Lord Pannick, the noble and learned Lord, Lord Brown, and my noble friend Lord Deben’s historical exposition of Lord Mansfield’s conflict of interest. I was led to believe that this would be an uncontroversial Friday morning Bill but of course it has not turned out to be quite like that. I will try to address a number of the issues.

I am sure that we are very thankful that serious rioting continues to be a rare occurrence in this country, but that is not a reason to be complacent. History has told us that a breakdown in order can occur at any time and we should not wait until victims are waiting for assistance before we improve the system to put in place support for them. The Government have used the time since the last serious riots to undertake an independent review followed by public consultation and to use these to create careful and considered new legislation. Her Majesty’s Government wholeheartedly

support these measures, which represent the best possible replacement for the outdated and unsuitable Riot (Damages) Act.

The Bill addresses the need to protect public funds from unlimited liability while continuing to offer a vital safety net to communities recovering from the devastating effects of rioting. Based on the experiences of claimants, claims handlers and insurers, the Bill has been drafted in a way which is designed to be more flexible and responsive to the practical challenges that people face after a riot.

It is the Government’s intention that regulations will further enhance the measures set out in the Bill by providing the necessary details for claims handlers to improve consistency in decision-making and allowing flexibility for measures to be updated and adjusted in future. On that point, I say to the noble Lord, Lord Pannick, that the regulations will of course come before your Lordships’ House. In addition, the Government expect to produce guidance for both the public and claims handlers, as well as publicising these reforms so that potential claimants are well aware of the provisions in place to support them.

Having set out the Government’s position on that, I shall try to address some of the issues that were raised when the noble Lord, Lord Pannick, read the Riot Act in relation to the Bill. First, he made a number of detailed observations about apparent anomalies and differences in the way that highways and other issues are tackled. Rather than attempt to address these points individually, I shall be happy to write to him about them, placing a copy in the Library.

The noble Lord asked whether there was any hard evidence that people may not get insurance. In areas affected by riots, people can get insurance. However, the 2011 riots showed that a number of claimants simply could not afford insurance and, if the Act had not been in place, hundreds—not thousands—of people would have gone without compensation.

On the question of whether to allow the right to a judicial review of a case, the intention is to allow a right of appeal to a First-tier Tribunal. This is simply to enable more people to obtain an independent decision. The ability to take court action through a judicial review would have been beyond the financial ability of many who would have made a riot compensation claim.

In terms of police liability, the independent reviewer concluded that on balance, while the cause of riots can vary, their occurrence indicates a breakdown in law and order, and it is the responsibility of the police to prevent such a breakdown. This is a principle on which the 1886 Act is based and it remains valid today.

The noble Lord, Lord Pannick, then turned to international comparisons, saying that this was without precedent around the world. There is of course comparable legislation in Northern Ireland. The only other country where this legislation is in place that we have been able to come up with is Sweden.

On balance, for all the reasons that have rightly been identified, the Bill seeks to look at the outdated, anomalous and anachronistic legislation covering these important areas and seeks to update it for the modern

[LORD BATES]

era to ensure that, on the mercifully rare occasions when law and order breaks down and people's lives and properties are affected, they have a means of redress which is both swift and fair for their purposes. The Government support the Bill.

Lord Kennedy of Southwark: I mentioned the victims of the 2011 riots and the fact that my honourable friend Steve Reed has found out that many victims have still not had a penny nearly three years after making a claim. Will the noble Lord confirm that he will talk to his right honourable friend the Prime Minister about that? Frankly, it is outrageous that three years on not a penny has been paid in some cases.

Lord Bates: Some cases are still going through the courts. They are the subject of litigation and controversy, and therefore I am not able to comment on them. Perhaps in the letter that we are going to write in response to some of the detailed points raised by the noble Lord, Lord Pannick, we can provide an update on where we are more generally in relation to compensation that is being paid.

Lord Kennedy of Southwark: That would be helpful. The noble Lord has used the word "swift" many times. Considering where we are now, I would not say that things have been dealt with swiftly.

Lord Bates: Perhaps that was not the best word to use. I am trying to recall the figure but I think that about 4,000 people have had their claims settled. Whenever there is an occurrence of this kind there will of course be significant disputes, often between the insurers and the authorities, about where liability rests. It may be that an individual has been compensated but the insurer is seeking to recover the amount. However, I will certainly look into that because, if matters have not been dealt with swiftly, the intention is that they certainly should be in future.

12.49 pm

Lord Trefgarne: My Lords, I am grateful to all noble Lords, especially my noble friend the Minister and indeed the noble Lord, Lord Pannick, for their contributions to this debate.

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

Access to Medical Treatments (Innovation) Bill

Second Reading

12.50 pm

Moved by Lord Saatchi

That the Bill be now read a second time.

Lord Saatchi (Con): My Lords, I beg to move that this Bill be now read a second time. These days, the parliamentarians in another place are often an abused minority who receive very little praise. What they usually get is offhand criticism from people who question their motives and behaviour. However, to those who have eyes to see and ears to hear, the *Hansard* reports on the well-mannered and illuminating debates on this Bill in another place bear witness to the fact that the place is occupied overwhelmingly by intelligent and responsible people, honestly striving by their own best light to pursue the aims for which the place stands. I would like to thank, in particular, the MP for Daventry, who kindly invited me to bring this Bill before your Lordships today, and I thank noble Lords for the interest, commitment and time that they have given the Bill and its predecessor.

In the House of Commons, I observed many hours of thoughtful and painstaking line-by-line scrutiny of the Bill. I draw the attention of the House to the definite intent in the House of Commons for a cross-party, non-partisan, non-tribal approach. That is a great credit to Chris Heaton-Harris, who searched for consensus throughout the successful passage of this Bill through the House of Commons. I ask noble Lords to consider, for example, the Conservative Member for Bury St Edmunds, Jo Churchill, who is herself a courageous double survivor of cancer. She spoke with real passion and authority on the power of research and data, and on why we need urgently to develop this new landscape to support the speedier adoption of medicines. Noble Lords should also consider the Labour Member for Torfaen, Nick Thomas-Symonds, who generously agreed to include in this Bill some of the provisions of his own widely supported Bill in another place, which was intended to promote the greater use of off-label and repurposed medicines. They may also consider the SNP Member for Central Ayrshire, Dr Philippa Whitford, a greatly respected medical specialist who has also played an important role in bringing the Bill to this point today.

I would also like to acknowledge the late Les Halpin. He founded Empower: Access to Medicine with a passion that his death should not be in vain and might inspire and motivate others to accelerate innovative medicines being brought to patients. The campaign that was started for him continues to grow and build support for the programme that we are discussing today.

Finally, I pay special tribute to the Life Sciences Minister in another place, George Freeman, whose sincerity and consistency in pursuit of the programme at the centre of the Bill is plain for all to see. As he said:

"I have been determined to work with Back Benchers to reach a solution that the House and the Government could support".— [*Official Report*, Commons, 29/1/16; col. 593.]

He explained at the end of Third Reading that:

"It is wonderful to see MPs from all mainstream parties ... in support of a measure that offers real benefits for patients and front-line clinicians, without undermining the latter's clinical sovereignty over patients. It is about giving them information, so that they can make the exquisite clinical judgment we all want them to make. I ... commend the Bill to the House and ... congratulate all those involved, and I am delighted to have done my bit to help strike a blow for joined-up government".— [*Official Report*, Commons, 29/1/16; col. 598.]

The MPs whom I have mentioned, and others who spoke in earlier debates in another place, did, as the Life Sciences Minister concluded, bring us to a much better place with a Bill that commands and deserves respect and support.

