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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Friday 23 February 2018

10 am

Prayers—read by the Lord Bishop of Winchester.

Ecumenical Marriage Bill [HL]

Second Reading

10.06 am

Moved by ***Lord Deben***

That the Bill be now read a second time.

Lord Deben (Con): My Lords, quite by accident, I experienced last Tuesday one of the most emotional occasions of my life. We are a very small village, and a man of 57, who had always been at the centre of village life, died. It was his funeral on Tuesday. He had been born, brought up, and died within a stone's throw of the parish church. The funeral was held in the church, attended by so many people that they were standing in the tower place, in the open doors of the vestry, behind the altar rail and in the rain outside. It was very moving. But he had been a regular attender at the nonconformist church in the next village, and the service was entirely taken by the minister of that church. It was an uplifting experience. There we all were—Anglicans, Catholics, nonconformists, those only just believers, or those not believing at all—to say thank you for somebody whom we will miss and whom I shall miss every day of my life.

I reflected then on how generous it was of the established Church to make it possible for any of these services to take place in the parish church. Any of these services—except marriage. A year ago—I declare an interest in this—my daughter got married and wanted to get married in the church in which her grandparents are buried. We are one of a very small number of families who help to keep the roof on, although we are Catholics; another family that keeps the roof on is also Catholic, but that is part of what we think we should do in the village. I discovered that she could not be married by a Catholic priest. She wanted to be married by her chaplain from school, somebody whom she loved and who had helped their marriage to start, not least in the difficulties of today, when very often husband and wife are not necessarily from the same denominational background. The excellent Anglican bishop explained to me that, first, the Church of England's canon, which had been changed to cover these other services, did not cover marriage, and secondly, that in any case it could not be done because of the state's law.

At this point I have to try to explain this. It is quite difficult to explain, because I have had to explain it so much to lawyers who have not understood the basis of all this. During the passage of the Marriage Act 1949 the then Government did not want to upset the Church of England and thought it would be much better if they had a simple way of excluding it from their tidying-up process. The Marriage Act works in two halves. The first half refers to parish churches of the Church of England and says that they are automatically licensed for marriage,

"according to the rites and ceremonies of the Church of England".

If they had not put that bit in, there would be no problem. The second part explains that all other denominations have to get their churches licensed—they have to register—and then they can have marriages of any kind they like, including marriages according to the rites and ceremonies of the Church of England. This was, therefore, an easy way of stopping a great deal of bureaucracy. I have no objection to that; it seems perfectly reasonable. But there was a mistake. Some say—I think the right reverend Prelate the Bishop of Winchester is one—that the Church of England could do this if it wanted to without this change in the law. That is a disputed argument—I can vouch for that, because I know the people who dispute it. So that is the first bit.

The second reason is something that I am sure your Lordships understand but I raise it in case anyone has not thought about it recently. We in Britain are the most wonderful exponents of the fudge, and our marriage system is a fudge. Instead of the French system of going to the mayor and having a civil marriage and then going to the church and having a religious marriage, we give clergymen of all denominations the duty of being a registrar. Therefore, when you have what in my view is that awfully embarrassing bit in the service when somebody has to make sure that the organist has a long enough piece to play while mother, father, grandmother, great aunt, the woman you cannot leave out and all the rest of them go into the vestry to sign, or witness the signing of, the register, that is—although the music gives it a certain religious awe—a non-religious activity which does the state's bit.

I emphasise that that is done by any denomination. You can be a strict Baptist—the local nonconformist church in my area—or a Catholic and you do precisely the same thing: you fill in and sign the form, and you can do it because you are a registered clergyman of a denomination which has a church in which you can hold marriages. You would have thought that anybody who was allowed to do so could do that bit. However—I have had an enjoyable time finding out about all this—when most legal authorities find out about that, they look it up and tell me that I am right: that the Church of England could not do that if it wanted to unless we changed the Marriage Act 1949.

The proposition in the Bill before your Lordships is extremely simple. It does not require the Church of England to make a change. In that sense, we have disestablished the Church of England. It has its own synod making its own decisions, so the Bill does not insist that the Church of England makes the change. However, it would remove any impediment that there may be so that the Church of England could make that change. It might not want to do so. I thought that there would be no difficulty with this, because it did not seem to me that in a world of ecumenism the Church of England would want to stop such things happening.

