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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 3 February 2017

10 am

Prayers—read by the Lord Bishop of Norwich.

Regulation of Health and Social Care Professions Etc. Bill [HL]

Second Reading

10.06 am

Moved by ***Lord Hunt of Kings Heath***

Lord Hunt of Kings Heath (Lab): My Lords, I draw the House's attention to my role as a trustee of the Royal College of Ophthalmologists. We are indeed fortunate in this country in the quality of our health and care professionals and the contribution they make to the NHS, social care and society generally. As demographic pressures grow and the potential of what can be achieved also grows, the challenges facing those professions should never be underestimated. That is why the way they are regulated is so important.

The Francis report on the tragic events at the Mid Staffordshire NHS Foundation Trust some years ago raised a number of challenges to the way that health and care professional regulation works in this country. Francis suggested that professional healthcare regulators need to be much more adept at analysing and using the information they have in order to take a proactive approach to risk to patients. The Francis inquiry also identified a number of barriers to overcoming the challenges. It describes restrictive and complex legislation and insufficient capacity and resources on the part of the regulatory bodies.

In the meantime, the Law Commission has been undertaking work on the legislation covering the regulation of health and care workers. This comprehensive review considered the legal framework for bodies responsible for 32 professions, covering approximately 1.44 million people. It looked at the whole process of the registration of these professionals, the standards that were set for professional conduct, the way in which disciplinary procedures were undertaken and the way those regulators were held accountable to Parliament. It published a report in April 2014 setting out its views, along with an extensive draft Bill, which would have brought all the legislation covering the various different professions together in one legislative framework.

At the time, the Government welcomed the Law Commission's work. Indeed, in January 2015 they accepted its recommendations, particularly that there should be,

"a single, overarching objective of public protection placed on each regulator … wider powers and greater flexibility for the regulators to investigate and dispose of cases",

and "greater consistency" in the way disciplinary panels were held in each of the regulatory bodies, whether relating to doctors, nurses, physiotherapists or the other professions. It also recommended,

"greater separation between the regulators' investigation and adjudication functions"—

a necessary split—so that investigations should be undertaken by one part of the regulatory body, and judgments about whether a professional is still fit to practise should be done as a separate operation. It also made it clear that there should be,

"an overarching duty on the regulators to ensure the ongoing fitness to practice of registrants".

That is a very important function, given that a practitioner who has been licensed to practise may well then practise for 30 or 40 years. Ensuring that as the years go by they are still absolutely ready to practise becomes very important.

It was very welcome when the Government accepted the principle of the Law Commission's work in such forthright terms. However, since then there has been a long silence. Nothing has happened. No legislation has been brought forward. It has not even been put in for pre-legislative scrutiny. In my view, this was an ideal vehicle to deal with these issues because pre-legislative scrutiny could have ironed out some of the issues raised by the Law Commission and would have enabled the Government to come forward with a Bill in which there was very strong consensus. Alas, nothing has happened, despite the Government's clear intent to ensure that the lessons of the Francis report were learned. My Bill is a nudge to the Government that it is about time they brought legislation forward, and tries to give them some confidence that that legislation would be welcome and that Parliament would take a constructive approach to any such proposals.

I do not agree with all of the Law Commission's proposals. First, I do not agree with the recommendation to abolish the statutory Midwifery Committee within the Nursing and Midwifery Council, which is the subject of a debate on 28 February. Secondly, I do not agree with the Law Commission's view that the Privy Council's role in relation to health professionals should be removed entirely. We are currently debating a similar issue in the higher education Bill, and many of the arguments against the changes there would apply to the health professions as well. Thirdly, I have reservations about the Law Commission's proposal that simply by an order, a Minister could abolish a regulatory body and replace it with another. For instance, under its proposals the General Medical Council could be abolished and the registration of doctors transferred to the Health and Care Professions Council. There are mixed views about whether that is a good thing; for myself, I do not think it should simply be done under an order-making power. Some things need to be reserved for primary legislation.

Since then, other organisations have commented on the original Law Commission report, including the Professional Standards Authority, which oversees the regulatory bodies, and the Nursing and Midwifery Council. They have all come up with some reservations about the Law Commission's proposals—but that is exactly what you want and what pre-legislative scrutiny would have ironed out. We have to accept that we have moved on. We need to look afresh at the requirements of health and care regulation.

In the meantime, the Government have ploughed on with trying to make changes in a piecemeal way to individual regulatory bodies. These are called Section 60 orders and they plough through your Lordships' House

[Lord Hunt of Kings Heath]
with monotonous regularity, the problem being that the amount of time officials at the Department of Health devote to these individual orders would be much better devoted to drafting a Bill to deal with all the professions together. They are also not dealing with the inconsistencies between different regulatory bodies. Thinking of Mid Staffordshire, where there was a collective failure, an incident involving a patient can often involve more than one profession. It seems illogical to me that if disciplinary proceedings are held, they should be dealt with in different processes for different professions.

The argument from the regulators, too, is that they overwhelmingly want to see new legislation. The NMC and the Royal College of Surgeons say that the current regulation is outdated and governed by conflicting legislation, and the college goes on to say that it thinks the current situation compromises the regulator's ability to safeguard patient safety. The General Medical Council believes that we need legislation to "improve patient protection".

Another example is the Opticians Act, which is hugely out of date. We had a debate in your Lordships' House a year or so ago about a UK company called Adlens, a spin-off company from Oxford University, which has developed flexible and adjustable reading spectacles. It is exporting millions of these from the UK to Japan and the US but up to now, it has not been allowed to market them in the UK because of the outdated approach of the Opticians Act. We also have many professions which are not regulated but ought to be. For instance, there is a voluntary register for clinical physiologists but you can practise without being part of that register. The Royal College of Radiologists is concerned about tele-radiologists and sonographers who, again, are not regulated but are involved in patient procedures which, if done incorrectly, could cause them harm.

There have been other developments. I pay tribute to the PSA, which has published two reports making the case for change. I do not necessarily agree with all the proposals it has set out, but it has done immeasurably valuable work in pointing to the future direction.

The question then arises: what are the Government going to do? A consultation is promised in the next few months, but I put it to the Minister that it is one thing to have a consultation but quite another to bring proposals to Parliament. There remains a great deal of doubt within the health service and regulatory bodies as to whether the Government are really committed to bringing forward new legislation. I take your Lordships back to the Francis report, which clearly identified weaknesses in the way we regulate health and care professionals. The regulatory bodies themselves would acknowledge that; patient groups, too, are clear that we need reform. I very much hope that the Government can respond today by saying not only that they will introduce proposals but that they are committed to bringing legislation forward at the soonest possible moment. I beg to move.

The Senior Deputy Speaker (Lord McFall of Alcluith): The Question is that the Bill be read a second time. As many as are of that opinion—

Noble Lords: Oh!

10.17 am

Lord Patel (CB): My Lords, I was given clear instructions not to jump the gun before the Senior Deputy Speaker spoke.

I support the Bill and I am glad that the noble Lord, Lord Hunt of Kings Heath, has brought it to the House. If it does what he thinks it might, which is nudge the Government to bring forward some kind of draft regulatory Bill, that would be helpful. I declare my interests: I am a fellow of several medical royal colleges, most of which are freebies. I am overdue to pay my General Medical Council dues and if I do not pay them this week, I will no longer be on its register—but today I am, I hope, still on it.

I have been involved in such debates before. We had a debate on the Law Commission report and I have asked questions on two occasions related to this. On both occasions we were promised that the Government had the intention to bring in the legislation—which is, as the noble Lord, Lord Hunt of Kings Heath, said, very much needed. The Medical Act 1983 is outdated, bureaucratic and inflexible. It is not doing patients any good because the GMC, as we have heard, is not able to bring the regulatory regimes to bear on people who do not do what it expects them to do.

I tried to find out whether there was any example of where a jurisdiction similar to ours, with a single regulatory body for health professionals, works. There is one. It was set up about 80 years ago in Australia. It is very similar to ours. There are several different health professional bodies and a lot of the professions are not covered—which, as the noble Lord, Lord Hunt, mentioned, is the case with us. So I asked a question: in the light of your experience of the past six or seven years, what have been the key advantages? I got an extensive response. The key advantages are: being able to drive consistency in regulatory requirements across professions, such as common standards in areas including criminal history, English language and advertising requirements; a largely aligned code of conduct; and some degree of consistency in the jurisdiction side.

More importantly, there is better knowledge exchange between professions in embedding leading practice in regulation and a single piece of legislation for the regulation of all registered professions. There are 14 professions in Australia's case; in our case, it would be 32 or more. There are potential efficiency benefits in having a single organisation to provide all the operational support and in being able to modernise that through a single effort, ranging from corporate services to include—importantly—legal and regulatory services.

There are significant wider benefits in having a single source of comprehensive workforce data in a single depository for wider workforce projections and planning. That is something we suffer from badly in this country. Our workforce planning for the NHS and social care is dreadful, as we will no doubt hear in forthcoming debates. One reason we are not able to do skills-mix training is because of the separate regulatory authorities.

There are also advantages for the community in a single, national online register in which all registered practitioners can be found. Common registration types make it easier to understand and allow increasingly

greater consistency in how regulatory decision-making is applied across professions, particularly in fitness to practise. It also allows a national approach to raising community awareness and understanding of how to complain and of what registration means.

The community expects that all registered practitioners should be held to a similar level of accountability; that is, there should be a lower criminal history threshold for some professions. I think the noble Lord, Lord Hunt, mentioned that. There should also be a single front door for raising concerns about fitness to practise across professions. It will make health professionals work more closely together and therefore bring about better integration of the requirements for the accreditation of approved programmes of study. We badly need integrated common study modules. It would help with workforce planning and make for a better regulatory regime, which is badly needed. We will all ask the same question of the Minister: when will the Government bring in the legislation?

10.23 am

Lord Turnberg (Lab): My Lords, I congratulate my noble friend Lord Hunt on securing this Second Reading debate. The Bill arises out of frustration, because we should have had legislation on this some years ago. I should express my interest as a former member of the GMC council when I was the dean of a medical school in the long-distant past. I am no longer a practising physician. Unlike the noble Lord, Lord Patel, I am no longer even on the GMC register. I have to say that that has not stopped the occasional unsuspecting Member of your Lordships' House seeking my advice. Regretfully, I have to tell them where to go. Perhaps I should rephrase that: I have to tell them where to go to get the best medical advice.

As we have heard, it is almost three years since the Law Commission's report, more than two years since the Government welcomed it and more than a year since they said that they would put it out to consultation. The glacial progress makes the decision on the third runway seem positively hasty, yet the caring professions and the regulators are desperate for the Government to act. It is pretty clear that we have an outdated system of regulation: it is too elaborate, it is inflexible and it is splintered into too many regulators, which often have inconsistences between them. Those who regulate are already frustrated, and far too many front-line clinical staff are not even officially regulated at all. Healthcare assistants, physician associates and clinical physiologists, to say nothing of carers in nursing homes, are not regulated; they merely have voluntary registers. These can work well but they, too, are frustrated by their lack of powers. Yet all these healthcare workers are on the front line dealing with patients every day, and they do an essential and important job. They could do more, given the confidence of safe and proportionate regulation. We need them now in the NHS.

Let me say a few words about the GMC, which I know best. I am grateful to it for its excellent briefing. Its major complaint is that it is hamstrung by the inflexibility under which it is forced by law to operate. For example, of the 9,000 complaints a year it has to examine in its fitness to practise committees, a very high proportion could, and should, be dealt with locally by the responsible officer in each trust. But the GMC has to examine every case that meets its criteria. Since the cost of doing so consumes about 60% of the GMC's total budget, it is an enormous waste of money, to say nothing of the trauma to doctors who could easily have been returned to good, safe practice by strong local action.

Then there are the enormously expensive and elongated hearings, with the full panoply of lawyers, in cases against doctors when many could be dealt with much more quickly and cheaply when the doctor admits responsibility for his errors and accepts remedial action. At the moment, that is not allowed. Finally, when there is a problem with an underperforming postgraduate training and education unit in a hospital trust, the GMC has to withdraw all trainees instead of using some sort of proportionate response in which only the relevant bit of the training programme is dealt with. In short, a proportionate response is very difficult under the current rules.

I have one final point, which concerns Brexit—no debate is complete without a reference to Brexit. In this case there are clear advantages—some of the very few. Doctors from the EU can come to practise in the UK without any assessment of their training or level of competence. We have to accept their EU training, and we usually do not know too much about it—unlike doctors from, say, Australia, the USA or anywhere else in the world, who have to go through a thorough appraisal. Now that we are coming out of the EU, it should prove possible for the GMC to assess EU doctors in the same way. I hope that the GMC is prepared and that legislation will allow it to do it.

We have waited far too long for a correction to all the anomalies in regulation that we have heard about today. Let us just get on with it. I hope the Minister will agree.

10.28 am

Baroness Gardner of Parkes (Con): My Lords, I intervene briefly because of my memories of problems with registration. I did advise the House that I was going to intervene in the gap. Listening to the noble Lord, Lord Patel, discussing whether he was on the register brought back to me very clearly the fact that if you are a dentist and you are past retirement age, you have no option to remain, even on a retired register. You are either actively practising or you are out. It was always considered very desirable to have names, on a voluntary basis, so that if there was a national emergency it might be very valuable to be able suddenly to find where lots of doctors, dentists and so on could be available. So I have always resented the fact that the General Dental Council—of which I was an elected member for some years—flatly refuses to have any such list, and yet the General Medical Council does have one. Something of that type is an example of how important it is to have a more overall pattern that we all follow.

Quite by chance, I think, the noble Lord, Lord Patel, quoted Australia as an example. I never really practised there, except for half a day a week before I came to England, whereas here I was in dental practice for 35 years and, as I say, was a member of the General Dental Council. I support the Bill.

10.30 am

Baroness Walmsley (LD): My Lords, I am grateful to the noble Lord, Lord Hunt of Kings Heath, for producing this Private Member's Bill and echo his praise for all the health professionals who look after us in this country. For the most part, they are highly trained, highly skilled, and extremely hard-working and conscientious. Indeed, so are the regulators, which do their very best, under some difficult circumstances, to fulfil their purpose of ensuring fitness to practise—right through a person's career—and the safety of patients.

I support the noble Lord's efforts to persuade the Government to get on with modernising the regulation of health and care professionals. There have been extreme delays, and the expression used by the noble Lord, Lord Turnberg—glacial—is very apt. Ministers commissioned the Law Commissions of the UK to review the mass of legislation, which has been put in place piecemeal over the years, that underpins the nine health and care regulators. The resulting UK report was published in April 2014, and the four Governments' responses were published nine months later. In December 2015, a Health Minister confirmed that the Government intended to consult on how these matters would be taken forward. However, 13 months later, this still has not happened, and I am not surprised that the noble Lord and all the regulators are getting more than a little impatient. Will the Minister tell us exactly when the consultation will be launched? How long will it last? How soon will Ministers respond and when do the Government intend to legislate? Can we expect pre-legislative scrutiny, which would be most appropriate for this kind of legislation? I thought the Home Office was slow in implementing promised consultations, but this one takes the biscuit.

Noble Lords will no doubt, like me, have received a number of briefings—most of them, I am afraid to say, only 24 hours ago—about this attempt to put a bomb under the Department of Health. I hope its imminent move to Victoria Street to make way for the Commons will not delay matters further. Noble Lords may also, like me, have been lobbied over probably the past two or three years about the shortcomings of the current legislation and the need to improve it. However, here we are and I hope the Minister will give the matter some priority because it is very important for the safety of patients.

I was struck by the level of agreement among the organisations that have briefed me about the problems with the current rules, although they disagreed about whether this Bill's attempt to simply get the Law Commissions' proposals implemented is the right thing to do. Clearly, it is much better than no change, but the problem is that time has passed since that work was done and things do not stand still in health and care. The situation has moved on very quickly. However, there is a consensus about the sorts of improvements that need to be made.

One of the common themes is the lack of flexibility in the current legislation. This is preventing regulators responding to the vastly increased workloads by streamlining inquiries. For example, the GMC tells us that when the Medical Act was passed in 1983, it had about 350 complaints per year. As we heard from the noble Lord, Lord Turnberg, we now have about 9,000, and the reasons for that are probably pretty obvious. The GMC closes thousands of cases every year without further action and yet it is obliged to consider all of them. Apparently, very many of them do not reach the thresholds set by Parliament, whereby a doctor has to be considered such a risk to patients that it should take action to restrict his or her ability to practise. A recent development is the local responsible officer who, according to the GMC, would be a much more appropriate person to deal with many more minor concerns. So the GMC would like the power to decide when a full investigation is appropriate and when it could be handled more appropriately by the RO. This would reduce the number of unnecessary investigations, reduce the stress on doctors—my goodness, we need to do that—and cut costs so that more resources can be diverted to where there is a need for serious action.