I thank the officials in the Department of Health. Many noble Lords will have seen the excellent Explanatory Notes on the Bill and the professional guidance note, also prepared by the department. The officials I have worked with throughout the passage of the Bill and its predecessor are true exponents of the Northcote-Trevelyan ethic of public service.

I will give the briefest of brief histories. The Medical Innovation Bill was passed by your Lordships' House on 23 January 2015. The general election interrupted its progress in another place. In the new Parliament, it was taken up by Chris Heaton-Harris, who I am delighted to see is at the Bar, with government support as this Access to Medical Treatments (Innovation) Bill and passed by the House of Commons on 29 January 2016.

The UK Chief Medical Officer and the medical director of the NHS both confirmed to the Secretary of State that the clinical negligence provisions in the predecessor Medical Innovation Bill, as your Lordships had decided, were safe. But anxiety continued about possible unintended consequences, and it was concluded by all that it was best to focus on the strongest, agreed part of the Bill—the database. From the beginning, the aim has been to move forward a culture of innovation, and all agree that the existence of the database of information, sharing knowledge of best practice, could help achieve that, with popular support in the medical and scientific community.

The Bill gives the Secretary of State the power to make regulations conferring functions on the Health & Social Care Information Centre—the HSCIC—which is the body that develops and puts into place databases such as the one we are discussing in connection with the establishment, maintenance and operation of the database for innovative medical treatments. Clause 2 of the Bill provides a regulation-making power for the establishment of this database by the HSCIC. Conferring this function on the HSCIC is in keeping, I understand, with its existing powers under the Health and Social Care Act 2012, which included the establishment and operation of systems to collect or analyse health and social care information. The HSCIC is, I believe, well equipped to handle information of this type, including ensuring the necessary safeguards are in place. It is intended that information relating to innovative medical treatments and the outcomes of those treatments carried out by doctors in England will be passed to the HSCIC through existing national data flows by using national coding structures derived from patient notes. The information will be presented in a consistent way.

I cannot remember such unanimity and intensity of feeling on any clause in any Bill in your Lordships' House as there was when we discussed this database during proceedings on the original Medical Innovation Bill. It followed an initiative from the University of

Oxford that was designed to encourage the creation of such a database. It is why the noble Lord, Lord Kakkar, said at Second Reading of that Bill that,

“this is a vitally important Bill ... I hope that it will also drive forward a positive culture of putting innovation at the heart of all clinical thinking”.—[*Official Report*, 24/10/14; col. 875.]

And it is why the noble Lord, Lord O'Donnell, arguing that we needed evidence-based medicine, said that:

“Of course there was no evidence; that is the whole point. We have to find ways to generate evidence”.—[*Official Report*, 24/10/14; col. 878.]

So he strongly supported the Bill. It is also why the noble Lord, Lord Giddens, who is not here today because he has an infection said at Third Reading:

“Science is a collective enterprise. It depends on the accumulation of evidence. It is crucial that that be recognised ... as part of the advancement of scientific progress more generally”.—[*Official Report*, 23/1/15; col. 1583.]

The noble Lord, Lord Giddens, has written to me today saying:

“The radical nature of innovation in medicine today exists because of the overlap of supercomputers, genetics and global data sources”.

That is why he strongly supports this Bill. The noble Baroness, Lady Masham, who has been involved throughout this process, said that,

“it is essential that provision is made for collecting and sharing data to ensure that information, both on beneficial and harmful effects of treatment, is captured for the benefit and subsequent use of patients”.—[*Official Report*, 12/12/14; col. 2061.]

It is why my noble and learned friend Lord Mackay, who also cannot be here today, said:

“If innovative treatment has been successful in a particular case, the details of that case are required to make sure of the extent to which the results might be expected to follow in another case. I regard it as important that that should happen”.—[*Official Report*, 12/12/14; col. 2061.]

I pay particular tribute to the noble Lord, Lord Hunt of Kings Heath, who took forward in the consideration at Third Reading of the original Medical Innovation Bill the Oxford initiative. He deserves great credit for the fact that we are where we are. The noble Lord, Lord Kakkar, also thanking the noble Lord, said, with the approval of the whole House, that the database would,

“allow colleagues to understand what has been achieved and not achieved ... and it will ensure that through transparency we have the best opportunity to ensure the greatest patient protection ... The measure enjoys substantial support and will be a vital contribution to this long journey with regard to innovation”.—[*Official Report*, 23/1/2015; cols 1582-83.]

The Minister for Life Sciences in the Commons took forward the debate from that point, and another place passed a money resolution on 3 November 2015 to provide funds for the creation of this database. The Minister set that firmly in the context of the new field of personalised or precision medicine, in which he said that this country is leading the field. The Minister launched the accelerated access review to look at how we can better integrate and speed up our landscape for the adoption of innovative medicines using informational genomics and informatics so that NICE and NHS England have more freedom to target particular treatments at the right patients. The interim report on the accelerated access review will arrive shortly, and I am sure that my

[LORD SAATCHI]

noble friend the Minister will say something about how this Bill fits into the landscape of that wide review.

I am not going to take much time describing the current position in terms of the maintenance of data, but perhaps only to say this. There were attempts throughout the 20th century to maintain registers and records, as that is of course a requirement of those who treat patients. However, owing to the expense of maintenance, then often carried out by hand, the limited information available, which relied on data sheets completed by clinicians in addition to their routine workload, meant that there were always practical difficulties. For example, the most recent figure available for the total number of registers used by the medical professions is from 2002. Back then, the Department of Health commissioned a report into disease registers in support of the White Paper, *Saving Lives: Our Healthier Nation*. The report found at that stage that there were more than 200 disease registers in existence in England and stated that they would not be surprised if there were more than 400 specific registers. That rendered the situation on data collection at best confusing and at worst made finding evidence and navigating through the data almost impossible.

I believe that my noble friend the Minister will say that the database set out in the Bill will provide clarity to the vast web of registries' information and data that already exist and help clinicians find evidence for innovative treatments simply and quickly. This is now very important because, as we read every day, research has come on in leaps and bounds, meaning that a huge number of new treatments are coming into the NHS and innovative ideas are everywhere. I know also that my noble friend will want to confirm that patient safety and confidentiality are the Government's priorities to ensure patient trust and confidence, and I know that this is of particular importance to the noble Baroness, Lady Masham, and indeed to all noble Lords.

There is a growing movement of patients, charities and campaigners who want us to accelerate access to innovative medicines. The Minister has described seeing many demonstrations outside his office in Whitehall which are, as he puts it, demonstrations asking for progress in access to drugs not to be slowed down but to be speeded up. He has also said that he has taken part in more debates on the subject of access to innovative drugs than on any other subject in his brief. I am sure that my noble friend the Minister will respond to the request in another place made by the opposition Front Bench spokesman, Heidi Alexander, the Member for Lewisham East, to take very seriously the design of the database and the process of consultation. I know that my noble friend will want to give an undertaking to engage closely with the medical profession and all who take an interest in the Bill to put the patient's voice at its centre as the Government put the detailed proposals together. He has a close relationship with the Association of Medical Research Charities. He will want to repeat the offer made by the Minister in the House of Commons for it to come to the top table and help to shape this landscape for the faster adoption of innovative medicines. Indeed, by putting

the patient's voice and experience—in many cases best expressed by the great research charities—at the heart of this, we can move forward in empowering patients and accelerating innovation.

I do not need to add any more about the purpose of the Bill, only to say that I know my noble friend will want to ensure that, through the process of creating this database, we explore mechanisms for ensuring that NICE can look at evidence and develop evidence-based guidance on off-label medicines so that doctors are aware of which drugs are being used in an off-label indication. I hope that my noble friend will also confirm that, after discussions, NICE is now looking at ways to collect evidence on repurposed medicines. It is looking at taking evidence and how it could use, through its existing evidence review process, evidence on repurposed medicines specifically. That would be a helpful reassurance.