Perhaps I may sum that up. When I rang my Anglican bishop and told him what I wanted, he said, "Well, John, you can have the mass but you can't have the

[LORD DEBEN]

nuptial bit". There is nothing that divides the churches more than the mass, but if the bishop, the vicar and the parochial church council agree, the Church of England will, in its generosity, allow me to celebrate a birthday by having a mass in my parish church—which, after all, was built at a time when it would always have been the mass, although I shall leave that on one side. Those are the circumstances.

The Bill takes every precaution. It makes sure that it cannot be used for some other purpose. That is why the details come directly from the Church of England's rules relating to allowing a Methodist minister to have a Methodist service in an Anglican church. Nothing in the Bill extends that. Anybody here who thinks that it might open the door to gay marriage or result in the solemnisation of Wicca can rest assured because it does not. It merely says that a parish, its vicar and the bishop can together allow a marriage to take place according to somebody else's Christian denomination's marriage service.

Perhaps I may explain the four reasons why I believe this to be really important. First, marriage is the one sacrament made between two people, not by the priest or clergyman. Many people, particularly those who want a church wedding, come to marriage with the help of the clergy upon whom they depend. There is no doubt that it is a moment when most people want to choose somebody with whom they have a real connection. Very often it is the person who has helped them to get over particular problems. A friend of mine who is a priest is helping another friend of mine who wants to marry someone who does not have any religious understanding at all, whereas she cares about religion deeply. He is helping those two to get together. He happens to be a Catholic priest and will not be able to marry her in the church in which the boy has at least some connection. Quite simply, I want that not to stop their proceeding in the way they wish.

Secondly, we live in an ecumenical world, and we have to come to terms with that in many villages and, I am sure, many parishes in towns. There is the question of how two Christian parents bring up their children in the faith, and that starts with the promises that they make in marriage. It is important for people to have a service that ties them into the family and into all the forces that might help them live their lives together. Very often it happens in their home parish, whereas they now live somewhere entirely different. It is very important for them to be able to do that and I want that choice to be open to all.

My third reason for wanting to bring about this change is to deal with the fudges that otherwise take place. Let us not kid ourselves—people get round it. There are two well-known ways of getting round it. In our chapel here, all noble Lords can have their children baptised and can have a service of any kind—every Wednesday, we Catholics go to mass; the United Reform Church has a special service; and the Church of Scotland has a special service. You can have all that. But no one, unless they are an Anglican, can get married there unless they are prepared to have an Anglican clergyman and the Anglican rites and ceremonies—even though that is peculiar. I will tell noble Lords what the two fudges are. One fudge is that the couple get married in the Catholic church round the corner and then come and have exactly the same service in the chapel downstairs, to which they invite their guests, and call it "a blessing". They know which was the service at which they were actually married. Is the fudge to meet the requirements of the Church of England? I hope not. Rather, it is to meet the requirements of the law of the land. That is the distinction that I am trying to make

The other way is much less of a fudge. When an Anglican clergyman is decent enough to understand what this means to the couple, he and the Catholic priest, Methodist minister or Baptist minister will do the whole service together without anybody doing one bit or the other. The law can then decide which of them actually married the couple.

I do not like fudges. I hope the House knows that, in all my political life and certainly in all my life in this House, I have gone against fudges. I want truth. I do not see why we should be put in this position by the 1949 Act.

The last point is rather more challenging. I almost remember the beginning of the ecumenical movement at its great conference in the Netherlands in 1948, which my father attended as an Anglican clergyman. It depends for its continuation and extent upon generosity and learning to live together. In a small village community, births, marriages and deaths are what mark our timetable—we are much closer to that, happily; it keeps us sane, frankly, and is what matters to us. We want to celebrate those things together. Here, I want the Church of England to be challenged and to decide for itself whether it is prepared to make this step towards a more ecumenical society. In discussing this with those who oppose it, I have discovered one rather serious thing: many of them do not want the Act changed because then they would have to face the choice. They would have to ask: will we in the Church of England continue to stop it? The Church would no longer be able to excuse it, because the law would make that impossible.