Another item on the GMC's wish list is to be allowed not to have a public hearing in situations where the doctor accepts what has happened and is willing to accept the sanction. Finally, it would like a more nuanced suite of regulatory sanctions in relation to education and training concerns rather than just the nuclear options it has at the moment. All this seems to me to be sensible, and I am not sure why it is taking the Government so long to do anything about it.

The Royal College of Surgeons has raised an issue that emanates from the changes to the qualifications of members of surgical teams. A number of new roles in the extended surgical teams are not yet regulated, including physician assistants and surgical care practitioners. The college gives an example of the problem with this, in that physician associates cannot prescribe or order X-rays and CT scans. Statutory regulation of these roles to allow suitably qualified people to carry them out would free up surgeons to do other vital work, while at the same time reassuring the public. It is also anxious to see Sir Bruce Keogh's recommendations on cosmetic surgery implemented, and the GMC supports this. It raised other matters such as ability to use medical titles and the testing of language skills, which we may be able to do in future.

The Optical Confederation highlights the rapid advances that have been made in eye care interventions by the use of digital technology—the noble Lord, Lord Hunt, mentioned one of them in a debate a few months ago. In addition, our ageing population has of course added greatly to the demand for eye care. The confederation supports the proposals of the Law Commission on the whole, but warns that the inevitable disruption and organisational change could interfere with its current work on transferring a lot of services from hospital into primary care or the community. That of course is what we are encouraging all hospitals to do. I think its conclusion is that this may not be the right time to change regulation. It did not mention the effect of the turmoil of Brexit, but I read that between the lines. What a pity this was not all done two years ago.

The NMC was the organisation most outspoken in its view that the draft legislation proposed by the Law Commissions is no longer the best way forward because of the passage of time. Its view is that its own founding legislation is too complex and prescriptive, and contains

an unnecessary amount of overprescriptive detail, preventing it from adapting and modernising. It would like to be able to follow the more cost-effective approaches adopted by some other professional regulators, within its rules, but is prevented from doing so by its own particular rules. Clearly, there have been some minor but welcome changes to its regulation—we have heard about those that have gone through Parliament—but these make the whole package very bitty, and more is in the pipeline and will, as we have heard, come before your Lordships' House very soon. But the NMC emphasises the need for further consultation before implementing the 2014 proposals because of the effect of the inordinate passage of time. Even the Health Secretary has asked the NMC to regulate the new nursing associate role. It is willing to do so but cannot do it without changes to the legislation.

It all boils down to a need for rapid consultation and rapid response from the Government. We on these Benches will happily work with the Government to ensure that the legislation that is so badly needed is properly and speedily scrutinised. Can the Minister tell me when we will get that opportunity?

10.39 am

Baroness Goldie (Con): My Lords, I congratulate the noble Lord, Lord Hunt, on bringing forward this Bill. His expertise in these matters is acknowledged. I thank all noble Lords for their contributions to this helpful and constructive debate. At its heart, the noble Lord's Bill addresses important patient protection issues, and we are all in sympathy with that objective. However, I have to say at the outset that we have reservations about the implementation of such a Bill. I shall explain why, because there is a context to all this.

The White Paper, *Enabling Excellence: Autonomy and Accountability for Healthcare Workers, Social Workers and Social Care Workers*, published in February 2011, signalled the Government's intention to ask the law commissions of England and Wales, Scotland and Northern Ireland to review UK law relating to the regulation of healthcare professionals. The review aimed to establish a simple, consistent, transparent and modern framework that would give greater autonomy to the professional regulatory bodies to decide how best to meet their statutory duties, balanced by clear lines of accountability.

The law commissions then reviewed the legislative framework in detail, consulted widely with stakeholders and published the findings of their review, alongside a draft Bill, in April 2014. I make clear that the Government accepted the vast majority of the recommendations of the four law commissions, either in full or in part. A small number of areas caused concern because the recommendations were not accepted, either because the Government wished to vary their approach or to consider further how best to deliver the policy intention. I was interested to note that the noble Lord, Lord Hunt, expressed reservations about some of the recommendations from the commissions.

I take this opportunity to thank and pay tribute to all the law commissions for their dedicated work during the review, which involved considering an extremely complex legislative model. The results are a solid foundation on which the Government wish to build. We continue to support and pursue the law commissions' aspirations of removing the antiquated and rigid processes embedded in the current legislative framework and of seeking to progress toward a more flexible, clear and coherent model of regulation that delivers better public protection.

Valuable as the law commissions' work and recommendations are, we believe we need to go further to make the regulation of health professionals in the UK fit for the future. We therefore intend to bring forward additional policy proposals for public consultation that not only build on but go beyond the recommendations of the law commissions. As noble Lords are aware, it has not yet been possible to secure parliamentary time to bring forward primary legislation to enable this. However, I reassure the noble Lord, Lord Hunt, who asked whether the Government are serious about reform, and the noble Baroness, Lady Walmsley, who also aired this concern, that the Government remain committed to these important reforms.

I think it was the noble Lord, Lord Hunt, who raised the issue of whether the current arrangements are compromising safety. That is an important question to ask. I do not agree with the suggestion that the current legislation compromises safety, but clearly improvements can be made, and these will be considered in the forthcoming consultation.

In the meantime, it is not as though nothing has been happening. We have made improvements to priority areas to secure improved public protection. For example, changes have been made to the General Dental Council's investigation-stage fitness-to-practise processes and the Nursing and Midwifery Council's governing legislation. These have made the NMC's and GDC's processes more effective, ensuring greater consistency in decision-making and improving efficiency in handling fitness-to-practise concerns. This has speeded up the complaints-handling process in order to improve public protection while simultaneously improving efficiency.

Changes have been made to amend the Medical Act 1983 to establish the Medical Practitioners Tribunal Service in statute and to improve the General Medical Council's fitness-to-practise procedures. The GMC has also been given an overarching objective of public protection. These changes strengthen the separation of the GMC's investigation and adjudication functions, improving the timeliness and effectiveness of its processes.

In addition, the Health and Social Care (Safety and Quality) Act 2015, presented by my honourable friend the member for Stafford, Jeremy Lefroy, and supported by the Government, introduced a consistent overarching objective of public protection for the Professional Standards Authority and all the regulatory bodies.

Changes have also been made to introduce language controls for EEA citizens who seek or are registered as doctors, nurses, midwives, dentists, dental care professionals, pharmacists and pharmacy technicians. This has reduced the risk to patients of professionals practising without the right English language skills.

Legislation is currently before your Lordships' House that will remove the statutory supervision of midwives and the NMC's statutory midwifery committee. This legislation will also make a series of improvements to the NMC's fitness-to-practise procedures. I am aware

[Baroness Goldie]
that the noble Lord, Lord Hunt, has some concerns about this order, which he has highlighted through his regret Motion. I reassure him that the department will respond to these concerns in the forthcoming debate on the order.

I am sure the noble Lord will agree that the Government have acted to make improvements to professional regulation since the law commissions' reports. However, there needs to be more systematic reform in this area. We recognise that for patients and the public the current system of regulation can be confusing, inconsistent and slow. It is not always clear to the public which professionals are regulated by which regulatory body or against which standards. Staff working side by side in teams might be accountable to different bodies and work to different sets of standards. Different regulators might impose different sanctions for similar professional failings, and employers need to interact with numerous different professional regulators. Further, the regulators are hampered by an outdated and restrictive framework that struggles to keep pace with a constantly evolving healthcare system.

For those reasons, we plan to consult soon on radical reform of professional regulation across the UK. I realise that the word of critical interest to your Lordships in that sentence is the word "soon". I cannot be prescriptive but we hope to launch the consultation within the next couple of months. It will not only build on but go beyond the law commissions' work on simplification and consistency. We have developed our reform proposals in collaboration with interested parties including patients, the public, professional bodies, health and care regulators, trade unions, representative bodies, employers and the regulated professions.

Over the summer of 2016, the four UK Governments jointly held a series of engagement events. These identified the key objectives for the reform of professional regulation. These are to improve the protection of the public from the risk of harm from poor professional practice; to support the development of a flexible workforce that is better able to meet the challenges of delivering healthcare in the future; to deal with concerns about the performance of professionals in a more proportionate and responsive fashion; to provide greater support to regulated professionals in delivering high quality care; and to increase the efficiency of the system.

As part of the consultation we will seek views on: a more responsive model of professional regulation that can swiftly adapt to changing patterns of healthcare, and develop new roles and new ways of working without the need for frequent legislative change; establishing clear criteria to assess which level of professional regulatory oversight is appropriate for different professional groups; and whether the current number and set-up of healthcare regulatory bodies is delivering effective and efficient public protection. We want to ensure that the regulatory bodies have a consistent and flexible range of powers that allow them to take a prompt and proportionate approach to concerns about an individual's fitness to practise. We are also concerned with enabling regulators, working with professional bodies and others, to better support professionalism among registered groups and to provide assurance on an ongoing basis that practitioners are competent and that their skills are up to date. We also want to ensure that we increase joint working, sharing functions and services between the regulators.

I think it was the noble Lord, Lord Patel, who asked about having one regulatory body. Having fewer regulators would make it clearer to patients and the public who to contact, and I reassure my noble friend that views will be sought on whether there should be a reduction in the number of regulatory bodies and whether a single body should be looked at. That will all be embraced in the forthcoming consultation.

I think it was the noble Lord, Lord Turnberg, who said that groups of healthcare professionals should be brought into statutory regulation. The Government's position is that statutory regulation should be used only where it is warranted by risk. To inform decisions about whether groups should be regulated by statute, we have asked the Professional Standards Authority to develop criteria to assess whether and how such groups should be regulated. I hope that to some extent addresses the noble Lord's concern.

The noble Lord, Lord Turnberg, and the noble Baroness, Lady Walmsley, raised the issue of Brexit—as the noble Lord said, no debate is complete without such a reference. The decision to leave the EU provides an opportunity to work with healthcare regulatory bodies and professional and patient groups across the UK to consider whether tougher checks are required, and we will consider all that alongside the Brexit negotiations.

Our ambition for reform of professional regulation starts with, but goes beyond, the recommendations of the law commissions. While I share the aim of the noble Lord, Lord Hunt, of a more effective system of professional regulation, I cannot support the Bill at this time. I am confident that there will be widespread support for our proposals for reform of professional regulation when the consultation is launched shortly—I hope I have reassured your Lordships that that is not an intangible aspiration; something is happening and there is a timeframe. I hope that in this House and in the other place we can have a constructive and positive debate about these matters. They are extremely important and, as I said at the outset, I am very grateful to the noble Lord for continuing to focus attention on them.

In conclusion, I look forward to working with your Lordships to take forward much-needed reform of professional regulation within the United Kingdom.

10.51 am

Lord Hunt of Kings Heath: My Lords, I am very grateful to the Minister and all noble Lords who spoke in the debate. The noble Lord, Lord Patel, who was of course a distinguished president of the Royal College of Obstetricians and Gynaecologists, put it absolutely right when he described the outdated nature of current legislation. He referred to the Australian experience. If we are to look afresh at regulation, we should look at whether one regulator is the answer. There could be arguments against, not least the disruption that is likely to be caused. So many current cases on the books would have to be dealt with according to existing legislation that there might need to be enormous structural changes. None the less, surely it is right to look at that. It is very interesting that he put that on the table.

My noble friend Lord Turnberg, who was an equally distinguished president of the Royal College of Physicians, gave some examples of why the current regulatory approach is not working. The most telling point of his speech was that regulators are unable to make a proportionate response. If a practitioner, having had a complaint made against him or her, acknowledges that it is justified and is prepared to respond in accordance with the regulator's wishes, it still has to go through a hearing. That seems unnecessary.

My noble friend also raised the problem of when a regulator is concerned about how trainees are being trained in an NHS institution. The only sanction the regulator seems to have is to withdraw training recognition, but that can have a devastating impact. If you withdraw training from a whole hospital department, not only is that department likely to be unable to run, it can have a knock-on effect on the integrity of the whole general hospital and could lead to its closure. There have been instances where the threat to withdraw training has threatened the viability of a whole institution. From the GMC's point of view, pondering the public interest, that places it in an impossible position, which is why we need a more proportionate regulatory system.

It is always a delight when the noble Baroness, Lady Gardner, intervenes in our debates. She raised the knotty issue of the retired lists, which have been around for many years. Your Lordships' House has good examples to offer of how to deal with retired lists and, if the noble Baroness, Lady Jones, has her way later today, we may have to have a very large retired list indeed.

The noble Baroness, Lady Walmsley, asked some very pertinent questions about the Government's progress, and argued strongly for pre-legislative scrutiny, which I, too, think is a very good thing. She mentioned cosmetic surgery. It would be good to know where the Government are going on the need to regulate cosmetic surgery. We need to act. She raised the comments of the Nursing and Midwifery Council and the fact that current procedures based on legislation are simply too complex and prescriptive.

I am very grateful to the Minister for her response. Essentially, she said that the Government are serious about regulatory reform and the consultation is due very shortly. Although she challenged my assertion that current legislation compromises safety, I refer her back to the Francis report and to what the Royal College of Surgeons says: outdated legislation compromises the regulatory bodies' ability to safeguard patient safety. As she said, the current arrangements are confusing, inconsistent and slow.

The Government are to consult very shortly. That is very welcome. Of course, the Minister cannot say from the Dispatch Box when or whether they will then produce legislation—they will have to see the outcome of the consultation—but I make a plea to her and her colleagues that this matter is important. The Government would find Parliament sympathetic to improving the regulatory procedures, and I strongly encourage them to bring forward legislation. We know that the Secretary of State is very interested in the establishment of an investigatory safety board, on the lines of that in the airline industry, which I understand will require legislation. I should have thought that a safety Bill which encompassed both the investigation board and reform of the functions of regulators would fit nicely together and make an excellent Bill for, if not the next Session, the one after that. I very much hope that we will see progress.

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

Child Contact Centres (Accreditation) Bill [HL]

Second Reading

10.57 am

Moved by ***Baroness McIntosh of Pickering***

Baroness McIntosh of Pickering (Con): My Lords, I beg to move that the Bill be read a second time. I am delighted to have secured a second reading debate today. I took an early interest in this theme as a Scottish advocate—albeit now non-practising—and in the other place, as shadow Minister for early years and looked-after children for a year.

At the outset, I place on record my admiration for the work of the National Association of Child Contact Centres. NACCC has a hugely important function in the establishment, support and work of nearly 400 child contact centres and services throughout England, Wales and Northern Ireland. The majority of these centres are staffed by highly trained volunteers. We should recognise the work of those volunteers and thank them for all they do. More than 20,000 children use these centres each year. More than 1 million children do not have contact with parents after the breakdown of relationships.

The UK has one of the highest rates of family breakdown in Europe, for which there is immense emotional, psychological, social and economic cost. The Centre for Social Justice estimates the latter at £47 billion a year. NACCC, with Cafcass, is responsible for establishing rigorous national standards for the running of child contact centres in England, Wales and Northern Ireland. Before they can begin to operate, child contact centres go through a thorough process of accreditation and are reaccredited every three years. Thanks to the judicial protocol first introduced by the noble and learned Baroness, Lady Butler-Sloss, courts are required to refer families to child contact centres that are members of NACCC and so are subject to the national standards and accreditation process. Those standards and that accreditation protect children and their families in the private law arena. However, for children and their families involved in public law cases, there is no such protection.

This Bill seeks to ensure that all children and their families, regardless of where they live or whether they are subject to public or private law, enjoy the same protection provided by the national standards and accreditation process operated by NACCC and supported by Cafcass, the Ministry of Justice and successive Governments from both sides of the House. Therefore, I believe there is a need to call for regulations to be agreed to ensure that those responsible for commissioning contact arrangements for children and families involved in public law matters tender only with properly accredited suppliers who adhere to the agreed national standards. I look forward to hearing contributions to the debate

[Baroness McIntosh of Pickering]
from the noble and learned Baroness, Lady Butler-Sloss; a previous Minister in the other place, the noble Lord, Lord Wills; and my noble friend the Minister in summing up the debate.

I shall give a little background to the Bill. More than 1 million children do not have contact with parents after the breakdown of relationships, yet the importance of children remaining in contact with both parents and their broader families, where it is safe to do so, cannot be overemphasised. The National Association of Child Contact Centres is a charity that supports the establishment and work of 380 child contact centres and services throughout England, Wales and Northern Ireland. The UK has a highly efficient and effective system of centres and services to keep children in touch with their parents and broader families following separation. The UK system is unique, in that of the hundreds of centres that are part of the child contact centre movement, the overwhelming majority are charities run by volunteers.

There are two types of child contact centres: supported and supervised. NACCC has also developed supervised standards to enable contact centres to extend their services to supervising contact in the community. Supported child contact centres are safe, friendly places where children of separated families can meet in neutral environments with the parents they do not live with. The centres also provide safe handover places, thus avoiding flashpoints when families meet who have little other communication. Supported child contact centres also provide opportunities for grandparents and members of children's broader families to meet. Child contact centres are there to help facilitate children and families moving to positions where they can make arrangements to see each other without the help of the centres. Drawing up parenting plans with parents who come to the centres, and mediation, are also part of the services provided by child contact centres. Their staff and volunteers are extensively trained. Along with safeguarding, there is a need for appropriate training in mental health awareness; mental health matters for the families NACCC is working with.