I say to your Lordships what you are all well aware of: the world of drug discovery is changing profoundly, as the noble Lord, Lord Giddens, said. The transformational power of genomics and informatics creates a wholly new opportunity to discover new medicines and to target them at individual patients more quickly, and to discover repurposed uses of existing drugs in a way that we have not been able to previously. The 100,000 Genomes Project, which the Government have initiated and funded, has already begun to identify existing drugs that have uses and indications that were not hitherto known. The pace at which new drugs are being developed and discovered is increasing, as one of the leaders of oncology said this week, at what he called a supersonic pace—a great testament to the creativity of the medical profession. In time, with the Government's extensive consultation in the medical profession, the model that emerges of this database could supplant the expensive and time-consuming manual surveys currently used for cancer mapping.

I end with this. It is striking to me, and I hope to all your Lordships, that it is 50 years since President Nixon declared America's war on cancer. Seven Presidents later, in his State of the Union address to Congress two weeks ago, the current US President put all US federal agencies at the disposal of the US Administration's attempt at what he called a "moonshot" in cancer. He declared that information and data sharing would be at its scientific heart. The next day, the US President told schoolchildren in Baton Rouge, Louisiana, that cancer would be cured in not his lifetime but in theirs. He said that America would be the country that cures cancer. I hope that the Bill will help a little to make it British scientists who make Britain achieve the greatest of great moments in medical history and that your Lordships will join the House of Commons in taking this first step. I beg to move.

1.08 pm

Baroness Masham of Ilton (CB): My Lords, first, I congratulate the noble Lord, Lord Saatchi, on his indomitable determination to see something on the statute book concerning access to innovative medical treatments. I have been asked by the noble Baroness, Lady Gardner of Parkes, to say that she would have been here today supporting the Bill but has had to attend the funeral of a good friend, which clashes with today's business.

My interest in this subject goes back some years, when my brother was dying too early. One was willing on his behalf to try to find something to help him survive. An innovative treatment can give hope if everything else has failed.

At the age of six, a young cousin of mine developed neuroblastoma—an aggressive childhood cancer. His parents did everything they could, including taking him for treatment to the Children’s Hospital of Philadelphia. He was the most resilient, brave boy and he went back to school, but the cancer won in the end and Jamie died at the age of eight. His case illustrates the desperate need for new treatments. I feel that the Bill, which has been so well presented to your Lordships by the noble Lord, Lord Saatchi, may help to drive forward more innovative medical treatments.

The noble Lord knows that I am keen to speed up the process of getting new drugs to desperately ill patients when the usual ones do not work. I am keen on innovation as long as it is safe and in the best interest of the patient. Do the noble Lord, Lord Saatchi, and the Minister think that the Bill is safe enough? I do not want patients to have added discomfort when they are desperately ill, but on the other hand where there is life there is hope, and something new might just help.

The other day I read about a woman who had a cancerous tumour between her ribs and had been told by her doctor to go home and live her life until she died—there was nothing that could be done. She did research on the internet and found a place in America which used CyberKnife for this problem. The money was raised, she had the treatment and now, eight years later, she is well and free from cancer.

The Bill is about having a database to collect data about things that work and things that do not work. Information is vital if there is to be progress. I hope that the database will become available worldwide. It is important, for the sake of patients, that information is shared, so that our people can benefit from countries that are doing better than us. It is depressing that our cancer survival rates are not as high as they should be compared to other countries in Europe. Why, for instance, is Sweden so much better than the UK?

Some time ago I met a remarkable man called Les Halpin, already mentioned by the noble Lord, Lord Saatchi. He had motor neurone disease and he had a passion to find a better way of treating MND. There was, and still is, a desperate need for access to drugs which may be able to help. Les died. People like Les cannot wait. MND takes most people very quickly. Les Halpin’s spirit lives on, and on Tuesday “Empower: Data4Health” was launched to collect data with the patient at its heart. Its aim is to get drugs which can help. I hope that “Empower: Data4Health” and the Bill will work together.

I have some questions about Clause 2. Subsection (2) states:

“The Secretary of State may by regulations make provision conferring functions on the Health and Social Care Information Centre (“the HSCIC”) in connection with the establishment, maintenance and operation of a database containing information about ... (a) innovative medical treatments carried out by doctors in England, and ... (b) the results of such treatments”.

Does this mean that the NHS will pay for the database? Will the NHS run it? It would be very interesting to know how it will work, if that information is available today. It needs to be open and transparent, with the patient at the centre. Who will be able to access the database? Will patients be able to?

It is time for progress to be made, but communication must be efficient and patients must be safe. There are always risks in life, but there must be safeguards against those who put cash before care.

1.14 pm

Lord Ryder of Wensum (Con): My Lords, I echo the comments of my noble friend Lord Saatchi on the quality of the debate in the other place, which I followed very closely. I speak as a lay man and shall be brief, referring only to innovation. My interest in the Bill stems from several years as chairman of the Institute of Cancer Research.

I supported the principles of my noble friend’s earlier Bill and I support them again without reservation today. This legislation could provide another valuable piece for a large, complex jigsaw puzzle. “Innovation” is the key word in the title of my noble friend’s Bill. Innovations in the form of breakthroughs in our understanding of genetics and targeted molecular oncology are racing far ahead of our cumbersome regulatory systems and evaluations. Innovations such as targeted personalised medicines now enable us to attack some cancers with drones instead of carpet bombs. We should no longer tolerate regulatory authorities that unduly delay such scientific advances. Fresh regulations are required for clinical trials.

How can we ensure that new and proven drugs are made available sooner and more cheaply? Trials can be stratified using genome sequencing. This will expedite smaller, cheaper trials. More drugs can be licensed after well designed phase 2 trials. Phase 3 trials are by a stretch the most expensive for pharmaceutical and biotech companies. Earlier approvals by the regulatory authorities after phase 2 would cut costs and stimulate more innovation. Sometimes pharmaceutical companies are hampered by fears of rejection by regulatory authorities. Here in the UK, NICE should offer even stronger considerations of whether innovative drugs are tackling cancers by truly novel methods.

A year ago, our admirable Life Sciences Minister warned that overregulation by the European Union through the clinical trials directive could herald what he termed a “new Dark Age” for bioscience, yet this 2001 directive has already prevented untold numbers of UK applications for clinical trials. Minor revisions to the directive are promised, but clinical trials will still be overregulated by this directive through complexities, risks and costs. This cumbersome system inhibits United Kingdom innovation and has harmed us as a country far more than other European nations, because we are global leaders in life sciences. As a result of the directive and other cumbersome regulations, we are losing expertise and markets to the Far East.

We boast many of the foremost scientists, clinicians and research institutes and two of the largest pharmaceutical companies in the world. They combine to contribute surplus billions of pounds sterling each

[LORD RYDER OF WENSUM]

year to our balance of payments. Sometimes I wish that our rulers could devote even a tenth as much time to applauding and advancing the interests of these innovators as they do to protecting our financial services sector. I cannot avoid concluding that, if they did so, we would generate a healthier economy and a healthier people.

Finally, I pay tribute to my noble friend Lord Saatchi for his perseverance and courtesy throughout the past three years from the moment that the two of us first discussed the important legislation that he has brought before the House today. My noble friend is an innovator.

1.19 pm

Lord Murphy of Torfaen (Lab): My Lords, I support the Bill and congratulate the noble Lord, Lord Saatchi, on introducing it in your Lordships' House. I want to refer particularly to those parts of the Bill that relate to the use of off-patent drugs: Clause 1, which refers to promoting access to,

“the off-label use of medicines”,

and Clause 3, which refers to a medicinal product being used,

“for a purpose other than one for which its use is specified”.