This is where I have to say something which may hurt. It is funny looking back: I was on the General Synod and a very active member, but when I became a Catholic I found three fascinating things. The first and less helpful thing is that the hymns in the Catholic Church are ghastly. There is a woman called Estelle White, who I believe will have the longest period in purgatory of anyone because she knew neither how to rhyme nor how to do metre, nor could she choose tunes, and she is theologically largely inaccurate—otherwise, she is all right. The second thing I discovered is that, for the first time, I went to a church that was filled with people of every possible colour and social status, from the person who swept the roads to the local squire. I had not realised quite how middle class the Church of England had become. I just wish to say that that had a remarkable effect on me.

The third thing I discovered, less happily, is that there was a tendency always for the Church of England to insist upon its position. So in a village that is largely strict Baptist, you could almost see the Baptist minister being edged out. I can think of one village, where there was no Anglican church, but still the Anglican clergyman took the lead at the war memorial, as he

thought was right. I also remember when, for the first time since the Reformation, the mayor of Aldeburgh—the first woman mayor, Elizabeth Garrett Anderson, came from Aldeburgh—who was a Catholic, appointed a Catholic priest as his chaplain. I remember going to the established church for the service. The chaplain was hidden as far as possible and the service went through as if there were no chaplain—but it was perfectly all right to have the Freemasons dressed up and sitting in two rows of the church.

I do not think that that is what the Church of England ought to be like, and I do not believe it really is like that. That is why I say this to the right reverend Prelate the Bishop of Winchester: please, take the simple point that the Church of England may have the powers—I think he thinks it has—but let us make sure it does have the powers and then let it argue the case, if there is a case, to deny this hospitality and restrict ecumenism. But do not say that we do not need this, because that is constantly used as the excuse. Sometimes, we need a challenge. I challenge the right reverend Prelate to explain to me how, in the words of the prayers we have just heard, it can possibly be charitable to say to a young couple who live in a village, "You can come here and we will allow your priest to say mass, but he can't marry you". That seems to me not to be charitable. I would like the Church of England to show itself to be not only charitable but generous. Its established position depends on that. Without that, it is very difficult to argue that it should remain established in a country where there are many more Christians of other denominations—let alone anybody else—who would like to share in our common heritage.

10.28 am

The Lord Bishop of Winchester: My Lords, I am grateful to the noble Lord, Lord Deben, for giving us the opportunity to speak about issues of such importance to this Bench as the celebration of marriage and our ecumenical relationships. I first acknowledge the personal and pastoral issues raised by the noble Lord and the way that he has so succinctly put those in his four concluding points about sacraments, the ecumenical world, the fudges and the ecumenical movement.

I am, therefore, rather embarrassed to start with something slightly more dry and technical. However, I begin by addressing what I believe to be the key issue here, which is constitutional in nature. There is a long-standing constitutional convention, with which noble Lords will be very familiar, that the Church of England makes its own legislation by synodical process. That legislation comes before Parliament for approval, having first been considered by the Ecclesiastical Committee. This Bill represents a departure from that convention.

As many will be aware, ecumenical relations are governed by Measure. The Church of England (Ecumenical Relations) Measure 1988 and the use of Church of England buildings by other Christian denominations is governed by Canon B43, what is known as the ecumenical canon. There are already structures which give expression to the valuable relationships that we have with our ecumenical partners. Indeed, members of the Church of England are convinced that Christian Churches should work, pray and witness together in a growing unity. As the noble Lord, Lord Deben, underlined, our prayers this morning reminded us of that—that we might live together in true charitable love.

With regard to the participation by ministers of other denominations in Church of England weddings, Canon B43 already offers considerable flexibility, with the result that Church of England weddings regularly involve ministers of other denominations. There are even provisions for the sharing of church buildings in certain circumstances. However, these practical arrangements flow from the relationships between Churches of different denominations which, as I have said, involve dialogue on many levels, not least the doctrinal one.

The current arrangement is not a result of the unintentional effects of the wording of the Marriage Act 1949. As the noble Lord, Lord Deben, will appreciate, practical arrangements flow from the progress made on ecumenical dialogue rather than the other way around, and it is no more appropriate for Parliament to prescribe to the Church of England or any Church how it carries out its ecumenical relationships than it would be to legislate on any other questions of doctrine.