Supervised child contact centres offer more specialist facilities when there may be a risk of harm to children, emotional or physical, in meeting the parents they do not live with. This may be because there has been a serious conflict with the parents, actual or alleged domestic violence or abuse, or because a parent has drug or alcohol problems. Supervised centres are staffed by qualified social workers who often provide reports for Cafcass when a family is involved in court proceedings. Families can move from a supervised setting to a supported setting, provided it is safe to do so.

NACCC has been the umbrella organisation for child contact centres for 25 years. Keeping children safe is a key priority for child contact centres. As a result, NACCC has ensured robust quality standards in training staff and volunteers, in developing processes for safe delivery of contact services, and in the establishment, running and management of child contact centres in the best interest of the child. Since 2007, NACCC has established national standards in conjunction with Cafcass, which have been regularly revised under successive Governments, with input and approval from the relevant government departments and Cafcass. NACCC is also responsible for accrediting and reaccrediting child contact centres and for removing accreditation where necessary, recognising the need for high and consistent standards for all children using contact centres. For more than a decade, a judicial protocol has been issued and revised by the president of the Family Division which states that when making contact orders for arrangements for children, courts must refer only to a NACCC-accredited child contact centre.

NACCC also has an independent standards board chaired by Sir Mark Hedley, a former High Court judge in the Family Division, which keeps a continuous watching brief on the standards operating in child contact centres and makes recommendations for improvement. Its patron is Sir James Munby, president of the Family Division. Historically, much of NACCC's work has been with separated families who have been in private law proceedings. More recently, when the care of children involved in the public law system—looked-after children—is the responsibility of the local authority, child contact centres and services are used. Local authorities have a statutory obligation under Section 34 of the Children Act 1989 to promote contact between children and their parents and relevant others. In 2013, a change in the requirements of special guardianship orders meant that all local authorities are now responsible for supporting contact arrangements for children, subject to special guardianship orders up to the age of 18.

Due to the demands on local authority services, most child contact centres and services provisions in the public sector are outsourced by local authorities to independent child contact services. Currently, child contact centres and services in the public sector run by independent contractors can be set up by individuals and organisations without specific qualifications, and the centres and services that they provide are not subject to accreditation or reaccreditation. That means that those centres and services are not subject to any nationally agreed standards and do not necessarily have the appropriate safeguards in place for children or their parents, so children using those centres may experience different levels of support and standards of care. As the number of special guardianship orders continues to rise, so too does the urgent need to protect children subject to these orders by ensuring that any contact arrangements outsourced by the local authority are subject to the same standards and accreditation that have functioned so successfully for a decade in private law proceedings. That means bringing all child contact centres and services in line with NACCC national standards, specifically those that meet the needs of children who are looked after by a local authority.

The Bill is drafted to support the work of the local authorities, having been drawn up after discussion with local authorities and having had approaches from, for example, a London borough, which felt that such provision would assist in its tendering arrangements. Some local authorities, such as Liverpool and Coventry, already tender with NACCC-accredited providers.

The Bill will ensure that all local authority services, the contact services operated by independent contracting agencies, and fostering organisations will be required to operate to the same high standards and be subject to the same accreditation and re-accreditation procedure. This will ensure that, regardless of where they reside, children can have the same standard of service that ensures safe and meaningful contact with their birth family. This Bill is an opportunity to reform practice by raising standards within our public law contact centres and services, to a level that would be expected from any other children's services and educational provision. I beg to move.

11.10 am

Lord Wills (Lab): My Lords, this is an extremely important issue and the noble Baroness, Lady McIntosh, has done your Lordships' House a service by bringing this Bill forward and enabling it to be debated. I declare an interest in that my late father-in-law, David Freeman, founded the Freeman Family Centre in the London Borough of Brent, which is run by Barnardo's for the local authority, and child contact forms a large part of the work there. I am also currently working with Brent and Cambridgeshire councils and St John's College, Cambridge, on a project to increase the number of care leavers entering higher education.

The National Association of Child Contact Centres does invaluable work; we have just heard a compelling case for this from the noble Baroness and I join her in paying tribute to that work. She has also made a powerful case for this Bill. I recognise the vital role of the National Association of Child Contact Centres in the private law sector and the need for the same high standards to apply in the public law arena. However, I sound a few notes of caution, which I hope the noble Baroness will consider as she makes progress with her Bill and which I also hope the Government will consider.

There can be no disagreement with the proposition that the same high standards of practice in child contact centres that operate in the private law sector should be achieved equally in the public law arena. But is a mandatory accreditation of all child contact centres in the way that this Bill prescribes really the best way to do this? Local authorities discharging their statutory obligation under Section 34 of the Children Act 1989, to promote contact between children and their parents and relevant others, are already subject to legal, inspection and accountability frameworks to protect and safeguard children in their care.

I of course recognise—as the noble Baroness has said—that local authorities sometimes, indeed increasingly, commission an external provider to deliver the service on their behalf when, for example, a local authority child contact centre is in one location while the child has a foster care placement some distance away and, rather than the child having to travel so far for one or two hours of contact, the local authority judges it to be in the child's best interest to commission an external provider in an area close to the child to deliver the contact on its behalf. However, even in those circumstances of external provision, the local authority remains responsible for ensuring that the services that it commissions and are delivered on its behalf are of good quality, which it does through the commissioning, contracting, inspection and evaluation processes. Given the regulatory and compliance apparatus already in place for local authorities, mandatory accreditation in these circumstances would impose another layer of costs and bureaucracy on local authorities, which are already desperately hard pressed.

Can we be certain of the rewards that would flow from this? What evidence is there of local authorities failing their statutory obligations in a way that would justify the imposition of this extra level of compliance? It is a question not just of the cost of this new level of compliance and the need for it, but of the implications for the flexibility of provision. From the experience of the Freeman Family Centre, I am aware of the difficulties that can often be encountered in providing an appropriate environment for child contact. Different families can need different provision. What is an appropriate environment for one family might not be appropriate for another—some thrive in formal settings, others in informal ones, and older children are often uncomfortable in settings designed for younger children. So there is a need for flexibility in provision.

Mandatory accreditation could—I am not saying that it will—risk damaging that necessary flexibility and the ability of centres and local authorities to adapt provision to the needs of individual families. There might, for example, be a particular problem where the local authority social work team with the duty to provide the contact has decided that a foster carer's home is the most appropriate place for family contact to take place. If every such placement had to be registered and regulated, above and beyond the current legal, inspection and accountability obligations on local authorities, the process could become too onerous or costly for these smaller providers and they could decide simply not to deliver child contact anymore. This loss of flexibility could damage the children and families for whom this type of setting is most appropriate.

I accept that there could be cases in this diverse marketplace—if you like—where there is lax provision and I understand the noble Baroness's motivation for bringing this Bill forward. But, if there are problems in the public law environment, it makes the case—at least in the first instance—for more effective enforcement of the existing regulatory provision and not necessarily for new legislation. It may well be that the noble Baroness can address my concerns as the Bill progresses and, in that case, I shall be delighted to support it, as it is clearly intended to ensure the best possible support for families in difficult and testing circumstances—that is something that we all want.

11.16 am

Baroness Butler-Sloss (CB): My Lords, I also congratulate the noble Baroness, Lady McIntosh, on bringing this Bill forward. It is important and raises important issues. I need to declare that I was patron of the NACCC when I was President of the Family Division between 1999 and 2005. I may, perhaps, have been to more child care centres—private and supervised—than anyone else in this Chamber. I went to them all over the country and was very involved with the Coram supervised centre, which sadly had to close for the lack of money, and I was partially responsible for the opening of a contact centre in a Baptist chapel in Swansea—so I was involved right round the country.

[Baroness Butler-Sloss]

Child contact centres are enormously important and I just add a few words to what the noble Baroness has said about their importance. Private law centres make it possible for families in dispute to have the children meet the non-resident parent in independent, agreeable surroundings without the aggro that there is if they meet with both parents present all the time. I have a vivid recollection of sitting as a judge in Exeter, being expected to make a decision as to whether the children should meet their father in McDonald's or the service station on the M5. I murmured, "What about a child contact centre?", which neither parent had thought about. In those days, such families had legal aid, but now there is no legal aid for child disputes, except very rarely when there is either domestic violence or some exceptional circumstances. So you have the situation where two parents who cannot talk to each other and who bring every possible allegation against each other, go to the judge or the magistrate trying to show either that the child should not be living with the mother—it is generally the mother—or that the father is unsuitable to see the child. At the end of the day the judge, without the help of lawyers but almost certainly wanting the help of a Cafcass officer or welfare officer, will say, "Why can't you go to an NACCC-accredited contact centre?". As the noble Baroness said, I suggested this direction first when I was president.

Private law child contact centres matter. A very large number are accredited by the NACCC but, as the noble Baroness said, not all of them. There are valid grounds for saying that there ought to be accreditation of some sort for all private law centres, preferably from the NACCC.

As the noble Baroness said, supervised centres where the children are in care, or very often in interim care, are in a rather different position. In these cases local authority social workers take the view that it is desirable—thank goodness—that the children who are in interim care prior to a decision by a judge or magistrate on whether they remain in care should stay in touch with their parents, and sometimes grandparents. However, that staying in touch generally has to be supervised given the care proceedings. As the noble Lord, Lord Wills, pointed out, it is organised by local authorities through either an outreach or local authority organisation. These childcare centres are equally important.

The noble Lord, Lord Wills, has said almost everything that I was going to say about reservations. However, I share his reservations. A distinction has to be drawn in the Bill between private law centres and public law centres, as it were, where local authorities are in charge and where the children will not see their parents other than under the supervision of a social worker or somebody nominated by a social worker.

There is also the possibility of having informal settings in private law cases. In these cases families who can agree to a certain extent quite like informal settings rather than a named child contact centre. Therefore, the Bill goes a long way towards what is needed and I entirely support the wonderful work of the NACCC. However, it seems to me that the Bill goes a trifle too far. I very much welcome this Second Reading. I think that reservations will be expressed in Committee by the noble Lord, Lord Wills, and me on exceptions to accreditation by the NACCC. Barnardo's has been in touch with me and, I suspect, with the noble Lord. It has comments on the Bill which should at least be looked at. That is why I have these reservations. However, I strongly support the concept of the Bill and the importance of regulation and keeping up standards. The only question is how far it should go.

11.22 am

Lord Beecham (Lab): My Lords, I join my noble friend and the noble and learned Baroness in congratulating the noble Baroness, Lady McIntosh, on bringing forward this Bill, even if I was not included in the list of speakers to whose contributions she was looking forward. However, as will emerge, that is probably a fair stance for her to take.

I have to confess that I was entirely unware of the existence of these centres until I looked into the background of the noble Baroness's Bill. Given that they have existed for 25 years that is a fairly shameful admission to have to make. I join all those who have spoken in commending the work that they do, and have done for so long. It is an extraordinary coincidence but in the last few weeks I have engaged with people who are going through this very difficult process of dealing with family break-up and difficult relations between parents with regard to access. In one case, having just begun to prepare for this Bill, I was able to alert the grandparents to the existence of these contact centres and to suggest that they look into whether they might advise their daughter to contact one. Indeed, they have done so in the last few days. In another case, I have seen not only the hardship endured by a father who has had great difficulty in obtaining access but also that endured by his parents. It has been an extremely protracted and distressing event with considerable costs incurred in endeavouring to arrange reasonable contact. The noble and learned Baroness touched on that. Therefore, I am very conscious of the value of these centres and of the problems that can arise.

This morning I spoke to a friend who is a very senior magistrate. She is also familiar with the relevant centre and speaks very highly of the role of such centres in relation to court proceedings. Indeed, she is very much involved with the Anawim women's centre in Birmingham, which I have visited, and which provides a range of services and support. Therefore, it is clear that there is a need for this degree of support and intervention in what are often very fraught circumstances. However, I take on board the points made by the noble Lord and the noble and learned Baroness.

I think that there are 350 centres in England, Wales, Northern Ireland and the Republic of Ireland, which suggests, I suppose, that the number in England and Wales will be around 300. Therefore, I am not entirely clear how much of the country is covered by such centres. Like the two previous speakers, while I support the principle of this issue, one needs to look a little more closely at the practical consequences of imposing what might be a slightly over-rigid structure. Certainly, to the extent that the Bill might impose new duties on local authorities, one would expect the new burdens doctrine to apply, and for that to be adequately funded by the Government.

Looking at the organisation's very interesting website, and getting a flavour from that of how it works, it is clear that it is heavily reliant on donations. It is good that people are donating but one wonders whether there ought not to be more funding by government, either national or local. In the latter case, it would have to be supported by central government because of the financial constraints with which we are all familiar.

Nevertheless, we welcome the debate initiated by the noble Baroness today. I take the point that the two previous speakers have indicated that this matter needs to be explored further. I hope that in Committee a way will be found to accommodate the concerns that have been expressed and thus enable many families to be assisted, particularly the children, who go through very difficult times when family break-up occurs, which can, of course, have significant lifetime consequences and, to put it in another setting, frankly, also imposes extra burdens on health services, education services and the like, which can ill afford them. Dealing with matters in a consensual and sensible way can benefit not only the individuals but society as a whole. Therefore, I am glad that we have the opportunity to give this Bill a Second Reading.

11.28 am

Baroness Buscombe (Con): My Lords, I thank my noble friend Lady McIntosh for introducing this Bill and for giving your Lordships' House an opportunity to debate important issues concerning the use and accreditation of child contact centres and the very important role of the National Association of Child Contact Centres, or NACCC, as I shall refer to the charity in the rest of this speech.

I also pay tribute to my noble friend for hosting a reception in your Lordships' House last autumn to enable NACCC to raise awareness of its important work and to encourage those organisations present to come forward with new funding. As we have heard, NACCC is a charity working in the third sector with local child contact centres, many of which operate on very modest margins. NACCC now represents just under 400 child contact centres and has established itself as the national umbrella organisation and voice for them.

I thank other noble Lords who have spoken in this debate. I am particularly grateful to the noble and learned Baroness, Lady Butler-Sloss, for illustrating the important background to how these contact centres began and putting in context just how important they are. The Government thoroughly respect them and agree with that. I know that the Family Justice Minister, Dr Phillip Lee, who attended my noble friend's reception last autumn, spoke briefly about the role they play. Before I turn to the Bill specifically I will repeat for noble Lords what he said about the role of child contact centres and NACCC and the Government's support for them.

After the breakdown of a relationship between parents, every effort must be made to mitigate the impact on their children. Wherever possible, and wherever safe, a key part of promoting the child's welfare is that they maintain contact with both parents. Sadly, too many children lose contact with the non-resident parent. That is why NACCC plays such a valuable role. Its child contact centre network provides safe and neutral venues to allow those crucial parental relationships to be maintained.

Many supported centres are staffed by volunteers—I join my noble friend in paying tribute to all of them—and operate from church and village halls at very modest cost. Supervised contact centres play an important role in providing facilities for supervised contact in cases where the child's reaction to contact or risk needs more careful management. Dr Lee went on to pay tribute to NACCC and all those volunteers and professionals who provide such a valuable service in its network of supported and supervised contact centres. He also committed the Ministry of Justice to provide further funding to NACCC to support its important work in 2016-17 and encouraged others to provide similar support so that more children and parents can have a meaningful, ongoing relationship in a way that is safe for all concerned.

The Ministry of Justice, and previously the Department for Education, has supported the work of NACCC financially. I noted the comments from the noble Lord, Lord Beecham, on the cost of these centres. We recognise the pressures on the third sector. I wonder whether the Bill is seeking to probe the Government's commitment to continue funding NACCC. I am not in a position today to make any commitments about that, pending discussions within the Ministry of Justice about priorities and resource allocations. However, I hope that the Government's support for the work done by NACCC is evident from the comments made by Dr Lee.

On the substance of the Bill, it seeks to impose a new regulatory burden on all contact centres which offer facilities or services in support of child contact, by requiring them to be accredited by NACCC. In other words, no child contact centre would be able to operate if the Bill became law unless it had first achieved NACCC accreditation. The Bill then imposes statutory duties on the family court and on local authorities to ensure that all facilities used by them for child contact purposes are NACCC-accredited.

No one—not least the Government—could object to the principle that child contact centres should operate safely and to appropriate minimum standards so that children and parents who use them can enjoy safe quality time together; I agree exactly with what other noble Lords said today on this. However, the Government have a number of concerns and reservations about the Bill, despite its good intentions.

Clause 1(1) seeks to make NACCC the sole body responsible for accrediting child contact centres. Clause 1(4) then refers to standards set by NACCC yet does not provide any means by which to regulate those standards. It is, in that sense, a halfway house. We see limited merit in an approach which seeks to create a statutory role for NACCC yet leaves crucial matters such as standards unregulated. If the purpose of the Bill is to put child contact centres on a firmer regulatory footing, surely it should also provide a power for regulations specifying those standards, presumably to be made by Ministers. That could then, however, call into question the role of NACCC itself.