As the House will know, the clauses relate to the Off-patent Drugs Bill, which was originally introduced in the other place a year or so ago by Jonathan Evans, the then Conservative Member for Cardiff North. Unfortunately for him, the election intervened and the Bill fell. It was then taken up by my successor as Member of Parliament for Torfaen, Nick Thomas-Symonds, in the House of Commons in November 2015. The Bill received the support of members of eight political parties in the other place but unfortunately it was talked out, much to the anger of many Members of Parliament right across the political spectrum. But because of the level of support for the Bill, on 29 January this year, during the debate on today's Bill, the Government agreed to support the principle of Nick Thomas-Symonds' original Bill and hence the parts to which I referred earlier.

As your Lordships will know, many drugs that are used for one disease, such as cancer, can be used to treat other diseases, particularly after the original patent runs out, but they lack a licence for the second sort of treatment. They are used very often by specialists and consultants but not so often by other prescribers, and there is a huge geographical inconsistency in their use in the United Kingdom. Indeed, some general practitioners are deeply reluctant to use them because of the liability that might fall upon them and their profession. But I believe that their use is undoubtedly beneficial.

One example is zoledronic acid, which helps women with breast cancer and reduces the risk of cancer spreading to the bone. I am told that this drug could save up to 1,000 lives a year and, like many of these drugs, it is really very cheap. It costs just 5p a day for an individual patient. Other drugs are repurposed to help in the treatment of multiple sclerosis, Parkinson's disease, leukaemia and prostate cancer.

The use of these drugs, as my honourable friend Nick Thomas-Symonds said when he introduced his Bill, is supported by four of the royal colleges, including the Royal College of Physicians; 12 medical research charities; the British Medical Association; and NHS Clinical Commissioners in England. In addition, 40 eminent clinicians wrote to the *Daily Telegraph* supporting that Bill and more than 30,000 people in this country wrote in support of it to their own Members of Parliament.

The Minister will presumably come to this point in his wind-up, but I understand that the Government have agreed to put these off-patent drugs for different use on to the database to which the noble Lord, Lord Saatchi, referred earlier. I am also told that the Bible of the medical profession, the *British National Formulary*, will now have details of those drugs included. That will give much more confidence to prescribers throughout our country to prescribe these drugs, and enable their use to be much more widespread. I hope the Minister can reaffirm today the Government's support for this vitally important development. It will help to save the lives of many thousands of people in our country and will be of great comfort to their families.

1.25 pm

Lord Patel (CB): My Lords, I am delighted to support this Bill and hope that it will have a swift passage through this House and become legislation. I congratulate the noble Lord, Lord Saatchi, on presenting it in great detail and in his usual style, and—given the difficulties his predecessor Bill had—on his tenacity in listening to people in and outside this House and getting to the position whereby the Bill is now acceptable to all the professionals I have spoken to.

Perhaps I may briefly go off the Bill and come on to some comments that have been made. Before I do that, I will declare my interests. I am, as everybody knows, a doctor by background. I am the chancellor of the University of Dundee, which is one of the key UK universities for life sciences. I chaired until recently the UK cancer research centre in Dundee. I now chair, as a board member, another research group in Dundee that is looking at the scientific evidence as to why cancer outcomes can be worse among people from a poorer background, where they are disastrously worse. I was also responsible in this House for chairing a report on genomic medicine. That led, thankfully, to the developments in genomic medicine in the United Kingdom and the research centre which the Government support through the research councils.

It is true that as we learn more and more about genomics and genetics, we will need to have a huge database from which we can learn. What the noble Lord, Lord Ryder, said is correct: there will be patients who would be appropriate for stratifications of medicines that we know now and which are found to be effective because they are used more generically. If we learn from genomic medicine that stratification makes them more suitable for that treatment, because of their genetic make-up, such drugs will be very beneficial.

It is also true that innovations occur in the United States at a faster rate—the noble Lord, Lord Ryder, referred to this—because the processes of the different

trial phases there are much more efficient. Some say they are too quick; I do not subscribe to that view. Let me give one example. The noble Lord referred to this concept briefly. Some of the breast cancer treatments do not work in all women. We know that the drug that is given will work but that it cannot be given in the quantities required because most drugs, as we know, are poison. You can use it in a dosage that will treat the disease but if you exceed that dose, you are likely to do more harm than good. But if you can limit that treatment to only the cancer cells, those drugs will be effective. We now have innovations whereby this can be done by identifying the molecular make-up of the cancer and then loading the drug with that molecular marker, so that it will attack only the cancer cells and leave the normal cells alone.

We need a different way of innovating. My own university also has a drug discovery unit. We have contributed to the development of several drugs, two of which would be regarded as blockbuster drugs, through understanding the science of disease processes—the biology of disease. Such understanding is crucial before you develop a treatment.

However, we need to move away from that to other ways of developing drugs. We try to do this by using 70,000 compounds that were previously identified by pharmaceutical companies but not used because they were not found to be effective in treatment. We are seeing if any could be used for the treatment of so-called tropical diseases that are not infectious, which a huge number of people are affected by. We do this in collaboration with other countries by supplying them with these compounds. I agree that we need to look at different ways of innovating drugs and treatments, particularly as the science develops. There will be other ways of dealing with diseases, such as gene-editing, which was how Layla, a young girl in Great Ormond St, was treated. That may also require the development of other drugs to make sure that side-effects are suppressed.

The point I am trying to make is that the Bill may well act as a catalyst. The noble Lord, Lord Saatchi, should be pleased that people are thinking more widely and outside the box. We have an opportunity to develop good databases, as the noble Lord indicated, and to use them for innovative development of treatments. I hope this will happen. I hope that the Government will bring in wider legislation on the issues that the noble Lord, Lord Ryder, referred to, such as better ways of conducting clinical trials. We need transparency and openness. I do not think the medical profession is averse to that, and it is what the public need. We have to be honest: not all the treatments we try will work, but if we try harder, we will find treatments that work which we have been ignoring.

I have to admit to something here, which I hope the GMC does not hear me say—although it might, and if it does, I do not care. I have used off-licensed drugs on several occasions, with the full consent of the patients I was treating, when no other treatment was working. Lots of my colleagues do this. If any doctor stands up and says they never do it, I would not suggest that they might not be telling the truth, but I would be surprised if they were innovators in the true sense.

Then, there is research. I have done research that I am not very happy about and that I wish I had not done, but at the time I did it with a clear conscience. In retrospect, I now know that it probably did not work as well as expected and was probably not all that good for the patient—I hope it did not do any harm—but if I had not tried it, I would never have known. It is important that we stop arguing at length and trying to regulate and control in the minutest detail innovations in medicine that we can drive forward. We do this more easily with innovations in surgical and other procedures. We are much freer about that and clearly understand that, as doctors, you work with people in other countries to introduce the same procedures and use a common database to learn.

Lord Hunt of Kings Heath (Lab): Would many current surgical procedures have been authorised if they had had to go through the kind of clinical trial process that medicines do?

Lord Patel: We would not have had stents put in hearts, bypasses, ablations—

Lord Blencathra (Con): Marie Curie.

Lord Patel: Yes, we would not have had Marie Curie's radiation treatment. One of my children is an oncologist, so I know what they do. The noble Lord is quite right: fortunately, such procedures do not have to go through this stringent process. Some argue that they should, but that would be a backward step.

The only minor concern the professional organisations have had is to clarify the definition of medical innovations. It is true that practitioners must clearly understand that they cannot bypass current regulations on patient safety; I have no doubt that the Minister will confirm that. The other matter, which has been mentioned and on which the noble Lord, Lord Saatchi, convinced me in his introduction, is that the database has to be transparent and shared and there must be clear stewardship of it. I hope the Minister will confirm that.