Lord Deben: The right reverend Prelate uses the word "prescribe". This Bill prescribes nothing; it permits. Earlier he said that in this House we have a long tradition of leaving law to the Church of England. That is what this Bill does. It removes the power of this House to stop the Church of England doing something. It is the removal of an impediment; it is not a prescription. If one uses those two words, it would be a different Bill, and I have specifically avoided either of them.

The Lord Bishop of Winchester: The noble Lord makes his points clearly on these matters, but I hope that he will listen to what else I have to say and see if I have responded to the questions that he has raised.

In my understanding, the Roman Catholic Bishops' Conference, with which I am pleased to say we have very good ecumenical relationships, is not supportive of the Bill. I am also advised that the Church in Wales is likewise unsupportive.

I turn to the text of the Bill. Here I may have to go into a little detail and I may not quite say what the noble Lord, Lord Deben, thinks is my position. Clause 1 defines:

"Christian denominations other than the Church of England",

as,

"any denominations whose ministers and churches can be licensed for the solemnization of marriage under the Marriage Act 1949".

This is in the first place erroneous in that it is the building and not the minister that is licensed. More importantly, that Act makes provision for places of worship of many faiths to be licensed. The result here is to leave undefined the question of what a Christian denomination is and affords potential legal rights to the use of churches to new religious movements with which the Church of England does not have existing formal ecumenical relationships. We are returned to addressing questions of doctrine, creed and ecumenical dialogue, all of which ought properly to sit with the

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Churches themselves. For the Church of England in particular there is not in the present legal framework provision for the exercise of discretion by an incumbent, PCC or diocesan bishop in individual cases over whether a marriage can take place or can take place in one place or another.

All other legal requirements being in place, if a couple live in the parish, they have the right to be married in the parish church. The Bill unhelpfully gives wide discretionary powers through the making of exceptions to a general rule. Setting aside the long-winded process that would be involved in gaining formal consent from an incumbent PCC and diocesan bishop, it is hard to see how in natural justice this discretion could be exercised with sufficient fairness and transparency to be acceptable. The more one imagines specific cases, the more there is to be said for a legal framework which does not contain the element of personal discretion.

It has been pointed out, and the noble Lord has himself made it clear, that there are some places in mainly rural areas where the Anglican church is the only church building convenient for weddings and that it would be better for marriages of other denominations to take place in them than for couples to have the choice between either a church or chapel of their own denomination in an inconvenient location or in a secular venue where religious content to the marriage service is not permitted. But it seems upside down to start addressing this issue with the matter of weddings when it relates to the mission and ministry of the Christian Church in the area. It is already possible for denominations to enter at the local level into a sharing agreement under the Sharing of Church Buildings Act 1969. Under the terms of such an agreement, each participating denomination can celebrate marriage services in accordance with its own rites and usages. The shared building can be a Church of England parish church or chapel, for example. There are many more problems of detail into which I do not propose to delve here, but would need to be unpacked at greater length were this Bill to reach Committee.

It would be a great mistake if I were to speak here of only church buildings and church ministers. The local church building, parish church or licensed chapel is significant as the focus of a worshipping Christian community. Marriages are solemnised in the building as an expression of the reality of that parish community, and in some cases of a community with a historical identity spanning centuries. The prayer, support and friendship of the local Christian community gives extra depth and meaning to the event of a marriage ceremony. In that, the church building is so much more than a wedding venue.

For all the progress that it might appear to embody, I must none the less urge the House to recognise that this Bill is not the way to encourage the ecumenical hospitality for which we continue to work and to which I am personally committed. I want to leave it, having heard the challenges put by the noble Lord, Lord Deben, right at the end of his remarks—those very direct challenges to the Church of England—which we must address.

10.37 am

Lord Robathan (Con): My Lords, I am delighted to follow the right reverend Prelate and to agree with him. I do so because, as a loyal and active member of the Church of England, I sometimes find that loyalty sorely tested, not least by some in the hierarchy in the Church of England who tend—how can I put this?—to be inclined to the listen less to the views of their congregations and more to the liberal, left-leaning and hand-wringing attitude towards affairs of state with which I find it difficult to agree. However, on this occasion I am delighted to agree with the right reverend Prelate.