[Baroness Buscombe]

I have to say that the Government's general position is to avoid creating new regulatory burdens unless there is a clear case for doing so.

In respect of local authorities, this Bill would introduce a blanket new duty requiring them only to use NACCC-accredited contact centres. Here I am mindful of what the noble Lord, Lord Wills, said about flexibility. This would be a new burden, and it is not clear what discussions NACCC has had with local authorities about their use of child contact centres, the desirability of using ones accredited by NACCC and why a new statutory duty is thought necessary.

The wishes and feelings of children about where contact should take place are an important consideration. In some circumstances, local authorities may deem it more appropriate to use non-NACCC-accredited facilities which are familiar to the child and where they will feel safe, comfortable and supported. There may also be locations and times at which a NACCC-accredited centre is simply not available to support the contact that is in the best interests of the child. Local authorities may have ad hoc arrangements for supervising contact that involve properly trained staff and appropriate venues, but which are short term, used as the need arises. Surely it would not be sensible to include these in a definition of "contact centre". The key issue for local authorities is always to ensure that, whatever facilities they use, the child is safeguarded from any abuse, and they already have clear duties around this, as set out in the Children Act 1989. As the noble Lord, Lord Wills, asked, is mandatory accreditation the best way to do this, as they are already subject to legal, inspection and accountability frameworks to protect children in every case?

On the family courts, the Bill seeks to remedy a problem which does not exist. I note that the Bill extends to England only, yet the family court operates across England and Wales. The Bill does not seek to address the position of child contact centres in Wales which may be used by children, parents and other family members as a condition of child arrangements orders made by the family court.

Cafcass, the family judiciary and court users have clear information about how to access NACCC-accredited contact centres. A court user who initiates an application for a child arrangements order must complete court form C100. This contains guidance notes which refer to the national NACCC website if a parent wishes to propose an arrangement involving the use of a local child contact centre.

Whether or not such a proposal is made by a parent, in a significant proportion of child arrangements proceedings Cafcass will be asked by the court to provide advice in the form of a welfare report. That report will put forward recommendations about the nature and extent of any parental or other family member involvement in the child's life and how that should be facilitated in practice. If the Cafcass officer considers, for whatever reason, that contact should take place at a supported or supervised child contact centre, that recommendation will be to use a local centre that is NACCC-accredited.

Even where Cafcass has not been asked to provide a welfare report, and if the court is contemplating making a child arrangements order involving the use of a child contact centre, judicial guidance in the form of Practice Direction 12B—Child Arrangements Programme makes clear the different purposes of supported and supervised child contact centres and how to find a local centre that is NACCC-accredited, again, through the NACCC website.

We recognise that child contact centres are not accessed exclusively through the courts or local authorities, and that many more parents these days may self-refer or be referred through other organisations such as mediation services or via a solicitor if one or both parties have one. Information is available on GOV.UK about child arrangements and how to deal with disputes, and there is a clear link alongside that content to the NACCC website.

In conclusion, we believe that there are already sufficient measures in place to ensure that Cafcass, the family court judiciary, local authorities, the public and practitioners are signposted to NACCC when the use of a child contact centre is under consideration. The best way to ensure the use of NACCC-accredited contact centres is to signpost clearly to NACCC's website and the "Find a Contact Centre" search tool, and that does not require legislation or statutory regulation. However, the Government are always happy to consider ways to improve signposting.

I assure my noble friend and this House that the Government's concerns about her proposed statutory solution do not in any way reflect any lack of appreciation of the risks to children and parents from unsafe contact arrangements. The risks are self-evident from the report into 19 child homicides published by Women's Aid last year, and this is a matter which Ministers and all concerned take very seriously.

In due course there will be an opportunity to give further consideration to potential broader reforms to the family justice system. The Justice Secretary made it clear in the consultation on court reform in the autumn that the Government are considering what further reforms may be needed to the family justice system. I am sure that the role of child contact centres in helping parents to agree and operate safe child arrangements will be part of that broader dialogue, and no doubt the Government will make clear their intentions for family justice in due course. In the meantime, I thank my noble friend Lady McIntosh for giving us the opportunity to have this debate today.

11.41 am

Baroness McIntosh of Pickering: My Lords, I thank those who have contributed to the debate and, in particular, my noble friend the Minister for her summing up. This has been a welcome opportunity to raise the issues, such as they are, relating to contact centres.

I turn to the concerns and reservations that have been raised. The noble Lord, Lord Wills, brings great experience to this debate—experience gained in the other place, especially as the Minister with responsibility in this area, and experience from his more recent work with contact centres. I think we all agree that the interests of the child must come first. He raised very real concerns,

particularly as regards the removal of flexibility and the imposition of regulatory burdens, neither of which are intended in the Bill before us today—indeed, nothing could be further from the intentions behind it. Therefore, I hope that both those issues and the issues raised by the noble and learned Baroness, Lady Butler-Sloss, who has been a pioneer in this field, could be addressed were the House to agree that the Bill should proceed to Committee.

As I said, the noble and learned Baroness, Lady Butler-Sloss, has been a pioneer in this field and has brought her immense experience to bear in today's debate. Of particular concern is the role of the judge in circumstances where there may be no legal representation, and I think we will all take note of that. It is a matter of regret that the legal aid provisions are as they are and that they apply in only extremely limited circumstances, although I think we can understand the pressures on the budget.

The thrust and provisions of the Bill are intended basically to draw a distinction between the services provided in the public law and private law sectors and to try to bring them together as much as possible. This has been a welcome opportunity to take note of the standards that apply in the private law sector and to see how they can be transposed, where appropriate, to the public law sector.

No slight was intended to the noble Lord, Lord Beecham, with whom I had exchanged pleasantries prior to coming into the Chamber. I particularly enjoyed his contribution and now regret not having said how much I was looking forward to it. It is a matter of note that, until their friends or close family are involved in family breakdown, many members of the general public are not aware of the excellent work done by the child contact centres under NACCC, so I welcome the noble Lord's recognition of that.

The noble Lord made a very good point about limited resources. Obviously I realise that there is not a blank cheque as regards requesting more resources, but that was not the intention. He drew attention to the danger of having an over-rigid structure—a point that was well made—and expressed concern about the new duties that might be imposed on local authorities. I do not think there is time for the Bill to pass through both Houses but, were it to reach the statute book, it would be the intention, under the new burdens doctrine, not to increase those burdens. The noble Lord very much brought to bear the sensitivities surrounding breakdown for families and for the wider family. He said that there would be lifetime consequences for the immediate and wider families.

I particularly thank the Minister, my noble friend Lady Buscombe, for her very full reply to the points raised across the House. It was an especial pleasure to be able to host the reception for NACCC and to raise awareness of the excellent work that it does. We were very grateful to the Ministry of Justice and the then Minister—I know that he has not left the department but he has left responsibility for these issues in the Ministry of Justice—for announcing the financial support for 2016-17. That was most welcome.

My noble friend set out the key issues in some detail. The point was well made in the debate that we are not seeking to increase regulation. Through this small Bill we seek to ensure that the standards that work so well in private law should be observed in the public law setting. I think it was the noble and learned Baroness, Lady Butler-Sloss, who said that sometimes an informal setting may be more appropriate. As long as it is supervised and safe, I think your Lordships would continue to support that.

I welcomed the support shown across the House, particularly by the Minister, for signposting the excellent work of NACCC. I hope noble Lords will see fit to allow the Bill to proceed to Committee, where we can elaborate further on the principles and standards. I welcome having had the opportunity of this debate, and I welcome, too, the Minister's reference to the broader dialogue that will continue. On that basis, I ask the House that the Bill be given a Second Reading.

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

House of Lords Reform Bill [HL]

Second Reading

11.48 am

Moved by ***Baroness Jones of Moulsecoomb***

Baroness Jones of Moulsecoomb (GP): My Lords, I am aware that, when I introduced this Bill at its First Reading, it did not receive a rapturous reception on all sides of the House. Therefore, I state very clearly that it is not aimed at destroying or abolishing this House—on the contrary, it aims to preserve it in very much its present form while providing it with a new democratic legitimacy to protect it from destruction in the years to come. I therefore ask noble Lords to give it a fair hearing in keeping with the traditions of this House, which are a part of what I am seeking to conserve.

Some years ago it was said by the Government that,

"it is intended to substitute for the House of Lords as it at present exists a Second Chamber constituted on a popular instead of hereditary basis, but such substitution cannot be immediately brought into operation".

That was in the introduction to the Parliament Act 1911. We had to wait a further 88 years for that promise to begin to be honoured in the 1999 House of Lords Act, by the abolition of the right of the majority of hereditary Peers to sit in the House of Lords. However, its fulfilment is still a matter of unfinished business.

Since then there have been three attempts to move matters forward; two by the then Labour Government and another by the 2010 to 2015 coalition Government. But all failed to achieve the support of either House. Nevertheless, the issue remains a live one, so much so that the manifestos of all the major parties at the 2015 general election included the intention to further reform the House of Lords—although the Conservative manifesto added that it would not, for them, be a priority. The 1999 Act was only a temporary stop on the road to full democratic reform. There can be little doubt that until further substantial reform takes place, it will remain firmly on the political agenda. Even if it does not happen under the present Government, the issue will not go away. It will be taken up by the next Government,

[Baroness Jones of Moulsecoomb]

of whatever complexion that may be. Whether that is in five, 10 or even 15 years, it will be a short time in comparison to the 106 years since the 1911 Act—and a short time indeed in the 800-year history of this House, since Magna Carta.

Since democratic reform is inevitable sooner or later, there are two ways in which this House can react to the prospect. One is for the House simply to turn its back on the idea of reform and wait, ostrich-like, until a future House of Commons imposes reform on it. The second course, which I argue is a much better option and which I seek to present in the Bill, is for the House to recognise the inevitability of eventual reform. We can take the initiative and design our own reform in a way that satisfies the legitimate demands of democracy, while preserving all that is best about our history, traditions and present arrangements. If we can do this, and pass our own reform Bill, it would be extremely difficult for those in the other place to then turn it down.

Let me explain how I believe this can be done. At the heart of the problem are two diametric viewpoints, and the fact that both are perfectly valid. From one, the House of Lords is seen as wholly undemocratic, based on privilege and patronage and entirely lacking in legitimacy. From this viewpoint, it should be abolished and replaced with a wholly elected Chamber. From the other viewpoint, the House of Lords is an institution that, either despite or because of the strange succession of historical accidents that have led to its present make-up, does a good and worthwhile job, contains an unrivalled wealth of experience and specialised knowledge, provides a platform from which people of outstanding achievement can deservedly contribute to the national debate, holds Governments and Ministers to account, and corrects the errors and omissions of the other place—and does all this with a traditional politeness and civility that is respected by the public in a way that the goings-on in the other place are not. From this viewpoint, for all these reasons, it should be left just as it is.

Not only are both these viewpoints valid, it is possible for one person to hold both simultaneously. It is little wonder, therefore, that the Blair Government failed to find an acceptable third way in an arithmetical splitting of the difference between the two views. For the abolitionists, a second Chamber would remain undemocratic unless it was wholly elected, while for the preservationists, no reform that involved expelling half or more of the present Members could possibly retain those features that they hold dear.

My Bill puts forward an entirely different approach. It would retain 100% of the present membership, except for the 92 hereditary Peers who were permitted to stay under the 1999 Act. It would allow for new life Peers to be created in the future with the right to sit in this House but, at the same time, would provide the reformed House with 100% democratic legitimacy. The key to achieving this apparently impossible reconciliation of opposites, and the compromise at the heart of my Bill, is that the life Peers and Lords spiritual would become full but non-voting Members of the reformed House. They would retain all their existing rights and privileges, except that of voting in Divisions of the House. It is a big concession, but it is absolutely necessary because nothing less will satisfy those who demand democratic legitimacy, including those who would rather abolish the House lock, stock and barrel. It is the price that must be paid by preservationists to preserve everything else, and to leave the abolitionists, once and for all, with no further case for reform.

There may be some who would argue against my Bill on the ground that it creates two classes of Member, voting and non-voting. However, the reality is that we already have two classes of Member: those who attend frequently, vote and partake in the business of the House—the so-called working Peers, many of whom are hereditary—and the remainder, who attend and vote less frequently or perhaps do not come at all. There is no exact definition, but between 200 and 300 Members of the current House would probably consider themselves to be working Peers—some more full-time than others. Under the proposals in my Bill, there would be 292 elected voting Members of a reformed Chamber, and current Peers would be eligible to stand for those positions without having to renounce their peerages. Elected Members would serve for an eight-year term and half would be elected every four years, so there would also be a four-year transitional period during which there would be 146 elected voting Members and 146 current Peers—perhaps those who had been most active over the previous years—who would retain their voting rights. It is not unreasonable to expect that most current working Peers who represent a party would be adopted by their party as candidates in those elections.

My Bill also provides that the group of Cross-Bench Members would be treated as a party for those elections, so present Cross-Benchers could also stand for election. It is quite possible that their group would be a popular option for many electors disillusioned with party politics. It is therefore likely that at least a significant proportion of the new elected Members would be current Peers, but with their voting rights endorsed by a democratic mandate. Those noble Lords who did not wish to stand for election as voting Members, or who did so unsuccessfully, would remain as Members of this House, with all their other rights and privileges intact.

The elections would take place using a regional list system, essentially the same as that used since 1999 for the election of UK Members of the European Parliament, but electing twice as many Members at a time. My reasons for choosing this system rather than any other are first, that it is a proportional system, and, secondly, that although it may not be the best or the most proportional of the many proportional representation systems available, it is the only such system that is already in use throughout the UK and, as such, is one with which voters, politicians and returning officers are already familiar.

I do not expect all Members of the House to agree with all the measures in my Bill. I believe, however, that the ideas contained in it have the potential to produce a reform of this House that would combine the preservation of the best features of the present Chamber with democratic legitimacy, which is essential if the House is to survive at all beyond the first quarter of this century. These ideas are certainly worthy of

serious debate and consideration, not just at Second Reading but in Committee, so that the House can look at the various provisions in detail, amend them if it sees fit to do so and make a serious attempt to design its own reform, rather than waiting for a future House of Commons to impose a version that we perhaps do not like.

Lord Forsyth of Drumlean (Con): Before the noble Baroness sits down—

Baroness Jones of Moulsecoomb: I have nearly finished. Perhaps the noble Lord would not mind if I conclude.

Some people have said that my Bill cannot succeed because it is like asking turkeys to vote for Christmas. If I may use the analogy without disrespect to my fellow Peers, the point is that reform, like Christmas, is coming whether the House votes for it or not. I am offering noble Lords a chance to vote for a vegetarian Christmas.

In conclusion, I have a confession to make. I did not write this Bill. It was written by Brig Oubridge, who, I think noble Lords will agree, has written a very fine Bill that is worthy of being passed into law. It has been through the Green Party conference and voted on as Green Party policy. I beg to move.

11.58 am

Lord Norton of Louth (Con): My Lords, my noble friend Lord Cormack had planned to speak in today's debate, but regrets that he is not able to be here as he is indisposed. As this is a Second Reading debate, I intend to focus on the principle of the Bill. Before I do, I want to comment on the extent of the views of the public on the issue of reform. There is a general assumption that people are keen to change your Lordships' House and I want to put that into perspective.

I would remind noble Lords of a Populus poll a decade ago which put different options on reform of the Lords. In respect of the proposition that at least half the Members of the House of Lords should be elected so that the upper Chamber of Parliament had democratic legitimacy, 72% agreed. On the proposition that the House of Lords should remain a mainly appointed House because that gave it a degree of independence from electoral politics and allowed people with a broad range of experience and expertise to be involved in the law-making process, 75% agreed in the very same poll.

Another poll a decade ago asked the public what they thought were the important factors in determining the legitimacy of the House of Lords. The most important was trust in the appointments process, with some 76% rating it as very important. The next was that this House considers legislation carefully, which 73% thought was very important. The third was that many Members are experts in their field; 54% thought that that was important. That the House acts in accordance with public opinion; 53% thought that was important. Only then do we get to some Members being elected by the public, which only half thought was important.

In other words, the public give priority to what the noble Baroness referred to in terms as "output legitimacy" rather than "input legitimacy". They would rather retain the functions of the present second Chamber than give priority to the election of its Members—and it is that principle I will focus on because the noble Baroness quite rightly distinguished between input and output legitimacy. I want to challenge the point about input legitimacy and make the case that one can argue for the existing House based on that very legitimacy.

It is all too easy to generate a scheme for reform of this House. Plenty of people come up with a pet scheme, often thinking that they are the first to propose indirect elections through learned societies or direct elections through regional elections when in fact they are only the latest in a long line of people who have thought of such a scheme. In effect they are starting at the end, not at the beginning. They do not begin from first principles. Why do we need reform—or rather, why do we need to introduce an elected second Chamber?