I strongly support the Bill and wish it a speedy passage.

1.35 pm

Lord Blencathra: My Lords, I declare an interest in that I would benefit personally if some medical innovation or off-label drug helped my MS problem. I would probably also benefit financially, because I would save hundreds of pounds on all the various vitamin pills and potions that I scoff liberally in the hope that they will make some sort of difference. Mind you, if that were to happen, the shares of Holland & Barrett would crash disastrously.

It is a pleasure to participate in a debate when so many excellent speakers have spoken before me and I agree entirely with every word they have said—all my noble friends and the noble Lord, Lord Murphy. In particular, I mention my noble friend Lord Ryder, with whom I passionately agree. Slightly to misquote my right honourable friend the Lord Chancellor, who was writing about a different issue in the past few days, we have an analogue system trapped in a digital age. Our regulatory system is like an old analogue system

[LORD BLENCATHRA]

which has not kept up to date with the latest scientific breakthroughs, and we need to change that soon—but not in this Bill.

What a pleasure it was also to listen to the noble Lord, Lord Patel. I wish that I had come to him to get some of the off-label drugs that I have been acquiring and testing out myself. No doctor here would prescribe them, but a friend of a friend who, I believe, may work in a major hospital in New York, was able to supply me with some, and I have been testing them out. It is all very well for people like me to be able to go through that back door—legitimately—to acquire drugs to test out. Most people in this country cannot do that, and we need a much faster system to try out off-label drugs, off-patent drugs and cocktails.

I congratulate my noble friend Lord Saatchi on returning to the charge once again with a revised version of his medical innovation Bill. When I first read it, I thought, “Where are all the sections dealing with what is not negligence? We must put them back in”. As I said during the course of his Bill last year, I, and, I believe, 99% of those of us with a condition such as MS, Parkinson’s or the really terrible motor neurone disease are interested only in seeking new treatments which may make a difference to our condition.

When we see our consultants we ask, “What is the latest you have to tell us? Will that stem cell replacement work for me? When can I get it? What about that clinical trial you are now conducting at the National with three different drug cocktails? Can I try it?”. When I asked, the answer was, “No, David, the cut-off age is 60 and you are 61. Never mind, thanks for asking”. We do not go to our consultants with our ambulance-chasing lawyer in tow ready to sue if the innovative treatment does not work.

That is why I found it so disappointing last time that so many lawyers opposed the original Bill because they thought that it could limit their opportunity to sue for failure. Those of us who are searching for treatments which may help us could be deprived of such treatments because doctors—or more likely their health authority—were terrified of being sued. That is utterly, utterly wrong.

However I have listened to the advice of my noble friend Lord Saatchi and my honourable friend, the excellent Chris Heaton-Harris MP, who piloted the Bill through the other place. They say that the Bill before us today has universal support and all-party agreement. Apparently, even the lawyers are not opposed to it. If any colleagues were to attempt to amend it, we would jeopardise that all-party support and we might also run out of time when we return the Bill to the other place. So I shall not try to amend it at all.

The question for me is this: since the Bill now deals only with the database, is it worth while doing it at all? On reflection, I concluded that it is very worth while and, when implemented, there may be no need for a new definition of what is not negligence. Of course, there will be nothing to stop someone in future attempting to bring in a “What is not Medical Negligence” Bill, but it may not be needed.

Let me explain my thinking. One of the principal reasons which may be advanced alleging negligence is that the doctor attempted something innovative which

no other doctor has ever done before. It is easy for lawyers to then argue that it was negligent. He did not stick to normal clinical practice; there was no evidence base for his treatment; no one else in the world was doing it; and, therefore, per se, it was negligence. However, if we have a database showing that around the country, five, 10, 20 or 100 or more doctors were also trying that innovation, or something close to it, it cannot be argued that the doctor was off the wall and trying something dangerous, unethical and therefore negligent. Over time, with a sufficient database, we could get the ambulance chasers off our backs.

Furthermore, we need one easily accessible database. If one does a web search for example, as I did yesterday, of the latest MS breakthroughs, one gets hundreds of pages with a dozen hits on each page with studies published by the MS Society, half a dozen top UK hospitals and hospitals in Queensland, Dublin, Paris and a dozen in the USA—and that was only the first two pages on my screen. Then there are studies published in the *Lancet*, *British Medical Journal*, *Neurology Today* or *Neurology Now*, and countless other publications. It seems that every university medical research centre publishes its own research, then other journals publish other research and then disease-specific societies also publish research. Even a top consultant who specialises in research cannot find the time to search and keep up to date with the myriad organisations publishing research on innovative treatments. Therefore, a common database is vital. It may not be as sexy as legislating for medical negligence, but it is a more important step to pointing all doctors in the same direction with regard to expanding innovative treatment.

Therefore, I hope that the Minister will be able to reassure us that the Government will not waste a second in creating this database and that the funding will be found for it. At the end of the day, it will save the NHS a fortune. Hypothetically, a pill which fixes Alzheimer’s, for example, will save years of medical care and treatment. Finding cures using cocktails of already approved drugs or some of the 70,000 existing compounds that the noble Lord, Lord Patel, mentioned, is infinitely cheaper than paying the pharmaceutical companies to develop a very expensive new, patented one. On that note, I received a briefing note, as I suspect many noble Lords did, from the Association of British Pharmaceutical Industries, saying that, of course, it supports the Bill in principle, but that on the other hand there was nothing right about it. I hope that that will not derail this measure. It may not necessarily be my view, but a cynic would say that of course the association is opposed to it, as it has no interest in finding that a drug which is now out off-patent and dirt cheap may cure some other problem. It would prefer to invent a new patented drug for which it can charge what it likes. Having said that, I pay tribute to our pharmaceutical industries for the innovation that they are doing; I wish that there was a faster regulatory system to get the drug to market faster and cheaper.

I have a few other points for the Minister. This database is for the UK only, or rather England and Wales. As soon as it is established and working properly, then I would ask that it be extended as soon as possible to research published in other countries, especially the

United States. I follow carefully every announcement made by the Scripps Research Institute in Chicago, John Hopkins hospitals, Mount Sinai and others in the USA. In some cases, they have made great medical advances faster than us, but in other areas we have made breakthroughs better and faster than them. Without straying into Brexit matters, it has to be said that Britain leads the world in medical research. If we only had as much money to throw at it as the Yanks have, they would not come anywhere near us in the amount or quality of research that we do. Therefore, it is vital for UK doctors to be able to rely on medical innovation happening in the United States, and their results have to be added to the database. Then we need to add other countries from around the world that are respected as medical innovators—or rather, their research findings are respected as legitimate.

I understand that the Department of Health intends to issue instructions or guidance to all doctors that they should submit information to the database about what has worked and what has failed. That is very important. However, I am worried about the term “failed” or whatever is used. Will that not give a green light to our legal friends to sue for negligence just because something did not work? As a non-lawyer, I feel that the concept of negligence is far too wide. Getting it wrong is not necessarily negligence, but I see too many cases where it is alleged that it is. We all hear of hundreds of cases where the NHS has made a tiny mistake, such as losing a patient’s pyjamas, and all the patient wants is a simple apology. However, because of the increasingly grubby trend of suing for everything under the sun, doctors and the health authorities are terrified of saying, “We are sorry we made a little mistake”, because they are afraid a lawsuit will be in the post. Therefore I would like to hear from the Minister what safeguards will be in place that will encourage doctors to record faithfully what has worked and what has not and will remove the threat of them being sued.