This is about ecumenical marriage. My own marriage took place down the road in the Guards' Chapel and involved both the chaplain of the chapel, who I suppose legally married us, my parents' excellent priest who remains a great friend, and indeed a great friend of my wife, who is a monk at Ampleforth. It was an ecumenical marriage with Catholic input, and we were very grateful to him for it. I wish to say that I do not oppose anything ecumenical about marriage.

I am also the godfather to two Roman Catholic children. My noble friend Lord Deben expressed his wish that we should be more ecumenical. I should say that they are now both delightful young men, and I am glad to still be their godfather. At the christening of one in Nightingale Square, as I walked across to the church with my friend who is an Anglican but married to a Roman Catholic, he said, "The priest has insisted that all the godparents should be Catholic, so I told him that you were. Could you confirm that if he asks you"? I said, "Actually, no, I am afraid I will not. I will tell him the truth". Luckily, he did not ask me. I have told this because it is important that we should all take a moderate and reasonable view of ecumenicalism.

I was moved to take part in this debate because I am instinctively uneasy about the measure for three reasons. The first has been much better expressed by the right reverend Prelate the Bishop of Winchester, but it is important that the Church takes the lead and makes decisions in this matter. The Church of England, which is often criticised, is an extremely emollient beast. My noble friend Lord Deben referred to fudge, but it seems to me that the fudge over the christening that I was talking about was just as much fudge as the Church of England ever takes part in. I have always found the Church and bishops to be reasonable.

Lord Forsyth of Drumlean (Con): I am trying to follow my noble friend's argument and looking at the text of the Bill. In Clause 1, subsections (1), (2) and (3), the word "may" appears, not "will". It is a permissive Bill. Why is he suggesting that this is a direction to the Church?

Lord Robathan: My noble friend makes a good point, but I will come to why I am entirely against the measure in a second, if I may.

My point is that it must be for the Church to decide. If the Church brings forward such a measure, as the right reverend Prelate said, then Parliament may decide because of the nature of the established Church. It is

of course the national Church—the established Church. One might say that it is a strange historical quirk, but it is not unreasonable to expect it to make decisions on these matters. Indeed, it would be quite wrong for us to try to influence the Church—let it lead on this matter and not us.

I would not presume to instruct the Roman Catholic Church on its doctrine on abortion, homosexuality or whatever it might be, much of which I profoundly disagree with. I do not always agree with everything that my own Church says, but it would not be for me or any other Anglican to dictate to the Roman Catholic Church how it runs its affairs. For instance, we might have a law proposed in this House that the holy water in the font at the entrance to each Catholic church should be tested for bacteria once every day or week or something—and some Anglican churches as well of course—but that would be going well beyond what any Parliament should do.

I should say to my noble friend Lord Deben that I find it somewhat strange that the measure should be proposed by somebody who has actually rejected the Church of England. That is why I am instinctively uneasy about it and would rather follow the lead of the Church of England than someone who does not actually like the Church of England.

Lord Tyler (LD): I wonder if I might take the noble Lord back to his original point that he felt it important that the leadership of the Church of England should listen to the people in the pew, if I may put it like that, like himself. Does he have any evidence that the leadership of the Church of England—I should say that I am a practising Anglican in that I practise regularly but do not seem to get any better at it—has actually consulted him and me? Indeed, I cannot see in the Explanatory Memorandum that the synod has actually taken a view on the Bill of the noble Lord, Lord Deben. Is this something that, at this stage, the leadership of the Anglican Church has decided on its own? Has he been consulted?

Lord Robathan: I am delighted at last to have something on which I entirely agree with the noble Lord, in that I too practise but do not get any better at all, so we have common ground there. However, no, I have not been asked, but then I have not been asked about a great many matters of doctrine or governance of the Church. It may be something that should be brought forward in the synod, which would be a good way forward.