The proponents tend to take the reason as being self-evident—to some extent this was apparent in the speech of the noble Baroness—and, because it is deemed to be self-evident, they focus on the detail rather than seeking to justify the principle. Election of the second Chamber is offered as the democratic option. The problem with that is that it is not self-evident at all. It is possible to argue that an elected second Chamber is not necessary for the purpose of having a democratic political system. Indeed, I shall develop the case that having an appointed second Chamber actually helps to protect the accountability at the heart of a democratic polity.

Democracy is a contested concept, but if we take its roots, demos and kratos, we have rule of or by the people. It refers to a form of government other than that of monarchy or aristocracy. The key point is that it refers to a body that is to govern—one derived from the authority of the people. In essence, it is about how people choose to govern themselves. There are different ways in which they may choose to do that. We are too large a nation to have direct democracy, so we pursue a western model of liberal and representative democracy. In our system, people choose who is to form the Government though elections to the House of Commons. The party gaining an absolute majority of seats is invited to form a Government. The Government are then responsible for implementing their programme of public policy. Despite what some critics may say, parties in government do not have a bad track record of implementing manifesto promises. In any event, the people know that there is one body, the party in government, responsible for public policy and that the body can be held accountable for that policy. The people can reward or remove that party at the next election. We have what has been termed a system of representative and responsible government.

Our existing second Chamber, which is this House, does not challenge the core accountability that is at the heart of our political system. Ultimately, those elected by the people can get their way. In this House we focus on means, not ends. We are a complementary, not a competing, second Chamber. The United Kingdom thus get the benefits of a bicameral legislature without undermining the accountability that is at the heart of the political system. This House adds value by fulfilling functions that the other House does not have the time or the political will to fulfil, but without challenging its fundamental role in our political system.

[Lord Norton of Louth]

Electing a second Chamber, far from enhancing democracy, could undermine the very accountability at the heart of the political system. It would create a Chamber that might not necessarily be equal with the first but would have the basis for demanding more powers, as well as utilising the powers of this House that are presently not used. Election would kick away the rationale for the Parliament Acts. They might remain on the statute book, but the moral basis for them would disappear. Indeed, there is no reason why the noble Baroness's Bill should not include a clause repealing the Parliament Acts, because it removes their raison d'être.

An elected second Chamber would be in a position to challenge, and compete with rather than complement, the first Chamber, which we could no longer refer to as the elected Chamber. Conflict between the Chambers would, if experience elsewhere is a guide, have the potential to produce deals that would favour not necessarily the electors but parties or special interests, and could be agreed away from the glare of public observation. It would undermine the accountability at the heart of our political system. Electors would not know who to hold to account for outcomes of public policy. There would no longer be one body, the party in government, responsible for public policy.

I will quote my colleague Professor Colin Tyler, a specialist in democratic theory. Giving written evidence to the Joint Committee on the Draft House of Lords Reform Bill, he stated that,

"democratising one part of Parliament (the Lords) will reduce the democratic character of the whole (Parliament). And ultimately it is the democratic character of Parliament that matters, not the democratic character of its constituent parts considered in isolation from each other".

Thus I regard the Bill as being flawed in principle—and even those who do not are likely to find it problematic. It follows the Parliament (No. 2) Bill of 1969 in creating voting and non-voting Members. The criticisms of the proposal are as germane now as they were in 1969. On that occasion, the Labour MP Willie Hamilton tabled an amendment to remove the distinction between voting and non-voting Peers. He objected to the two-tier membership, summarising his key contention in a memorable phrase:

"It seems that a voteless peer would be as impotent as a castrated tomcat".—[*Official Report*, Commons, 19/2/69; col. 481.]

In his view there would be first-class and second-class Members. The noble Baroness said that we have that at the moment because there are people who attend and those who are not so regular in their attendance—but everybody is none the less equal in terms of their status in this place.

It is not clear what benefit would derive from having non-voting Peers, not least from the perspective of government. Ministers would know that they constitute no threat. We have enough difficulty as it is using the threat of voting against the Government to get a Minister to pay serious attention to proposed amendments. Having voting rights gives one a capacity for some leverage; without them, one is no threat to government. There is thus a serious debate to be had as to whether the provision for non-voting Peers should remain in the Bill. One could argue that one should either confer voting rights or remove the Members altogether from the House.

There are other provisions that clearly merit critical debate, but my detailed concerns can be pursued in Committee. My principal objection is that the Bill is built on weak foundations. Once those foundations give way, the edifice collapses.

12.09 pm

Lord Low of Dalston (CB): My Lords, it is always a pleasure to follow the noble Lord, Lord Norton, although I do so with some trepidation in view of his great authority in this area, as in many others. I declare my interest as a member of the House of Lords Appointments Commission, but make it clear that anything I say is in a purely personal capacity.

As we have heard, the main purpose of the Bill is to provide for a system of elections to the House of Lords. I have some fairly major reservations about that, but let me make it clear to the noble Baroness, Lady Jones, that that does not mean I am against reform. I am in favour of reform, just not this reform. But the noble Baroness has made a serious contribution to discussion of the future of this House with her Bill and I assure her that I take it seriously.

Before I get on to that, I shall mention a few points of detail. I am not sure that a membership of 292 will be enough to cope with all the work the House has to do. When the coalition's House of Lords Reform Bill went through Parliament, the Joint Committee considering it said that,

"a House of 300 members is too small to provide an adequate pool to fulfil the demands of a revising chamber, for its current range of select committees, and for the increasingly common practice of sitting as two units: the main chamber and Grand Committee … Accordingly, we favour a House of 450 members".

A range of views were canvassed, but the committee's view represented the consensus.

Then again, the status of Members entitled to sit and exercise the same rights as an elected Member but not vote is bound to give rise to questions. Indeed, it has given rise to a number from the noble Lord, Lord Norton. What are these rights of sitting and exercising the same rights as elected Members, except for voting? This suggests something more than just dining rights or using the Library. Will they be able to speak? The noble Lord, Lord Norton, assumes that they will. That would certainly be something new to get our heads around —although I suppose, by the side of elected Peers, it would be a mere bagatelle. On the other hand, the idea of selecting the 146 transitional Members on the basis of points allocated for the numbers of days they have attended, the number of times they have spoken and the number of times they have voted may have some attraction for the noble Lord, Lord Burns, and his committee.

Turning to my more major reservations, there are many reasons for being against elections as a means of recruitment to this House. First, it would tend to throw up the same kind of career politicians who stand for the House of Commons, not those with the kind of expertise and experience needed for a revising Chamber. If the same system were to be used as that

for electing the House of Commons, the Lords would tend to duplicate the Commons and thus not add value. As Sir John Major said a few years ago, if the answer is another 300 professional politicians, we are asking the wrong question.

Secondly, the Lords would soon become more politicised and lose many of the qualities for which it is currently valued: no single party holds sway; Members are more independent-minded; and debates are, as I think Wakeham put it, "Less adversarial, better tempered and better informed". In other words, the House of Lords has a more deliberative character, better suited to a revising Chamber.

Thirdly, there would be the possibility of turf wars at constituency level between MPs and Peers. When this was under discussion before, at the time of the coalition's Bill, a Cabinet Minister was quoted as saying:

> "If you're an MP faced with an elected senator in your constituency purring about in his Jaguar with a higher salary than you, going to all the hospital openings, but not doing the social security casework, you're not going to like it much".

I thought that put it rather well. If Members were elected using a regional list system, I suppose you could have several Members purring about in your constituency.

Fourthly and finally, if a variant of the present system were used, especially if it involved an element of proportional representation as the noble Baroness proposes, the Lords could soon begin to rival the primacy of the Commons. It is claimed that elections are more democratic. Indeed, we have heard it claimed this morning. The noble Lord, Lord Norton, has already shown that the equation of elections with democratic legitimacy is overly simplistic.

There is more to democracy than just being elected. From the standpoints of accessibility, openness and responsiveness, the unelected House of Lords is much more democratic. Organisations representing the needs of the poor and dispossessed find it much easier to get their point across and have it taken on board than in the House of Commons, which is much more politicised and dominated by the Whips.

As I have said, I do not favour election as the means of populating this House, but further consideration needs to be given to how Members are appointed. So long as appointment is based principally on a system of patronage, this House will continue to be vulnerable to charges of illegitimacy. I favour a system of appointment by an appointments commission, as at present, but greatly strengthened by a system of nominations from the different branches of civil society: the law, medicine, the arts, sport, education, the armed services, business, trade unions, the third sector and so on. Schemes of this sort are sometimes spoken of as a system of indirect election based on electoral colleges, but in truth they are more correctly thought of as a more broadly based system of appointment.

This is my idea, but a range of alternative proposals have been made in a similar vein. The best and most fully worked out scheme of which I am aware was devised by John Smith of Stamford in Lincolnshire. He proposes a system of indirect election from what one might call constituencies of expertise, with a general college for those not affiliated to any particular constituency and a parliamentary college for politicians.

I was pleased to see that both the Joint Committee on the coalition's draft House of Lords Reform Bill and the alternative report on that Bill called for further work on the question of indirect election. That would provide a framework for examining the various proposals made for strengthening the system of recruitment to this House. Once they have finished addressing the question of the size of the House, I hope the various groups looking at these things may agree to undertake some work on this issue of appointment. I like to think the Government might give some support to that work.

12.18 pm

Lord Beith (LD): My Lords, it is a pleasure to follow the noble Lord, Lord Low, even though I disagree with both his view on the role of democracy in the House of Lords and the picture he paints of what might be the necessary consequences of having more than one elected body in the country fulfilling different purposes. We have many elected bodies in this country, including local authorities. Their existence does not destroy the accountability of the House of Commons for those things for which it has responsibility.

I am very glad that we have the opportunity to discuss this topic today. That is our debt to the noble Baroness, Lady Jones. I should make clear that I am a member of the Lord Speaker's Committee on the Size of the House, which the noble Lord, Lord Low, mentioned, chaired by the noble Lord, Lord Burns. The task of that committee is to consider whether there are ways in which the size of the House could be reduced for which widespread agreement could be secured and which could be brought in relatively quickly. I commend to Peers the short consultation paper that the committee has produced, inviting them to give their views if they would like to do so. The Burns committee is not about fundamental reform of the second Chamber, such as the creation of a predominantly elected Chamber. It neither precludes nor advances such a change.

Fundamental reform was in the 2010 election manifesto of all three parties and the Bill to bring in a predominantly elected second Chamber received a Second Reading in the Commons with a majority of 338—that is on a scale comparable to the Article 50 vote on Monday. But that Bill was blocked from further progress by a minority of Tory MPs who were totally opposed to any elected second Chamber and who hold views similar to those of the noble Lord, Lord Norton, and by the Labour leadership, who were committed to reform but unwilling to support any timetable for the Bill, without which it could not be carried through.

We are now in a new situation. It would be an extraordinarily optimistic person who thought that we could get through legislation on Lords reform in a Parliament which will be overwhelmed by the vast corpus of primary and secondary legislation that will be involved in leaving the European Union. Perhaps the noble Baroness shares the tendency to political optimism which is often a characteristic of Liberal Democrats.

[Lord Beith]

Her Bill has many similarities with the coalition's proposals and with Liberal Democrat policy. It provides for what we regard as the essential ingredient of democracy while recognising that the second Chamber should be elected on a different basis from the Commons and on a different timescale. However, retaining all existing Peers except hereditaries as non-voting Members outnumbering the voting Members would produce a very strange assembly with obvious tensions. The noble Baroness may be making a massive concession before the process of negotiation has even begun in order to get turkeys to vote for Christmas.

However, the House of Lords will change in this Parliament, despite the impossibility of major Lords reform going through. It will change because of the repeal Bill—which I refuse to call "great". In any case, it is not a repeal Bill but a re-enactment Bill. I do not remember that the great Reform Bill was ever called "great" until after it had been passed—and some of its opponents probably still did not call it that.

The task facing both Houses, but especially the Lords, is massive. A huge area of law will be covered by statutory instruments and Henry VIII clauses, many of which will not have been discussed in the Commons. Transfer of EU law cannot be achieved without numerous consequential changes, with many matters of policy dealt with in secondary legislation. Alongside that problem, Governments will continue from time to time to threaten dire consequences for the Lords if this House causes the Executive any serious difficulty or inconvenience. These range from the various Strathclyde proposals to remove powers—on the shelf at least for the time being—right through to the creation of a large number of new Peers to give one party a majority, or even to abolition.

All this is extraordinary, given the resistance to reform. It must mean something. What are we otherwise to understand from some of the language used whenever the Lords threatens to exercise its ability to send a matter back to the Commons? Sir William Cash said in the debate in the Commons on Monday:

> "If the House of Lords were to attempt to stand in the way … it would be committing political suicide".—[*Official Report*, Commons, 31/1/17; col. 838.]

Quite what that political suicide consists of he did not make clear, but the language was not that different from the initial response of Ministers to the Strathclyde proposals when they were first published—even though there was some welcome pulling-back by the Leader of the House shortly afterwards.

The threats are constantly used and they come, extraordinarily, from those who we assume are not in favour of fundamental reform of the Lords but would be prepared to change it in circumstances where it posed them too much difficulty. The threats are used mainly when the House of Lords considers exercising its right and duty to ask the elected House to think again—usually about a specific subject within a Bill or statutory instrument. Such a role will be needed if some of the statutory instruments under the repeal Bill are used to make substantial policy changes which should be dealt with in primary legislation. If that happens, at some point the Lords will have to send something back to the Commons and demand that it be reconsidered.

It can be said that the Executive are getting the best of all worlds: a House of Lords which, if it causes Ministers any significant inconvenience or delay, is put on notice that it will be curtailed in unspecified ways. The fact that the House has no democratic legitimacy of any kind is used as the argument to prevent even the exercise of its traditional role of making the elected House think again. There is something ironic about the Executive threatening the Chamber with fundamental change when reform has been prevented by the two parties that have been in a position to bring it about and failed to do so.

In my view and my party's view, it remains impossible to justify the continuance of appointment and patronage as the predominant means of deciding who serves in the second Chamber of the legislature. That one of the two Chambers of our Parliament should be created almost entirely by patronage and appointment is unconvincing to any audience of British schoolchildren, let alone to visitors from relatively new democracies who have struggled to get rid of unelected power. The second Chamber should have democratic validity: not a mandate like that of the House of Commons, based on the most recent general election, but a system which ensures that its legislators are chosen by the people and serve for longer periods than a single Parliament, and that the second Chamber operates within the powers conferred by the Parliament Acts, recognising the primacy of the Commons. This Bill is an attempt to achieve that objective. Although it has defects and problems that will be discussed, it is an opportunity to launch that discussion again.

12.26 pm

The Lord Bishop of Norwich: My Lords, I wondered whether to speak in this debate, but since the Bill makes specific reference to the Lords Spiritual, it seemed important to give a view from these Benches. I am grateful to the noble Baroness, Lady Jones, for recognising the continuing place for Bishops, even if in an altered capacity—I will comment on Clause 12 in a little more detail later on.

We on these Benches are on record as being in favour of reform of your Lordships' House provided it enhances our existing role and function. There are two aspects of the Bill on which I wish to focus and which have already been commented on. The first is the principle of elections as against appointment; the second is the concept of non-voting Members of your Lordships' House.

The question whether we should have an elected or appointed House was addressed in great detail by the Joint Select Committee in 2011-12 which considered the coalition Government's abortive attempt at reform. Three points came out of that which are relevant here. The first is that an appointed House, for all its faults, knows its place. While a good deal of old-fashioned party politics brought the Clegg Bill down, progress was prevented, too, by the threat that it presented to the primacy of the House of Commons. I cannot help but wonder whether a second Chamber elected by a

form of proportional representation on a regional list system may seem to some to have an even greater democratic mandate than a Commons elected by first past the post. Secondly, the culture and independence of your Lordships' House would be bound to undergo radical change. As I read this Bill, I think that it is inevitable that the party Whips would become much more powerful, at a time when the public at large are much less wedded to political parties and even cynical about them. The presence of independent Cross-Benchers here at least means that Governments have to focus on winning arguments and not just votes. Turning the Cross Bench into a sort of party in itself seems to miss the point of the Cross Benches comprehensively.

Thirdly, where I agree with the noble Lord, Lord Beith, is that elections would appear to enhance the democratic legitimacy of your Lordships' House, although I understand the arguments put so powerfully by the noble Lord, Lord Norton. However, if legitimacy is achieved at the same time as a reduction in the breadth and depth of independent thought and expertise, there would be a diminution of quality, and Parliament and wider society seem hardly to be well served by that.

On non-voting Members, including Bishops, I have tried to get my mind round how it would actually work. The concept of a non-voting parliamentarian seems a bit like a car without wheels or a grandfather clock with the minute and hour hands removed—decorative but not much use. One might say that is also true for people who dress up in the Chamber as I have. The creation of two classes of Member, the empowered and disempowered, would surely lead to the latter being politely ignored. To misquote Groucho Marx, who would wish to join a House that would have them as such a Member?