Finally, let me say a word about the timings for the remaining stages of the Bill. While I would like to have tried out some amendments, I will not now do so because this Bill is in danger of running out of time. Assuming that it gets a Second Reading today and a committal Motion, we will next look at it on Friday 11 March. However, this morning I went to the other place to see what was happening there and got a copy of its Order Paper. It is dealing with Private Members’ Bills today and on 4 March, and the very last day the Commons has to consider Private Members’ Bills is Friday 11 March, the same day that we will be coming back here to consider my noble friend’s Bill either to discharge the committal Motion or to do Committee and Report stages. I understand that we cannot have Third Reading on the same day. If we were to amend this Bill on 11 March and the Commons finishes on 11 March, the Bill cannot go back there for ping-pong and we would lose it. Therefore, I say to my noble friends, if anyone wants to amend the Bill, please do not.

The last point I shall make is to the government Whip on the Bench. Please tell the Chief Whip that if we cannot do Third Reading on 11 March—at the moment it seems to be the last day we have scheduled for a Private Member’s Bill—can we please find another little slot for the Third Reading of my noble friend’s Bill?

I know that as a former Chief Whip it seems a bit hypocritical of me to plead for another day for a Private Member’s Bill because it will set a precedent and everyone will want their Bill taken, but since this Bill has had universal support in the Commons and is getting universal support here, I hope we can find time for a little formal Third Reading to get this Bill on the statute book.

I congratulate Mr Heaton-Harris in the other place on piloting the Bill through the Commons and getting unanimous all-party support, and I again congratulate my noble friend Lord Saatchi on returning to the charge and taking the Bill through this House. I hope and trust that neither time nor procedure will prevent its passage, and I commend it to the House.

1.48 pm

Lord Freyberg (CB): My Lords, I, too, am delighted to support the Bill. I speak today, as many noble Lords do, as one touched by the tragedy of cancer. As some noble Lords may know, my sister died two years of mesothelioma. Recent data from the Office for National Statistics show that 43% of cancers are less common cancers such as mesothelioma. While each is small, collectively they account for well over half of cancer deaths. There is insufficient commercial incentive globally for the current innovation processes to bring new hope to sufferers of these terrible diseases. We can see this in the rate of improvement in annual mortality ratios, which are the number of deaths linked to a cancer divided by the number of incident cancers. In the top five cancers, mortality ratios have improved 12% since 1999, from 49% to 37%. In the less common cancers the improvement was only 4%, and today’s mortality ratio is a shocking 56%, 19% worse than the 37% found in common cancers. That is three times less innovation in less common cancer.

So where have the modern precision drugs been launched? They have been launched for common cancer, of course. What is that? It is economics. At \$75,000 per patient, cancer clinical trials are immensely expensive. It can cost billions to bring a drug to market. Where are rational economic agents going to place their research bets? They will do so in the big markets of common cancer, not the small, such as mesothelioma.

What is so unfortunate is that less common cancer has the same underlying genetic causes as common cancer. Modern precision drugs developed for common cancer often, but not always, work in these rarer diseases, but the costs of trials and the challenge of finding patients in rare disease mean that little development happens. That does not matter much in the US, the largest market in the world. There, a physician can prescribe off-label. There is no rationing watchdog like NICE breathing down his or her neck. US insurers will generally pay for the drug, with very limited data, such as a small case series in that cancer. As a result, the largest market in the world has extensive off-label use and does not require costly trials in rarer cancers. By implication, most of the economic incentive for formal label expansion vanishes. Pharma can get revenue without much R&D cost. Sadly, the research potential of this off-label use is not captured in the US, as its balkanised healthcare system does not capture the outcome data needed to close the loop and to discover what works for whom.

[LORD FREYBERG]

It is in this global context that we must evaluate this Bill. In particular, concerns about the Bill overriding UK due regulatory process ignore these economic realities. This is not the 19th century; there is no sea of pink on the maps. The regulatory and reimbursement process that matters globally for the pharma industry is the US, not the UK. We are a paltry 3% of the global market; it is 40%. Also, the US has a system that allows promiscuous off-label use. We must deal with the consequences of those global incentives and not be distracted by due process, as the noble Lord, Lord Ryder, stated.

Let us explore this global context further. As the noble Lord, Lord Saatchi, mentioned, US Vice-President Joe Biden is leading Obama's \$1 billion moonshot on cancer, after his son died of a rare brain cancer. A key part of that initiative looks set to be a database similar to that proposed by this Bill, implemented in willing but small US integrated care systems such as the Veterans Association. These databases have a name: stratified outcome registries. They are large-scale, real-world clinical databases, but upgraded for the 21st century with molecular diagnostic information, treatment outcomes and electronic consents. They capture not only what works for whom but, as importantly, what does not work. They close the learning loop.

I have consulted the supporters of the Bill and will be looking to see that it is appropriately amended—or not, depending on how we come to it in the time limit—to this effect in Committee. That is in line with the recent input from the Association of the British Pharmaceutical Industry on the importance of capturing both the good and the bad in such a database.

I also commend to the House the work that is being done by a small and innovative US not-for-profit, Cancer Commons, in helping to design such registries. In the US, it pioneers the application of these registries for optimising the use of existing drugs in common cancer and extending their use into less common cancer. It points out that such databases have a number of other benefits. They can discover which patients will not respond to costly treatment, saving those patients side-effects for no gain and saving the system money.

As an example, my sister had a molecular test that showed that cisplatin would not work for her cancer and would be more toxic for her than for most. As it is the NHS's standard cancer treatment for the disease, she was given it. The toxicity occurred as predicted. She suffered horrendously and became ineligible for trial. The NHS faced significant costs in managing those unnecessary side-effects and complications. My sister might have lived a few months longer but for the side-effects.

Another benefit is that these databases have enough molecular information for scientists to hypothesise why a drug worked or did not work and so pump-prime basic research. Where we cannot explain the response, we can feed those exceptional patients to Genomics England, which will make that superb basic research engine more efficient. Finally, over time, the database would generate the information to derisk formal trials

in less common disease. That will make such trials more economically attractive to industry and so change drug availability globally.

What may not be known to the House is that the UK is well placed to lead globally on developing these databases. In particular, we have a secret weapon in the National Cancer Intelligence Network registry in England. This covers 280,000 new cancer patients a year and today captures classical presentation, treatment and outcome data and small amounts of molecular data. The best US outcomes registry today covers fewer than 30,000 patients a year.

That volume of patients with clinical data gives us huge power globally. It is the largest in the world by a factor of 10, housed in the country that led the human genome initiative and with an enviable clinical research tradition. We should aim to use it to recraft the NHS to be the workshop for the world in precision oncology. This would win back a significant share of pharma's global R&D spend, create a huge number of high-value precision medicine research jobs, and have a positive impact on investment flows into the UK. In particular, if we deployed low-cost generic panel-based cancer molecular diagnostics proactively into the NHS and ahead of approved drugs, pharma would supply late-stage research drugs in less common cancer. It would do this because the clinical data generated would both encourage off-label use in the US and give it future expansion options.

The evidence for this can be seen in France, where the Institut National du Cancer has been driving a national molecular pathology programme for over a decade. It is the preferred European partner for large pharma like Pfizer for late-stage clinical trials in precision oncology. That investment also created equality of access to modern molecular diagnostic technologies and prevented a testing postcode lottery. Today in the UK, we have an appalling postcode lottery in molecular testing, as recently highlighted by the Independent Cancer Taskforce and the *NHS Atlas of Variation in Healthcare*. We need the political will to change how we fund molecular diagnostics in the NHS to alter this. France drove the adoption of such tests by top-slicing the hospital care activity budgets to create a dedicated pool of money for a national testing programme and taking on entrenched vested interests to drive reform. We need to be similarly brave and creative if we are to achieve this here but it will save money and lives.