10.44 am

Lord Alton of Liverpool (CB): My Lords, it is a great pleasure to lend support to the Ecumenical Marriage Bill that the noble Lord, Lord Deben, has laid before your Lordships' House. I have two reasons for doing so. One concerns ecumenism and the other concerns marriage, and I will take them in that order.

First, I say to the noble Lord, Lord Robathan, who has just resumed his seat, that this does not concern doctrine. I was concerned at the end of his remarks to hear him use the word "dictate". The whole point about this Bill is that it does not dictate to anybody. I was pleased to hear his response to the noble Lord, Lord Tyler, which might represent a way forward. The right reverend Prelate the Bishop of Winchester said at the end of his remarks that he will reflect on the arguments laid before your Lordships' House by the noble Lord, Lord Deben, earlier on, and the Church of England Synod would be a good place for this proposal to be taken to.

But the right reverend Prelate also based some of his argument on the constitutional question. I would simply refer him to the Library Note, which states:

"Under the Church of England Assembly (Powers) Act 1919, Parliament has a role scrutinising legislation which relates to the administration and organisation of the Church of England".

Whether you look to the 1919 legislation or in this case the 1949 Marriage Act, which the noble Lord, Lord Deben, referred to in his remarks, Parliament has had a very clear role. Parliament itself has a right to have a view about these things and to consider measures of this kind. That this should now go to the synod before we reach Committee so that some of the points raised by the right reverend Prelate earlier on might be considered, is a perfectly proper point of view to put. I hope that the right reverend Prelate will have a chance to reflect on what I thought were some terrific points made by the noble Lord, Lord Deben, in his introductory remarks.

The central point about this Bill is that it lays no mandatory duty on the Church of England but is an empowering measure that simply removes an accidental statutory impediment to the enablement of clergy from other denominations to bring together couples in holy matrimony in a parish church. As the noble Lord reminded us, that does not force anyone to do this, but simply allows them to, and with the same restrictions about what is already permitted for funerals, baptisms and communion services.

My own parents married at the time of the passage of the 1949 legislation. That legislation did not require Anglican parish churches to register for marriages. They were deemed to be licensed; but the law states that marriage was to be, as the noble Lord mentioned earlier on,

"according to the rites and ceremonies of the Church of England".

That was never intended as a restriction, but in an era when ecumenical relationships were much less common, it was simply a statement of fact. It was the reality. When in those unecumenical times marriages were made across the divide, they were often the source of bitterness, rejection and hostility. My own parents experienced that. They were Anglican and Catholic—a demobbed Eighth Army Desert Rat marrying an Irish-speaking girl from Mayo. My mother's younger sister married a Northern Ireland Protestant and both marriages took place in a Catholic Church.

Sixty years later, echoing something that the noble Lord, Lord Deben, said at the beginning of his remarks about funerals, my Anglican father was buried from that same Catholic Church where he had married after a funeral led by my late father-in-law, who was an Anglican priest of some 60 years standing. He spent some of his ministry in the right reverend Prelate's diocese. I was delighted that, far from there being a restriction on my father-in-law conducting the service, the parish priest was hugely supportive and generous

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to a fault. It also represented a sea-change in attitudes. I might add to the noble Lord, Lord Robathan, that I am godfather to children from other denominations but, equally, my own children, who were baptised as Catholics, have godparents from other denominations. That was not an impediment. My uncle told me, after the funeral of my father, that he would have never believed the progress and change in relationships that had occurred in the intervening years. He said that he had felt a great healing.

Thirty years ago, I too married across the denominational divide and, for good measure, I married a vicar's daughter with eight ordained Anglican clergy in the family—they still have not made me perfect either. But we would be foolish to forget how painful former times could be. In the 1950s, when as young people couples like my parents married, some bishops even refused to say the Lord's Prayer together or to stand alongside one another at the war memorial. Sectarianism rather than ecumenism was the order of the day. In Liverpool, as late as 1958, the city's Catholic Archbishop John Heenan, later Cardinal Heenan, was literally stoned by a sectarian mob while making a pastoral visit to a sick parishioner in the Scotland Road parish of St Anthony's.