The quality of membership in your Lordships' House is one of its great strengths. Behind each voice is a vote. A Bishop's vote is worth as much as that of a Cross-Bencher or even—praise God—a Minister. To be consigned to a state of permanent abstention is bound to have an impact on the contributions of the disfranchised. There would be something ridiculous about a Lord Spiritual introducing a Church measure for approval here and then being prevented from voting on it. The consequences of this would be considerable. All sorts of other things would unravel, whether by intention or not.

I hope that it is understood that Bishops take their role as independent, non-party figures here seriously. I hope, too, that our many links to faith communities and countless groups in civil society add at least something to our corporate deliberations. If the second Chamber is to evolve, perhaps we ought to examine how we become a place where even more diverse voices from civil society can be heard rather than simply the competing interests of the established political parties. That seems one of the real problems with the proposals in the Bill.

A recurring problem with Lords reform is that we keep putting the cart before the horse. Before the issue of those who sit here and how they come to be here is addressed, the question about what the House of Lords should do needs to be clarified. While I am grateful to the noble Baroness for addressing and thinking through issues of composition so thoroughly, I fear her Bill addresses membership alone rather than powers. We ought to look at the latter with much greater attention.

12.31 pm

The Earl of Caithness (Con): My Lords, here we go again on reform. We have already had Bills to reform the Lords from my noble friend Lord Elton and the noble Lord, Lord Grocott, and now we come to another Bill. The sadness of this Bill is that there are no Explanatory Notes. It was a great courtesy and help to the House that my noble friend Lord Elton produced Explanatory Notes with his Bill. There are none with this one but I am grateful that the Library produced an *In Focus* briefing which helps explain what the Bill is supposed to do.

First, the noble Baroness wants to fulfil her prejudice to get rid of the remaining hereditary Peers. I do not disagree with her on that. I have made my position perfectly clear: I am very happy that we hereditaries should go provided that the life Peers go as well and that we have a fully elected House. The Bill does not fulfil that wish.

Looking at it in a little more detail, we come to the election of the House of Lords. In Clause 3(1), the person who is elected will get a Writ of Summons. Presumably, that person then becomes a Lord. We will come on to that in more detail in a moment. As has already been mentioned, we then get two classes of Peers in the House. That is a recipe for total disaster. As I think everybody has said, one advantage at present is that we are all treated equally in this House.

Then one looks at what regions the noble Baroness proposes. I agree that the regional imbalance in this House is acute, startling and to the detriment of its working. Earlier, I proposed that the House should be elected on a regional basis but on the old county model, much more like the American Senate, so that Caithness would have one representative and so would London. That would be on a totally different basis to the House of Commons and would be more geographically diverse and much more representative. However, the noble Baroness proposes the same constituencies as for our Members of Parliament in Europe.

Of course, that leads to the question on which the right reverend Prelate ended: what is the purpose of this House? Why do we need to elect new Peers from Scotland, Wales and Northern Ireland when we do not deal with much of their legislation? This House has changed. It is a bicameral Chamber no longer for the United Kingdom but for England, with a little bit of work for the United Kingdom. As for our role, that needs to be examined because if the Government were to produce better legislation and the House of Commons act properly in being a revising Chamber, our role could be significantly revised, enhanced and improved. We could have a much smaller and more effective Chamber.

On numbers, I agree broadly with what the noble Baroness suggests. A House of 300 should be quite adequate for our revising work. This House worked extremely well 40 years ago with a smaller number of

[The Earl of Caithness]
Peers than take part now. We expanded our workload as more and more Peers came in but it would be quite easy to rationalise that back.

There is no mention of Cross-Benchers in what the noble Baroness proposes in her Bill. She said there would be a role: they can stand for election. However, in her submission to the Library's *In Focus* briefing, she says,

"there would be special arrangements to allow crossbench peers to stand as a group".

That does not appear in the Bill so we have a major contradiction there in the proposals.

Clause 12 contains one of the fundamental difficulties that we have faced, which the noble Lord, Lord Low, referred to: the power of Her Majesty to confer life Peers under the Life Peerages Act 1958. In fact, that is really a power of patronage for the Prime Minister. Whatever the reform of this House, that power must stop or change dramatically. It has been abused by three former Prime Ministers—Mr Blair, Mr Brown and Mr Cameron, the latter aided and abetted by the Deputy Prime Minister, Mr Clegg. They changed the constitution of this country and the workings and constitution of this House in an unlegislated manner. To allow that to continue is quite wrong.

This brings me back to my earlier point that the elected Peers will become life Peers because they will get a Writ of Summons. There is no provision in the Bill for such persons to be removed after they serve their term of eight years so presumably they become life Peers and are allowed to sit in the House with existing life Peers. If we do a little calculation, over the last 15 years the net increase in this House has been more than 10 Members per year. Let us round that down to 10 to be on the safe side. At the first election, we will get 146 new life Peers and we will lose 90 hereditaries. At the end of the four years, we will get another 146 new life Peers plus the 40—that is, the 10 appointed annually on the trend of the last 15 years. In only 14 years' time, in 2030, we will have 1,338 Peers in the House. Is that not a thought that fills us all with joy?

The noble Baroness said that it will lead to a full democratic reform but that is the one thing it will not do. It will lead to a complicated, potentially diverse, very unwieldy, undemocratic second House. As the right reverend Prelate said so well at the end of his speech, any reform of this House must be done to enhance our role and function. The Bill does not do that. I think the noble Baroness ought to think it out again.

12.39 pm

Lord Campbell-Savours (Lab): My Lords, before I make my general comments on the Bill, I will respond to two interventions, one by the right reverend Prelate the Bishop of Norwich and the other by the noble Lord, Lord Norton of Louth. The right reverend Prelate referred to the question of non-voting Peers. He might care to consider the fact that behind some votes there are no voices—ever. There are people who come into this House who have very good voting records but almost never speak. There are already two different categories of Member.

The noble Lord, Lord Norton of Louth, said that an indirectly or directly elected House would challenge the primacy of the Commons. It is arguable that this could be dealt with by the Oath that we take at the beginning of each Parliament, which could incorporate an acceptance of the constitutional settlement between the two Houses. He also talked about every Member having the right to vote. For me, the issue is very simple: do we need 800 Members of this place to vote on legislation? Arguably, we need half that number. Currently all these people are voting. In her Bill the noble Baroness has sought to begin the process of separating out the two categories of Members.

I welcome the introduction of the Bill because it complements my work on Lords reform. The noble Baroness is to be congratulated on her contribution to the work done by the Green Party in this area. Whereas the proposals in her Bill require legislation, I am advised that my proposals do not require immediate legislation, only resolutions of the House. I argue that reform must be incremental. I suspect that that is what is in the mind of the Lord Speaker in his initiative on reform.

I start in the belief that many Members of the House are fearful of reform. A brutal cull of the membership that abruptly disrupts people's lives would inevitably invite open hostility and opposition. We would be in denial if we failed to have in mind the extent to which self-interest will dominate the debate. My approach has been to secure a soft landing during the period of reform, taking into account restoration and renewal, which has not been mentioned today but which in itself will have a marked effect on the membership as the House is required to decant throughout Westminster.

Under my proposals, the House would have two memberships: a retained membership of between 450 and 500 and a residual membership of 350, making a total membership of 800—in effect, today's membership. The retained membership of 450 is a number drawn from the recommendations of the Labour Peers' Working Group on Lords reform and is also a recommendation made by the former Lord Speaker, the noble Baroness, Lady D'Souza. Under my proposals, 20% would be Cross-Benchers—90 Members elected from within their group; 70% would be party-affiliated—315 Members elected from within their party groups by fellow Peers; and 10% would be party-affiliated—45 Members in all, appointed as public appointees under the recommendation of the party leaders.

The retained party-affiliated total membership of 360 would be allocated on the basis of a general election result—in other words, a proportional House. The residual membership—a declining membership under my proposals—would comprise a maximum of approximately 350 initially, subject again to restoration and renewal, and the residuals would provide a pool of membership from and to which Members would transfer following general elections, dependent on the result. Both retained and residual Members could speak in all debates; table and speak to amendments; ask Oral Questions and table Written Questions; vote in Select Committees; vote in all House or party elections; and be Ministers or even Speaker. Only the retained

membership of between 450 and 500 would be able to vote on legislation. That is the ideal size of a future House. Perhaps colleagues can see my direction of travel. I am trying to create in the longer term that House which is of an ideal size.

There would be no distinction in the rights and treatment of the hereditary Peers in seeking election as retained Members or remaining Members of the residual groups. Everybody would be treated equally, although clearly the right to sit as a hereditary Peer would die away with the decline in the number of residuals. Group managers could offer guidance on the retained group membership, following discussions on individual preferences. A voluntary scheme could allow for transfer between retained and residual groups to cover periods of ill-health, lengthy periods of absence and the needs of the infirm who may have a particularly important contribution to make to the House. A defecting party-affiliated retained group Member could transfer only to the residuals and could be replaced by an alternate in the retained group.

I turn to the 10% politically affiliated public appointments. This group would comprise a transient membership. These could be Ministers who seek or need to return to their professions after what I would describe as their tour of duty. I am thinking of those such as the noble Lord, Lord Malloch-Brown, my noble friend Lord Darzi and the noble Baroness, Lady Vadera—those of this world who do not come to the House so much because of the nature of the work they carry out. There would be more as well, and they play an important role in the House's affairs. This group provides the pool into which party leaders could feed Members needed for special responsibilities. They could move to the wider retained group and residuals, as and when opportunities arose and with the approval of the respective groups. Some colleagues have suggested that the group of 10% political public appointees should be retained in the longer term, in addition to a retained group of 450, which would take the House to nearly 500.

I now return to reducing the size of the House. The House reduction process, which is part of the remit set out by the Lord Speaker in the document to which the noble Lord, Lord Beith, referred, would rely on: resignations; retirements; deaths; movements to the retained group following general elections; and a process whereby for every two Members leaving the House there would be only one new appointment—it would be "two out, one in". This formula could be flexibly interpreted or amended. Finally, in the reduction process there could be an interparty agreement on an accelerated reduction in Members but, in my view, this will be possible only when the pressure on Governments to top up their Benches to secure majorities on legislation is finally brought to an end. The problem is that Governments come in, as this Government have, and the first thing they have to do is start appointing simply to secure majorities in the Division Lobbies.

The proposals that I make create difficulties in certain circumstances as, after a general election, pre-election retained group Members may have to transfer to the residual group, potentially increasing the House's total membership, as their party will have lost seats. This could undermine the process and speed of House size reduction. There are different options open to us to deal with this problem. Some Members may be prevailed upon to retire, or the House might agree to a temporary slowdown in the process of House reduction. Another option could be extraordinary elections in the residual group—in other words, a cull. I have tried to avoid this, but it would be a very minor cull in those extraordinary conditions. Others have talked of an age limit, which in my view is too blunt an instrument, or even retention on the basis of attendance.

Another problem arises where a party's retained group membership is substantially cut after a general election, leaving an inflated residual group. There would need to be a requirement whereby the residual group's membership would never be allowed to exceed the retained group's membership, unless the House directed otherwise. I am thinking here of where a party is almost wiped out in a general election. My scheme reflects the reality that only the retained membership would be proportional to general election results.

Another problem is that in proposing a retained core House of between 450 and 500, circumstances might arise where an insufficient number of Members were prepared to take on the responsibility of retained membership. Everyone has assumed that in a two-tier House, all Members would want to be people who voted, but that would not necessarily be the case. Some people might simply want to come in and advise us, and then not necessarily vote. In these circumstances, it may be necessary to appoint newly created Peers to the retained group and offset the increase in overall membership with a more vigorous management of the House reduction process.

In conclusion, what appears complicated is actually quite simple. I have lived with this scheme as it has developed over the last 12 months and, at the end of the day, it is quite simple. The core House of retained Members would be proportional. Post-election top-ups to avoid government defeats would be ended. A major cull and the disruption that it entails would be avoided. It would open up opportunities for minority party membership of the House. The Cross-Benchers, incorporating the Bishops, would survive. The right for political parties to appoint from the Commons and outside following general elections would survive. A differential remuneration scheme with an appropriate expenses scheme could be introduced, possibly saving public money. A severance scheme would be avoided. We would preserve a talented membership, admittedly not always with the right to vote—I think here, for example, of the Liberal Democrats being routed at the last general election. The House would steadily decline over a number of years, although it is difficult to calculate the rate of reduction with restoration and renewal in mind. The hereditaries would survive in conditions of equal treatment, but not necessarily as hereditaries in the longer term. Whatever solution we finally come up with, it will need to be stress-tested.

The bit of the jigsaw that I cannot get my head around is what happens at the end of the reduction process when the House reaches the final target of 450 or 500 Members. Regional lists have been proposed, perhaps initially drawing on the existing membership, as have national

[LORD CAMPBELL-SAVOURS]
lists, similarly based, perhaps topped up by regional membership. We have proposals for constituencies of expertise or wider groups of professions. Some people have argued for 15-year terms, about which I am not convinced. I see no reason why my noble friend Lord Hunt of Kings Heath, who has 20 years' experience, should be denied membership of the House, or the noble Lord, Lord Wallace of Saltaire, who has 22 years' experience, or the noble Lord, Lord Forsyth of Drumlean, who has 17 years' experience. I cannot see any reason why people of that calibre should be moved on. Some Members deserve a soft landing.

Some commentators flirt with the idea of an elected senate. I suspect that such notions at this stage are, sadly, for the fairies. That is a debate for the future, but we need to be on our guard. As membership of the House falls in numbers and more accurately reflects general election results, it will be argued that the House acquires a new legitimacy. The more legitimate we are, the more likely we are to challenge the primacy of the Commons. That is a position that we need to avoid at all costs, and the retention of a substantial Cross-Bench component of Members should help to defuse arguments by any who call for increased powers.

My contribution to this debate has perhaps been a little lengthy. I provide no more than a framework on which to build. I hope that the Lord Speaker's group will consider my direction of travel and I hope that it will consider my proposal.

12.54 pm

Lord Scriven (LD): My Lords, I am pleased to follow the noble Lord, Lord Campbell-Savours, who, in his own way, has tried to bring clarity to a very complex situation in House of Lords reform. I thank the noble Baroness, Lady Jones, for bringing this Bill forward. It is very important, and I will explain why in a moment.

I shall preface my comments by saying that noble Lords and this House do some very good work. Since I have been here—I am one of the newer Members of this House—I have often been asked how I would describe the House of Lords. I say, "A vacuum cleaner". People look at me rather strangely, and I say, "Because it cleans up a lot of dust and dirt in the legislation that comes from the other place and passes it back much cleaner and with much more clarity".

However, being a good vacuum cleaner is not good in terms of a modern, outward-looking, functioning democracy, and therefore I shall start where the noble Lord, Lord Norton of Louth, started. There is a matter of principle here. In a modern democracy, the people should elect those who make, reform and review their law. It is a matter of fundamental principle. I noticed that in quoting what the public want the noble Lord, Lord Norton of Louth, used statistics that are a decade old. I shall bring to his attention and that of the House the fact that there are many newer surveys. A Survation poll in 2015 showed that only 12% of those polled supported the status quo of a wholly or predominantly appointed House. Another poll done in the Midlands in 2015 showed that 52% of the electorate said that they wanted a wholly democratically elected House and only 28% said that Members should be appointed by experience or knowledge. An i-Say online poll in 2014 showed that 60% of respondents wanted a wholly democratically elected second Chamber and only 34% wanted the status quo.

Lord Norton of Louth: The noble Lord is quite right that if citizens are offered a dichotomous choice, that is what they come up with. That is fairly consistent. When they are given a range of options, not least between input and output legitimacy, you tend to get very different views. It all depends. My point was that it depends on how you phrase the question.

Lord Scriven: Indeed, the noble Lord is correct. When you give the public a loaded question, as in some of the examples that he gave, the response is the same. All I am pointing out is that using data that are 10 years out of date does not help the debate.

That comes to my other point which is about expertise. Sometimes the expertise in this House is up to date and very good, but sometimes it might not be up to date.

When we talk about that matter of principle and what the public say, it is quite important that we understand that there is a need to see what they are saying. I came here because of what happened when the coalition Government tried to reform the House of Lords. I did not want to be a Member of your Lordships' House until then, but when I was asked by the then Deputy Prime Minister, Nick Clegg, I said yes because I genuinely believed in the concept and principle that this House should be democratically elected. I took the view that it was all right for me to be outside the House saying that, but sometimes you have to step up to the plate so that your vote counts and you can make the reform that you wish to make. I have to say that my opinion has been strengthened since I have been here, even though I do see some good work in the House.

It is quite strange that in 2017, in a modern democracy, we have a House of patronage and privilege. It is quite amazing. Our approach until now has been to tinker, and although I respect the work that the Lord Speaker's committee is doing and the view of the House that we should reform, it is tinkering with what for me is fundamentally wrong with the House in terms of principle. It is like looking at a modern highway system, where people are talking about using electronic and driverless cars, while we are talking about which different carriage to put on the horse. It is not appropriate just to talk about reducing the numbers in the House. The Bill puts the concept of democracy and an elected House very much in the spotlight, and that is why I support it.