If we upgraded NCIN to being a stratified registry through the investment in a national molecular pathology service, I am confident that quickly some, but not all, UK patients would also live longer as a result of the increased access to innovative drugs. Over time we will also close some, but not all, of the yawning gap in mortality burden in the less common cancers, and we would have an intelligence system that could manage the risks of real-world innovation.

If such a system had existed when my sister had been ill, it might have helped her. Half of us will get cancer—it might well help you. In short, we can do well as a nation by doing good for the world. We can make the UK the preferred destination for the US drug companies for their clinical development, but only if we reshape the NHS to be a cradle for the sorts

of innovation supported by the Bill, not a barrier. Let us use the global drug development system and its perverse incentives to our national advantage. Let us support the Bill and its database of innovation and work together on the many important details that may need ironing out in Committee.

1.59 pm

Lord Hunt of Kings Heath: My Lords, I thank the noble Lord for bringing the Bill to your Lordships' House and I commend him for his perseverance and stamina as he sought to take it and the previous Bill through. I, too, pay tribute to the honourable Chris Heaton-Harris for taking the Bill through the House of Commons.

When the noble Lord opened his speech he referred to the adoption of new medicines, and I am very sympathetic to the point he raised. The fact is that we have a shocking record in the UK on the adoption of new medicines. We use fewer branded medicines per person than comparable countries; we tend to use older rather than the latest medicines; fewer patients in the UK receive new, innovative medicines than those in comparable countries; and we have a problem in that NICE-recommended medicines—even those that have been through the NICE process and have been shown to be clinically effective and cost effective—face further reviews and restrictions at local level, even though there is a legal requirement on clinical commissioning groups to make sure that NICE technology appraisals are put into action. For me, that adds to the concerns of the noble Lords, Lord Patel and Lord Ryder, about the position of the UK when it comes to investment in R&D by the pharmaceutical sector. We know that we have a very strong science base and at the moment we have a strong pharma R&D base, but those are at risk, partly for the regulatory reasons that noble Lords have already referred to. I do not think that that is so much the case in this country but I take the point made by the noble Lord, Lord Ryder, about European regulation.

The other big problem we have is that the NHS is hopeless at adopting new medicines. We have the Hugh Taylor Accelerated Access Review, which has been sponsored by Mr George Freeman, to whom I pay tribute for the work he is doing in this area. The review has produced an interim report and the final report will come out in the summer. It is concerned with access to innovative drugs, devices and diagnostics, which it aims to speed up. But however good the recommendations are and will be, unless the NHS and NHS England completely change their perspective and recognise that we have to adopt these fantastic new innovations that are coming to the UK or are developed here, in the end we will not be seen as a country in which it is worth investing. My experience—it may also be the noble Lord's experience—is that the big problem is that there is a culture within the NHS that regards drugs as a cost rather than a benefit to patients. There is a need to take a very different approach, even in relation to new equipment and clinical staffing. There is a huge cultural barrier that we have to face up to.

Noble Lords, including the noble Baroness, Lady Masham, mentioned that we have received briefings from a number of medical bodies—the ABPI, the BMA

and many of the royal colleges—which are still expressing concern, even though the Bill has changed considerably since the noble Lord took it through in the last Session. We know that they still have some concerns about the database and about what they regard as the perverse incentives. Is the Minister confident that his department can help to assuage those concerns? If we are to see this Bill progress—and we all want to see the benefit that the noble Lord wishes to bring to healthcare in the UK—it is important that there be some way of reassuring those bodies that what is intended here will not put at risk some of the things they have put forward.

I also hope that the noble Lord will respond to my noble friend Lord Murphy on the very important point about off-patent drugs. I am not convinced that the authorities in the UK have ever understood the importance of making progress in this area. In the end, only Ministers can kick people to make progress. I agree with him—let us hope that this database is at least a start in giving prescribers confidence to prescribe off-patent drugs.

Finally, I come to the recommendations in the Delegated Powers Committee's report published on 25 February. I do not know whether the noble Lord has seen it but it makes reference to this Bill and I am slightly concerned about it. The committee is concerned about Clause 2, which,

“enables the Secretary of State, by negative procedure regulations, to confer functions on the Health and Social Care Information Centre ... in connection with the database”.

In particular, the regulations may include requiring or authorising the centre to disclose information to specified persons. The Delegated Powers Committee has no problem with the use of subordinate legislation to do that, nor with the use of the negative procedure, but it says that,

“clause 2 appears to envisage no provision, either in the Bill itself or in the regulations, for the enforcement of conditions imposed by virtue of subsection (4)(b), and we draw this matter to the attention of the House so that it may seek an explanation, either from the Member promoting the Bill or from the Minister”.

I do not expect the Minister to be able to respond today. However, if the committee has identified a drafting issue, the question of how it is going to be dealt with is a concern.

I end with the point that the noble Lord, Lord Blencathra, made about timing. Presumably, he is basing his assumption on the Commons rising in May, but he seemed to be saying that 11 March would be the last time in this Session that the Commons would deal with it.

Lord Blencathra: My assumption is not based on when the Queen's Speech would be or when the Commons rises. In the Commons, the days for Private Members' Bills are announced at the start of the Session, and Friday 11 March has been announced as the last day. Even if the Commons ran into June or July, there would not be an extension beyond 2.30 pm on Friday 11 March.

Lord Hunt of Kings Heath: But on that basis, even if there were no Committee or Report stage, it would still be too late. Will the Minister join me in asking the usual channels whether we can find some time before

[LORD HUNT OF KINGS HEATH]

11 March to take this Bill through, even if the Government may need to table a technical amendment? Obviously, a recommendation from the Delegated Powers Committee cannot be ignored. We on this side of the House would certainly support the Minister in doing that.

2.07 pm

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, it has been a fascinating debate. I was not here when we have had debates about this Bill or the Bill that preceded it, so I am not as familiar with the arguments as many noble Lords are. However, it has been a very insightful and high-quality debate.

I first thank my noble friend Lord Saatchi. This is his Bill really. Before I was in this place, I remember listening on the radio in a casual way to the arguments being batted around, and, without knowing the details of his earlier Bill, the need for a quantum change in the rate of innovation and adoption of new medicines and products in this country resonated with me.

I have just come back from a trip to the USA, and one always comes back feeling that there is such a sense of dynamism, speed and pace in America that we simply do not have in this country or in Europe, or anywhere else in the world. Partly, of course, that is because they have much more money in the US, but it is a state of mind. Even in a highly litigious society such as America, there is an entrepreneurial, innovative drive and that is something we need. We have so much research capability in this country and yet we seem to be so slow at bringing products to the market for the benefit of patients. The speech by my noble friend Lord Ryder absolutely nailed this issue once and for all.

I also thank Chris Heaton-Harris, who is still here—he has stood here throughout this whole debate. The work that he and my colleague in the Department of Health, George Freeman, have done to win cross-party consensus for this Bill has been hugely impressive. I also pay tribute to the noble Lord, Lord Hunt, who brought an amendment for a registry in the previous Bill. That has been changed in the new Bill but, nevertheless, has been very important in bringing the Bill to us today.

Before I come to my main speech, I will pick up a few of the particular questions asked by noble Lords. The noble Baroness, Lady Masham, raised the critical point in many ways, which is this balance between innovation and patient safety. That went to the heart of the debate on the original Bill. She raised a particular question about the guardianship of the database. The database will be established with a quality-control mechanism to ensure its oversight. HSCIC is very experienced in databases of this kind and it will have responsibility for that guardianship. It will establish an independent committee to overview the database to make sure that it will not breach patient confidentiality and the like. That is obviously critically important.

The noble Baroness also raised the issue of who could have access to the database. This may disappoint some noble Lords, but access to the database, certainly to start with, will be for doctors rather than members

of the public. Again, that is largely based around the need for proper information governance and patient confidentiality. There is a risk, particularly with rare diseases, which the noble Lord, Lord Freyberg, raised, that individuals can be identified if one is not careful.

The noble Lord, Lord Murphy, and others raised the issue of off-label drugs. I can assure noble Lords that the database can include medicines being used off label as well as the use of unlicensed or off-patent medicines.

The noble Lord, Lord Patel, asked what was the definition of medical innovation—or “innovative medical treatment”, which is the right expression. The short answer to that is that, under the Bill, an “innovative medical treatment” is defined as,

“medical treatment for a condition that involves a departure from the existing range of accepted medical treatments for the condition”.

There is clearly a much longer, more technical answer to his question, but I hope that that will satisfy him today.

My noble friend Lord Blencathra raised a number of important issues. It will cost money to establish this database. The estimate is between £5 million and £15 million. That money will be found by HSCIC and ultimately through the Department of Health. Both my noble friend and the noble Baroness, Lady Masham, thought that it would be wonderful if this database could extend to the USA and worldwide. They are absolutely right—in time, but not immediately.

The noble Lord also raised an important issue about whether, if doctors put their results on to a database and they had failed, it would open them up to legal challenge. The establishment of the database will not change whether or not a doctor would face a successful negligence claim. If a doctor acts responsibly, they will not face a successful claim even if the outcome for that patient is negative. I hope that I will pick up other issues that were raised by noble Lords in what I had pre-prepared to say.

The Bill we have considered today is not the same as my noble friend Lord Saatchi’s original Medical Innovation Bill, but it shares the same desired outcome—to create a culture that promotes greater use of innovative medicines and gives us the best chance of improving outcomes for patients. In response to a point that my noble friend made in his introduction, it is very much going in the same direction as the accelerated access review, which is being conducted by Sir Hugh Taylor. We will see that later in the year. That will, of course, address some of the issues raised by my noble friend Lord Ryder.

The Bill before us today seeks to give doctors access to a database as a source of learning where they can both share their innovations and search for those that other doctors have used. The purpose of the database is to promote access to innovative treatments for patients by giving doctors access to information that they may not otherwise be aware of. Doctors will be able to search the database for innovations, see who else is using new techniques, and which ones are effective for patients. The database could ultimately result in better care and health outcomes for patients, and potentially in the fast uptake of new treatments which are shown to work.

I do not think any of us should be under the illusion that this is going to solve the problem; rather, this is us setting out our stall and saying how important the issue is. It will facilitate things, and it is a stake in the sand to show that we, the Government, and the country take this matter seriously. It is also important to state for the avoidance of doubt that the Bill does not contain any provisions relating to the law of clinical negligence. Those provisions have been removed and are not part of this Bill. The Access to Medical Treatments (Innovation) Bill is concerned solely with conferring a power on the Secretary of State to make regulations requiring the HSCIC to set up and manage a database of innovative treatments.

There are two matters that I would like to address in a little more detail, given the degree of discussion there has been around them. The first is how the database will operate and the consultation that will surround it. The detailed design of the database will be worked out by the HSCIC as the expert organisation in this field working in conjunction with professional and patient bodies, a point raised by the noble Baroness, Lady Masham, and others, and other interested stakeholders. On Report in the other place, the Minister for Life Sciences gave an assurance that should the Bill receive Royal Assent before the establishment of such a database, there will be a period of consultation to inform its detailed design. I would like to clarify that this would not take the form of a government consultation, but rather, engagement to be worked out jointly between the HSCIC, the relevant statutory bodies and stakeholders from the medical community representing those who will be using the database.

The second matter is compulsory recording in the database. I am aware that during the passage of my noble friend Lord Saatchi's original Bill, the issue of mandatory recording and the data registry was the subject of lengthy debate. I know that the noble Lord, Lord Hunt, tabled an amendment seeking to ensure that doctors would be required to record all outcomes, positive and negative, in the registry. I also understand that the Government opposed the amendment on the basis that including a mandatory registry would change the test of negligence under the Bill. As has been covered extensively, the Bill we are discussing today differs significantly from the Medical Innovation Bill. On the issue of recording, it is important to highlight that the principal difference between the data registry and the database of innovative treatments is that the database will both capture and disclose information, while the data registry is concerned with the registration of a patient linked to a disease, or a specific cohort. Crucially, it is intended that information relating to innovative medical treatments and the outcomes of those treatments carried out by doctors in England will be passed to the HSCIC through the use of coding in patient notes.

While there is nothing in the Bill to compel doctors to record their innovations on the database, it is intended that policy guidance on implementation will be issued to providers of NHS-funded services requiring them to ensure that their staff record information on the database. The Government have subsequently liaised with NHS England as to whether this could be made a contractual requirement. NHS England has confirmed

that once such guidance has been issued, it could consult on introducing a new condition in a future version of the NHS standard contract with the intention of making compliance with the guidance a contractual duty for provider organisations. Providers of NHS services need to demonstrate to their commissioners that they are complying with their obligations under the standard contract, so they would need to be able to show that they are implementing any condition that required doctors to record in the proposed database.

I hope that what I have outlined will satisfy noble Lords on the issues associated with mandatory recording.

Baroness Masham of Ilton: My Lords, before the noble Lord finishes, will he agree that the excuse of confidentiality can be a stifling block to innovation? Les Halpin was an example of openness. Surely patients and doctors should be sharing and working together. Therefore, they should have the information.

Lord Prior of Brampton: My Lords, all my experience over the last 15 years is that openness and transparency are critical to get improvement and innovation into the NHS, but we have to accept that patient confidentiality is also extremely important. If we in any way compromise or give people reason to think that patient confidentiality will be in any way intruded on, we may unwittingly undermine everything else that we are trying to do. We have seen that in other areas in the health service in the last year or so. We have to be very careful in this area, but I understand the importance of the noble Baroness's point.

The Bill does not seek to add an extra burden on doctors, as the GMC's guidance already sets out requirements on doctors to record their work clearly in clinical records. Doctors are required to have regard to such guidance as part of maintaining their licence. However, through the use of NHS contract guidance, doctors will be required by their providers to have regard to the requirement to record their innovations and, crucially, all associated outcomes.

Lord Blencathra: I appreciate that no Minister at the Dispatch Box would dare make any commitment about more time for a Bill or rescheduling, which is the complete province of the Chief Whips and Leaders on both sides, but will my noble friend the Minister make some representations to the usual channels that we seem to be in complete agreement here and that we need to find, within the rules of the House and without creating precedents, some means of making sure that we get the Bill through before the shutters of the House of Commons come down at 2.30 pm on Friday 11 March?

Lord Prior of Brampton: I was going to come to that point right at the end. The noble Lord, Lord Hunt, raised it as well. I give complete assurance that the Government will do everything they can to work with the noble Lord opposite and others to ensure that the Bill goes through. It clearly commands the full support of the House. It is a hugely important Bill, which the Government fully support, both in the other place and here. I certainly give that undertaking.

2.22 pm

Lord Saatchi: My Lords, I thank all noble Lords who have spoken in this debate and earlier debates. As last time, I hope that all noble Lords who have been involved in this Bill and the predecessor Bill take pride in the ability of your Lordships' House and, as it perhaps surprisingly turned out in the House of Commons, of both Houses of Parliament to avoid tribal party warfare and work together, at least in this area of health. That is a remarkable achievement of which both Houses of Parliament and all of us can feel very proud.

I shall try to reflect the tone of what my noble friend the Minister said. This is a modest step, authorising the Secretary of State to instruct one of the key bodies in the NHS to start to work with medical professionals—the royal colleges, the charities, the patient groups—in assembling this database, which everyone wants. I hope that your Lordships' House will allow me to ask it to give the Bill a Second Reading.

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

House adjourned at 2.24 pm.

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