However, the Bill can be improved. I shall not go over arguments that have already been addressed, but I feel that having a group of Members who are not elected but can stay here causes problems, in terms of both size and logistics. That part of the Bill needs looking at again. I also want to mention the voting system itself. This is where, as a Liberal Democrat, I put my anorak on and start talking about different proportional systems. Your Lordships would expect a Liberal Democrat to do that, but I believe that the voting system in the Bill needs to be changed because, as a lot of people say, the list system gives power to the

parties rather than the electorate. It is the party that decides where and how somebody goes on the list, and therefore it is more or less a party choice who gets there. I support the multi-member single transferable vote system, because that gives real power to people to have a choice—not just of one person but of a number of people who they might wish to give a preference to. They can choose between parties and between party and non-party. If someone has an expertise in or relevance to that region, people can choose them and have the power to rank them. The make-up of the House would be very different and there would be less power in the hands of the parties than if we stuck to the list system. It would allow the electorate to have a voice in giving a preference to people who were not just on the party list. I support that.

Another issue that keeps getting raised is the power of the House, and the suggestion that there will somehow be a constitutional crisis if the House is democratically elected. Let us be very clear: if the House was democratically elected, there would not be a constitutional crisis around the breakfast tables in Sheffield, Sunderland or Southend. The world would continue. The evolution of our democracy and this House would continue. That is the way that we work. This democracy and this Parliament do not sit in isolation, and there are many examples across the world of bicameral institutions where the second Chamber is elected. There is an extremely good study by UCL which looks at them. There are 58 Parliaments across the world with a second Chamber, and 24 of those are directly elected—24 out of the 58. Are we saying that across the world there are 24 Parliaments that cannot and do not function, do not have rules about checks and balances, and cannot do things? The two Parliaments that always get talked about in terms of deadlock are those of Italy and, particularly, the USA, but interestingly, those are the two Parliaments specifically where the second Chamber either has equal powers or, in the case of the US in some areas, more powers. That is what creates that deadlock. No one here is talking about significantly changing the powers of this House in terms of being a reforming and revising Chamber. I agree with the right reverend Prelate the Bishop of Norwich that we will have to look at some powers within that but I am not of the view that this creates either a deadlock or a constitutional crisis, and examples around the world prove that to be the case.

In fact, I argue that this might naturally strengthen democracy, as the democratically elected second Chamber could flex its muscles accordingly. Since I came to this House, I have been amazed by how many times this House backs away from acting on a matter of principle because it is afraid of what the other House might say. If we had a democratically elected House, with very clear powers, as I have explained exist in 24 countries around the world, that would give us the flexibility to flex our muscles appropriately and prevent a democratically elected dictatorship through the Executive being able to get their will when and how they it want in both Houses of this Parliament. I think a second elected Chamber could increase democracy, hold the Executive more to account and give the voice of the people a greater say in their democracy.

I shall come back to one other issue before I wind up. By having a second elected Chamber, we would have a whole new cadre of career politicians. As I said, with STV that would not necessarily be the case, but I would also like to look at a right of recall. I support a limit of one term; we can argue over whether it should be eight, 10 or 15 years. I support the idea that there needs to be accountability in the Bill. If there is to be just one term, there has to be some right of recall if someone does something wrong, so that even within that term the electorate can have the person they elected recalled. Their elected representatives cannot just do what they want when they want without having some accountability to the electorate that they serve.

I support the general thrust and principle of the Bill. As I have said, it could enhance the democracy of our Parliament. It could still mean that we had a different voting system and a mixture of people in this House. For me, it is a matter of principle that it is accountable, elected and answerable to the people we serve and make laws for. It could also hold the Executive more to their mandate than this House does at times because it is afraid to flex the muscles that a democratically elected second Chamber, within the powers specified, would have.

1.07 pm

Lord Brown of Eaton-under-Heywood (CB): My Lords, an awful lot of water has flowed under Westminster Bridge since the Bill had its first reading on 26 May last year. What nine months ago may have seemed an interesting, imaginative and perhaps even sensible set of proposals now seems, I suggest—if the noble Baroness, Lady Jones, will forgive me for saying this—rather less so. We all know the concept of a probing amendment but I would say that this is rather like a probing Bill, and it can best be viewed surely as no more than a means of encouraging, if we need encouragement, yet further thinking about the direction we want this House take.

Now that we have a Lord Speaker's committee, chaired by the noble Lord, Lord Burns, looking into the whole problem of size, which I suggest is our core problem reputationally, the Bill can take its place as a response to that committee's consultation paper—precisely, indeed, as the noble Baroness suggested in a helpful letter that she circulated last week. I suggest, though, that although the noble Baroness is to be commended on advancing this as yet another of the many schemes advanced down the years by thoughtful Peers recognising that we are an un-ideal body and intent on trying to look constructively ahead, it is not a Bill that could ever command the consensus approval of this House.

For my part, with the best will in the world, I cannot support much of her approach. There are many provisions within it with which I profoundly and fundamentally disagree, but others have already made most of the points that I wished to make, and I deplore mere repetition. I put on record my support for the fairly well-known approach adopted by the group of the noble Lord, Lord Cormack, the Campaign for an Effective Second Chamber, in which the noble Lord, Lord Norton, plays a huge part. His magisterial analysis and discussion of the Bill said much, if not all, that needs to be said. Perhaps at this point I should

[Lord Brown of Eaton-under-Heywood]
simply adopt the response to the Bill that he suggested and sit down—but I will make just one or two very brief points.

First, like most noble Lords—although not, alas, the noble Lord, Lord Scriven, and one or two others on that side of the House—I could never support an elected House, whether or not, as proposed here, there were second-class non-voting Peers sitting and speaking alongside the elected elite. I share the view of those who regard an elected House as the worst of all possible worlds. The Chamber would lose much of its talent. It would surely have few experts. Many on the Cross Benches would not dream of standing for election. Instead, a body of Peers who would then have acquired more obvious democratic legitimacy would inevitably be vying with the other House for real power.

Surely we are most valuable if we remain as a House of elders. That is what we are: we bring the wisdom of age, experience and expertise to the issues of the day and to the scrutiny of legislation, which emerges in increasingly defective form from the other House.

Lord Scriven: I appreciate what the noble Lord says, but does he accept that in a technologically fast-moving world we need not just the expertise of elders? Younger people understand this world far better, and their expertise is needed.

Lord Brown of Eaton-under-Heywood: I applaud the appointment to this House of people such as the noble Baroness, Lady Lane-Fox. If that meets the noble Lord's point, so be it. Of course I do not suggest that you have to be quite as old as I am to justify your place in this House.

My second point is a narrow one on Clause 1. I am not a hereditary, but as I understand it, Clause 1 adopts an altogether more dramatic, radical and draconian approach to hereditaries than the Bill of the noble Lord, Lord Grocott, and is altogether less appealing. We are looking to try to achieve consensus in this House. This is hardly the way forward to consensus.

Thirdly, the points system for determining transitional Members set out in Clause 11 is, to my mind, deeply flawed and objectionable. I very much hope that the committee of the noble Lord, Lord Burns—the noble Lord, Lord Beith, who is a member of it, is here—will not be in the least degree tempted down that road. Do we really want to encourage all Members to speak? Some, for my part, I would rather discourage—although, I hasten to say, none who are present in the House today. What constitutes speaking? Is it a supplementary question during Question Time, an intervention during a debate, supporting an amendment in Committee? On voting, what about a conscientious abstention, where the Member, having listened intently to the debate but being unpersuaded of the correctness of either side, abstains?

I happened to listen to the debate about HS2 earlier in the week, and for the life of me did not feel that I knew enough to be able to take a view on either side, so I abstained. That would count for nothing—but does it count when Division Bells ring and somebody emerges from a deep sleep in the Library to vote as whipped, asking what he is voting on as he comes into the House? Do we really want to go down that road?

If I may be allowed the briefest of digressions, I would rather support a Bill that provides for unwhipped Cross-Bench votes to count for double—although I might include in the Bill a provision that a vote by a party member against his Whip should count for three times. But put all that aside. When I first read the Bill, I confess that it put me in mind of one of our Victorian statesmen—alas, I forget which one—whose reaction to a suggested reform was, "Reform, reform—good God, man, aren't things bad enough as they are already?". For my part, I would suggest that things would be a great deal worse if we adopted this proposed Bill. For my part, I would not progress it, or even give it a Second Reading.

1.16 pm

Lord Selsdon (Con): My Lords, I suppose that I should say that I am among my Peers but I am not quite sure why I am here. It all happened one day when I was working in Brussels and someone came up and tapped me on the shoulder and said, "My Lord, could I have a word?" I said, "I'm not my Lord, I'm just me". He said, "I'm afraid I've got some news for you. Your father died off the Azores this morning at sea and has been buried. You are now Lord Selsdon". It was quite a shock. I was young, I had not met many Lords and I did not know what they did. I waited, thinking that someone would write to me—but no. But then I was grabbed one day by the Leader of the House, who said, "You haven't taken your seat". I did not know what taking my seat was, because I had never been trained; there was no briefing. So it was into that rather nervous background that I came to your Lordships' House.

I have been drip-fed by geriatrics over a long period of time—30 years—and the knowledge that I have gained is enormous. I cannot determine, because I have never been able to vote—I was too young to vote. All I can say is, "You get the Government that you deserve". So here we are now with people looking at the great reform.

Something that I thought I would do was to see how one could learn about the House and the quality of the people in it. So we set up a programme with students to ask if people would like copies of their speeches bound up in red vellum to show to their children and grandchildren thereafter. Surprisingly enough, a lot of people took that up; during the summer season we took young students, shoved them in the Library and gave them a laptop and said, "Will you do the search for this?". What I realised was that the House did not know very much about itself, let alone very much about the individuals—unless they had been together in the Commons. So we did these analyses and then it was suggested that people might like copies of their speeches, if we could get students to come in the summer and put them together. That took place—we called it Excalibur, like getting a sword out of a stone.

All this time I have been extremely grateful for the knowledge that I have gained. I have been treated kindly by even the most extreme people from Governments around the world, because in the world in which I worked I was young enough to be expendable and therefore spent an awful lot of my time in countries that nobody thought you should ever go to, such as different parts of the Middle East or Africa.

As I sit—or rather stand—here in my later years, I have been looking to see who the key players are, and I have suddenly realised that the problem that we are facing is that someone has shoved an awful lot more people into this place and into the other place than one would have thought was suitable when they are untrained. I am not objecting to the power of the Prime Minister to be able to nominate people, but it would be nice if we knew who they were, and the reasons behind it.

As I sit down, I say that I think we have got somewhere today. I have thoroughly enjoyed it. I am not sure that I can put names to faces any more. We never used Christian names—or given names, as they are sometimes called—in order that you did not have to know whether the father was dead or not. I do not want to waste noble Lords' time. I am shoved at the bottom because I am expendable—but I thought that we would finish easily before 1 pm so that everyone could have their lunch.

1.19 pm

Lord Trefgarne (Con): My Lords, I apologise for not putting my name on the list of speakers; I will detain your Lordships only for a few moments. I am not opposed to reform of your Lordships' House in principle, nor am I necessarily opposed to some form of election to membership of the House, but I rather think that this Bill suffers from a number of shortcomings, laudable though its objectives may be. Those shortcomings can no doubt be directed and considered at further stages, but I suspect that this Bill will not find its way on to the statute book, which the noble Baroness, Lady Jones, no doubt regrets.

1.20 pm

Lord Elton (Con): My Lords, I also apologise; I had no idea whether I would be able to get here today until late this morning. I intervene only very briefly to draw your Lordships' attention to the principal reason, in my view, for not having an elected second Chamber. It was demonstrated in this House on 10 and 11 March 2005. The noble Lord, Lord Beith, was at the other end of the corridor then, I think, and will know exactly what I am talking about. The Government of the day had proposed that the Home Secretary of the day, and all subsequent Home Secretaries, should have the power, after talking to one chief officer of the police, to send anybody whose name he wrote on a piece of paper into confinement for 90 days without access to any form of legal advice or legal authority, let alone habeas corpus. At that time, the Government had a majority of more than 100, I think, in the House of Commons and the distaste that the Commons had for it was demonstrated by the fact that the majority on Divisions on that issue was 14. On 10 March 2005, this House met at 11 am and discussed Questions, I presume, until 11.35 am. Thereafter, it sat until 7.31 pm on Friday, on Commons Questions. In the end, this House prevented the other House from allowing the Government to put into statute that very anti-democratic piece of legislation.

The difference between the two Houses then was that the other place was elected, paid and could, by deselection, be sacked, while this House was not elected, not paid at all and could not be sacked. The reason that the other place was under the thumb of the Government was the power of the Whips. The Whips are powerful both in opposition and in government and they rotate, so they are a danger to democracy on either side of the House. This House is free of that danger and, on that occasion, did its job of protecting democracy for the electorate. That is what I think we should continue to do, and it is not supported by having an elected Chamber.

1.23 pm

Baroness Smith of Basildon (Lab): My Lords, there is always a sense of déjà vu in these debates and, today, I think the prize for originality goes to my noble friend Lord Campbell-Savours for the proposals that he put forward. Some of the speeches that we have heard made a case for radical reform more than others—some, perhaps, unintentionally so. I always think there is an irony that when the Government talk about Lords reform, they often do so in terms of looking at the powers of your Lordships' House—it was appropriate that the noble Lord, Lord Strathclyde, came to the Chamber at that point—yet, when your Lordships' House looks at the issue, it is often in terms of composition and who should be a member of the House.

I am grateful to the noble Baroness, Lady Jones, as she has obviously given this Bill a great deal of thought. Even though I think there are some confusing outcomes, I have been grateful for her explanations. However, as far as most people are concerned, there is a bit of cynicism about the House of Lords making any great changes. I do not think that the noble Lord, Lord Norton, was making a point about one case as opposed to another. It is just that if you ask different questions, and you ask them in a certain way, people agree or disagree on the basis of the question that is asked. However, when you ask people whether the House of Lords will be reformed, the answer is often, "Well, that'll be the day", in the words of the great Buddy Holly, the anniversary of whose death is today. There is cynicism with regard to any great change taking place.

For me there are two key tests. The starting point for any debate on Lords reform is the role of this House in our parliamentary infrastructure. The second point to consider is the role and function of this House. We need to consider whether any change or reform enhances that role or diminishes it. As noble Lords have said, we operate as part of a Parliament, not independently in a vacuum. Members of an elected second Chamber would undoubtedly claim greater legitimacy and authority. The noble Lord, Lord Forsyth, is not in his place but I apologise to him again for agreeing with him. He made the point in a previous debate that if he was standing for election to a second Chamber, he would not knock on doors and say, "Please vote for me so that I can take part in debates and advise the House of Commons". If Members are elected to a second Chamber, they will want the authority and legitimacy which come with that election. The House of Commons has primacy as an elected Chamber. Its directly elected Members of Parliament represent individual constituencies. We have seen the value of that this week in relation to the Brexit vote. The lobbying of MPs was straightforward. The constituents

[Baroness Smith of Basildon]
who wanted to make their views known knew who to contact and how to contact them. Indeed, the postbags of most MPs comprised thousands of letters, emails and phone calls.

The Bill proposes a certain model of election but does not address any of the issues of function or the relationship with the other place, or how its proposed changes would impact on our constitutional arrangements with the Commons. I have always found it hard to understand how an elected second Chamber, with the legitimacy and authority that that confers, could then argue that the House of Commons had primacy. I listened carefully to both the Liberal Democrat speakers on this issue. I think there is a contradiction in their position. On the one hand, we heard that an elected second Chamber would better challenge the House of Commons and the Executive. I think that one noble Lord said that we would not be afraid to flex our muscles. I do not think that it is a case of this House being afraid to flex its muscles. I see the noble Lord, Lord Strathclyde, looking at me as I say that because he thinks that we have flexed them a little too much. However, we are an unelected House and that imposes limitations on what we are able to do. It was also said that if this House were elected it would not challenge the primacy of the Commons. It has to do one or the other. It either flexes its muscles or it does not. An elected second Chamber either challenges the primacy of the Commons or it does not. You cannot have it both ways.

I think the issue is about democracy, and we have debated this a little. This House is not democratically elected—that is a matter of fact—but we have a democratic function. Challenge and scrutiny have an essential role in any democracy. Therefore, when we are considering changes of this kind, we have to ask what impact they will have on our ability to challenge and scrutinise. Will these changes improve that democratic function or diminish our ability to fulfil it? The noble Lord, Lord Elton, discussed this issue. I hesitate to contradict him but I suggest that democracy is a process, not a one-off event. We have seen the result of the Brexit referendum where a decision was made. However, that decision on its own does not represent democracy; it is part of the process of democracy. I am extraordinarily disappointed at some of the hysteria that is whipped up when any noble Lord dares to ask a question, make a point or suggest that a minor change could be made to government proposals. The reaction to that seems to suggest that somehow we are not fulfilling our democratic function and that we are a constitutional outrage. If democracy is to be fulfilled as our debates on Brexit progress, it can be done only if there is ongoing scrutiny as part of that democratic process. A one-off decision does not represent democracy; process, scrutiny and challenge do.

I therefore have a few questions directly on the Bill. The first point is on the removal of hereditary peerages. I share the views my noble friend Lord Grocott has expressed eloquently on a number of occasions, that the hereditary Peers' by-elections are a nonsense, and it brings no credit to this House when they take place. I remember attending a delegation with the noble Earl, Lord Courtown, a hereditary Peer who was elected to this House at a by-election. I said, "My name is Angela Smith, Baroness Smith, and I am an appointed Peer in the House of Lords. This is Lord Courtown, a hereditary Peer, who is elected". Try to explain that to somebody from another Parliament, amidst all kinds of confusion.

Few in this House now, apart from some exceptions, are aware of who our hereditary Peers are. There are some who are obvious, but we are talking about 92 hereditary Peers. How many of us in your Lordships' House can now name all of them? I struggle to name the hereditary Peers on my Benches, and the reason is that we do not distinguish. They are here and they do a job of work. But that does not mean that they should in future be replaced by somebody of the next generation. There should be an end to the by-elections.

In Clause 2 the noble Baroness, Lady Jones, talks about different classes of Peers. I thought that her example, that we already have two classes because some turn up and some do not, was perhaps not the best one. Hereditary Peers might have been a better example, because all those Peers have equal weight. However, it would be difficult to have different classes of Peers in the same House, with different rights and abilities to vote. I retain the view that all Peers in your Lordships' House should be equal and have equal rights. That is why I have criticised Peers who have been sent here by the Government, who can vote but not speak on issues because of their employment by the Government.

Perhaps when the noble Baroness winds up, or in Committee, she could explain why she has chosen different voting systems for Northern Ireland and the rest of the UK. We do not elect MPs differently, so I do not understand why we would elect Members of the second House differently. However, my fundamental point is a different one.

I said at the beginning that a test of proposals is whether they improve or reduce the role of challenge and scrutiny. One of the great strengths of this House, as we have heard, is the relative independence of Peers, even within parties, and the role of the Cross Benches. I say to the noble Lord, Lord Elton, and the noble and learned Lord, Lord Brown, that having been a Whip in the other place and in this House, I wish that Whips had half the power that some noble Lords seem to think they do. The option that the noble Baroness includes in her Bill of having a party list, where the parties choose the candidates, and if you vote for the party, the candidate at the top of the party list will be elected, seems to run against everything this House does. One of its great strengths is the relative independence of Peers. I fail to see how a proposal that introduces a party list system can enhance the role of scrutiny. If an individual wishes to be re-elected or even stand for election in the first place, they are likely to need to please their party hierarchy to get on the list, Therefore I find the party list proposal contrary to what the noble Baroness is trying to achieve in her Bill, which is greater scrutiny and challenge.

I also worry about the role of Cross-Bench Peers. I do not understand how it is possible for them—they can advise me better than I can express it—to stand as a party for election on a party list. They are independent, and on any one occasion they can vote three different

ways: abstain, vote for or vote against. There is no Whip or party cohesion, which some of us try to achieve in our own party groups. Because Cross-Benchers would not stand for election—that is not in the Bill, although it is in the Library Note, and the noble Baroness helpfully said that in her speech—instead of replacing them, there would be a long, winding road to their demise, as they gradually stopped being Members of your Lordships' House.

The other point that I want to raise concerns Clause 10 and the proposed eight-year election period. I am never convinced by long terms of office. I am uncomfortable with the idea of fixed-term Parliaments, as I think they give more power to the Executive than they do to Parliament as a whole. We recall that the Chartists argued for annual elections to improve democracy. I am not sure that I would go as far as that but I consider eight years to be too long, although it is not as bad as the proposal from the former Deputy Prime Minister, Nick Clegg, for 15-year election periods, which would have provided no accountability because it involved no re-election.

Finally, I do not think that the transitional arrangements take into account any party-political balance. We are a party-political Chamber in part—we have the Government Benches and the Official Opposition Benches—but there are no guarantees that under the transitional arrangements there would be any recognition of that party-political role and that Cross-Bench Peers would ever be replaced.

None of us should ever consider that this place remains set in aspic and that, if we do nothing at all and just sit back, the question of reform will just fade away. It will not and should not. My noble friend Lord Campbell-Savours spoke of the value of incremental reform. I think that sensible, genuine proposals for reform that will bring about changes and will therefore be effective will come from this House, and this House has to show leadership in that regard.

There are two issues concerning the current state of your Lordships' House. One of the most pressing issues for us is the size of the House, and a committee composed of Peers from all sides of the Chamber is currently meeting to discuss that. The second issue is the Bill of my noble friend Lord Grocott on hereditary by-elections. I am sure that today the Minister will say something like, "We don't like this Bill but we're not against reform". If that is his message, I make a plea to him to accept an incremental reform by supporting my noble friend's Bill. It would not bring about great change but would signal that this House understands that it is part of a wider process of change.

1.36 pm

Lord Young of Cookham (Con): My Lords, I start by thanking the noble Baroness, Lady Jones, for introducing this Bill, which has provoked yet another interesting, provocative and high-quality debate on the future of our House. It is the third such Bill in the current Session, and I thank all noble Lords who have taken part in the debate.

I start by placing on the record that the Government recognise the value of this House and the vital role that noble Lords play in scrutinising legislation and holding the Government to account. In his powerful speech, my noble friend Lord Norton produced clear evidence that it is not just the Government who think that the House does a good job; the public agree that the House of Lords performs its function well.

In mentioning my noble friend Lord Norton, I pay tribute to the work of the Campaign for an Effective Second Chamber, which I attended until I was barred from so doing. It has done sterling work in trying to find a consensus, and I am sure that it will submit its own proposals to the noble Lord, Lord Burns. It suggested the cross-party committee that the Lord Speaker has just set up, to which I will refer in a moment.

The Government are not unsympathetic to the aims of the noble Baroness's Bill, which would introduce elections to the House of Lords—a measure that was included in each of the three main parties' manifestos at the last election in some shape or form and in favour of which I spoke many times in another place when I was, as the noble Lord, Lord Low, said in somewhat disobliging terms, a career politician. However, the Government are clear that comprehensive reform of this House is not a priority in this Parliament.

Noble Lords have debated numerous Bills to reform this House, including two other Private Members' Bills in this Session alone, but none quite like the Bill before us today, as the noble Baroness herself said. The Bill makes provision to introduce elections for 292 Members of this House to sit and vote. The noble Lord, Lord Low, pointed out that that is fewer than the 450 proposed by the coalition and he explained why it might be too low a figure.

Although life Peers and the Lords spiritual would remain Members of this House, they would no longer be entitled to vote, and the 92 excepted hereditary Peers would be removed altogether. However, taken as a whole, the Bill does not address the size of the House. Indeed, by adding elected Members while maintaining the right of all existing life Peers and Lords spiritual to sit, the size and therefore the cost of the House would increase. My noble friend Lord Caithness took us through a mathematical formula that explained that the number could reach 1,300 by 2030.

Another proposal was for two classes of Member. I have to say to the noble Baroness that that got the thumbs down during the debate. Almost everyone who took part voiced doubts about having voting and non-voting Members, including my noble friends Lord Norton and Lord Caithness, the noble Lord, Lord Beith, the right reverend Prelate and many others. Here I pay tribute to the work of the Bishops' Bench in our proceedings. If I lived anywhere near Norwich, I would head for the cathedral every Sunday for a further glimpse of the evocative language that the right reverend Prelate uses to make his case.

I had difficulty with another point in the Bill: how the Cross-Benchers arrive in the second Chamber. This was touched on by the Leader of the Opposition. The noble Baroness, Lady Jones, said that the Cross-Benchers would then have a democratic mandate, but it is not clear what exactly that mandate would be because, as we have heard, the Cross-Benchers do not have a distinctive view on any subject. I am not quite sure how they would campaign during an election

[Lord Young of Cookham]
without getting drawn into party-political debates. I am not sure whether they would want to campaign against each other, as they would have to do under some electoral systems. It seems to me that the strength of the Cross Benches is that their Members are here for what they know rather than what they believe.

We then had some discussion on the noble Baroness's points scheme for survival into the next round—a combination of voting and speaking. I think that the Whips on the Front Benches would welcome this proposal—we would be through with flying colours. However, as was referred to by the noble and learned Lord, Lord Brown, it has the perverse incentive of encouraging people to boost their performance in the three qualifying years. The noble and learned Lord put forward his own points system, including giving bonuses to people who vote against their party—not something that I would endorse from the Dispatch Box. If I could add my own suggestion, I would subtract points for long speeches.

The Government are clear that the size of the House needs to be reduced. As noble Lords are aware, in the last Parliament the Government introduced the House of Lords Reform Bill 2012, which sought wide-scale reform. Like the Bill before us today, it made provision to remove hereditary Peers and introduce an elected element to the upper House. As the noble Lord, Lord Beith, said, the Bill received an overwhelming majority in the House of Commons at Second Reading—and not just because I introduced that debate as Leader of the House. However, the Bill was withdrawn because there was no consensus on its subsequent passage through the other place. Noble Lords who have sat through our more recent debates on this topic will recognise that there is still no consensus in this House as to what reform should look like, an impression that has been confirmed by today's debate.

In such circumstances, there is no prospect of introducing comprehensive reform without it taking up large amounts of parliamentary time. There are many other pressing legislative priorities to deliver over this Parliament, not least implementing the result of the EU referendum. The noble Lord, Lord Beith, and the Leader of the Opposition reminded us of the substantial task ahead in giving proper scrutiny to the primary and secondary legislation that derives from that. None the less, the Government remain open to the idea of pursuing pragmatic, incremental reforms where they are clearly able to command support across this House, just as we did in the last Parliament.

In response to the Leader of the Opposition, my noble friend Lady Chisholm has outlined several times the reasons why the Government feel unable to support the Private Member's Bill introduced by the noble Lord, Lord Grocott.

Where measures can command consensus, the Government have worked with noble Lords to introduce some focused yet important reforms. With government support, the Bill sponsored in this House by the noble Lord, Lord Steel—now the House of Lords Reform Act 2014—enabled Peers to retire permanently for the first time and provided for Peers to be disqualified where they do not attend or are convicted of a serious offence. The following year, through what is now the House of Lords (Expulsion and Suspension) Act 2015, the Government supported the Bill from the noble Baroness, Lady Hayman. It provided the House with the power to expel Members in cases of serious misconduct. I was privileged to steer that Bill through the House of Commons. These were important reforms that have made tangible changes to the culture of the House and, as suggested again by the Leader of the Opposition, that is the spirit in which we should proceed.

The Government welcome the Lord Speaker's decision to establish a cross-party committee of Back-Bench Peers to explore practical and politically viable methods by which the size of the House could be reduced and we look forward to hearing its recommendations, which the Bill before the House today would of course pre-empt. Many noble Lords have come forward with suggestions that could be put before the noble Lord, Lord Burns. I refer to the proposal from the noble Lord, Lord Low, about an expanded role for the independent House of Lords Appointments Commission, and the proposals set out by the noble Lord, Lord Campbell-Savours, which he described as simple, although I might beg to differ on that. The noble Lord, Lord Burns, has legendary skills in seeking consensus. I think that he was brought in to resolve a dispute over the Wild Mammals (Hunting with Dogs) Bill and last year he was involved in discussions about the Trade Union Bill, so we have hopes that his skills will pull a rabbit out of this particular hat.

In summing up my remarks, I pay tribute to the noble Baroness, Lady Jones, for pursuing this important matter and to those here today for their contributions to the debate. However, I conclude by saying that the Government believe that now is not the time to attempt comprehensive reform of the House given our other more pressing priorities. As we have seen in the past, and speaking from personal experience, if reform of this House is to succeed, we must be able to work constructively together to make progress. That means focusing on pragmatic, incremental changes that can command consensus across the whole House. Although the Government are not able to support this particular Bill, we look forward to working constructively with noble Lords on alternative ways forward.

1.46 pm

Baroness Jones of Moulsecoomb: My Lords, I thank all noble Lords who have contributed today and I realise that I am the only thing standing between your Lordships and lunch, so I shall be fairly brief. I will not be able to answer all the questions put to me, and I apologise for that, but I am happy to talk to anyone who would like to discuss these issues.

The noble Lord, Lord Norton of Louth, opened his remarks with the whole idea of polls, which we know to be almost completely discredited. He used numbers a lot. I could argue that there are as many Conservative Peers called Malcolm contributing to this debate as there are women Peers, but it would be utterly meaningless. When we talk numbers, it is important to make sure that they mean something.

Turning to the noble Lord, Lord Low, I understand your reservations about elections and I am delighted that you are in favour of reform. You asked in particular whether non-voting Peers would have the right to speak, and I can say that they most definitely would. I love the idea of nominations from civil society and that is sort of what I am trying to get at through a Cross-Bench party grouping.

I say to the noble Lord, Lord Beith, that I am glad you can support the Bill—

Lord Elton: My Lords, I am sorry, but would the noble Baroness permit me to ask her to address the House and not individuals within it? We do not say "you", we say "noble Lords".

Baroness Jones of Moulsecoomb: I offer my apologies. I am quite good at languages; I do not know why I am having a problem with the language used in the House of Lords.

The noble Lord, Lord Beith, said that non-voting would be a massive concession, and that is absolutely true. The noble Lord, Lord Campbell-Savours, referred to a "soft landing", and I think that was my motive. It is a kindness to those who are here already and have contributed massively. We would keep them for as long as we possibly can. The right reverend Prelate the Bishop of Norwich pointed out that we must look at the powers, too, but that is not the point of this Bill. I agree with him and I think that in general we have it more or less right, but again, that is not the point of this Bill. The noble Earl, Lord Caithness, pointed out that this is the third Bill, so there is an appetite for change. The noble Lord, Lord Young, pointed out that there is no consensus on the matter, possibly apart from the size of the House. That is useful, but we have to find consensus on other things as well.

Several Peers mentioned the patronage of the Prime Minister and said that it must stop because it has been abused recently. I totally agree because it brings discredit to the House. The only thing that can be said for it is that it brings down the average age of the House. I am 67 and feeling my age, but I am still under the average age here, which is 69.

The Earl of Caithness: My Lords, would the noble Baroness agree that successors to hereditary Peers also brought the average age of the House down? The noble Lord, Lord Selsdon, and I combined have been here for more than 100 years. We were quite young when we arrived.

Baroness Jones of Moulsecoomb: I thank the noble Lord. I personally think hereditaries have contributed massively to the House. Some of my best friends are hereditaries.

Noble Lords: Oh!

Baroness Jones of Moulsecoomb: That is not quite true. Their contribution is huge, but it is an anomaly in today's world that they are still here. Of course, there is nothing to stop them standing for election under my scheme.

The "simple" scheme of the noble Lord, Lord Campbell-Savours, left me breathless. I look forward to discussing it with him further. I was very grateful for the support of the noble Lord, Lord Scriven. I am not a psephologist; I cannot argue voting systems with a Lib Dem. I agree with the right of recall, which is quite an important part of democracy. The noble and learned Lord, Lord Brown, mentioned that this is a probing Bill and talked about this being a House of elders. That is a really valid thing to say. It is about not necessarily age, but wisdom and experience. That is something that I have noticed is of incredible value here. Whatever changes we make, we must not lose that.

I am so glad that the noble Lord, Lord Selsdon, enjoyed himself today. I am not sure I did, but at least somebody in the Chamber did. The noble Lord, Lord Trefgarne, said that I would be disappointed if this did not get on to the statute book. Quite honestly, I have been thrilled to get a Second Reading, but of course I will be disappointed if it does not get on to the statute book. The noble Lord, Lord Elton, mentioned that the Whips are a danger to democracy, but with only one term of office the power of the Whips would be considerably reduced. That would not necessarily be a problem.

I thank the Leader of the Opposition, the noble Baroness, Lady Smith, for her points. She raised an awful lot of points that I will not answer now, but I will be quite happy to answer them privately. As a point of record, I support the Bill proposed by the noble Lord, Lord Grocott. It is plainly ridiculous that the Government are not supporting it.

The noble Lord, Lord Young, talked about the valuable role of the House. I was grateful that he said he was not unsympathetic. That is very kind. He said that this was not the time. I have to ask: if not now, when? It is never the time. Some future Government really have to grasp this nettle and make a difference, and make the House representative of the nation. At the moment it simply is not. I also apologise to the noble Lord, Lord Forsyth. I did not mean to prevent his speaking. I did not realise that that would be the outcome of asking him to wait.

This is a really good Bill. I am grateful for the debate, but we have to move on. We have to make decisions—and if we make them for ourselves it will be a lot less painful than if they are made for us. I beg to move.

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

House adjourned at 1.53 pm.