I went to Liverpool as a student and later had the honour to serve in that city for 18 years as a constituency MP. It was mired in sectarianism. I was shocked to witness at meetings of the city council, to which I had been elected, hostile opposition to minor improvements to Catholic primary schools on purely sectarian grounds. But that is not the end of the story. Thanks to Archbishop Derek Worlock, Bishop Sheppard—later Lord Sheppard—and successive moderators of the Merseyside free churches, I was privileged to see what is known as the "Mersey Miracle" and the coming together of Christians from different backgrounds, who took as their maxim "What we can do together, let us do it, and let us ensure that what separates us does not turn us into enemies". The fruits of this practical ecumenism were vividly exemplified by the visit to Liverpool, in 1982, of Pope John Paul II, witnessed by 1 million people. Movingly, the Pope's first steps were taken in that city at the Anglican cathedral, before travelling along the well-named Hope Street to the Catholic cathedral of Christ the King.

The Bill from the noble Lord, Lord Deben, has been written to reflect that spirit of enabling ecumenism to continue and to deepen. It will empower but not require the parochial church council, the incumbent and the diocesan bishop to allow other Christian marriages to be celebrated. Despite what the right reverend Prelate said about how this could become bureaucratic, in reality it would become based on good will and precedent. I believe that, once those precedents have been established, it would happen very easily and smoothly where people wanted it to happen. That would force them to face the question that the noble Lord put to the House about whether we really are serious about how far we want this ecumenical journey to go. It might also enable a sometimes sceptical secular world to echo the observations of the pagans of Rome, who said to their own bewilderment about the early Christians, "See how they love one another".

That brings me to my second reason for supporting the noble Lord's Bill. Probably the best £4 that two people who love one another can spend is on a marriage certificate. It is sometimes said that marriages are made in heaven but broken here on earth. According to the Office for National Statistics, around 42% of marriages end in divorce and around half of these divorces are expected to occur in the first 10 years of marriage. To Christians, a church wedding may not guarantee the durability of a marriage, but the solemnising of vows and the binding through the sacrament of holy matrimony does at least create a different narrative against which to live out and to attempt to lead your married life through all its ups and downs. We should do everything we can to encourage this sacrament to be taken seriously, not least because we know what the negative consequences are when a marriage ends. The Bill simply opens up the prospect of more church marriages and, in a modest way, for Parliament and the Church to say that this can contribute to stable families, stable communities and a stable society.

To conclude, the Church of England is already ecumenically generous—I so agree with what the noble Lord, Lord Deben, said about this—in allowing its churches to be used by other denominations. It is evident here at Westminster in the use of our parliamentary crypt Chapel of St Mary Undercroft. The noble Lord's Bill involves no compulsion; it merely removes an impediment for the principle to be extended. Some say the Bill is not necessary, as another denomination can have permission to use a church as long as the service is taken by an Anglican clergyman, but there is no such restriction on any other service, yet this is the service when it is most likely that the happy couple would like to be married by someone who matters to them spiritually.

The three key reasons for giving the Bill a Second Reading are: first, that it is necessary to remove a legal impediment; secondly, that it gives the Church of England the power to add marriage to existing provisions but no direction; and, thirdly, that it enshrines all the safeguards the Church of England has already included in its canon law to cover other services. Even if, at the conclusion of our debate, there is not a peal of bells welcoming the noble Lord's Bill, I hope that we will give it a ringing endorsement and a Second Reading.

10.54 am

Baroness O'Cathain (Con): My Lords, I am taking part in this debate because it seems extraordinary that there is just one Measure, passed in 1949, that is causing this problem. The Bill would allow for the solemnisation of marriages in Church of England chapels according to the rites and ceremonies. We know that. It has been acknowledged that the Church of England is ecumenically generous in allowing its churches to be used by other denominations. But while the Bill would allow the Church of England to add marriage to the services it can permit it would still be up to it to make the decision. All the Bill would do is remove the unintended legal barrier. That is what it is: an unintended legal barrier.

As we have heard, the law on marriages is largely based on the authorisation of premises, which the Law Commission has referred to as a buildings-based system. The Marriage Act 1949 as amended requires that marriages must take place either in a register office, approved premises or in an officially registered place of religious worship. Section 5 of the Act specifies that Church of England marriages are solemnised,

"according to the rites of the Church of England".

This Private Member's Bill would change the area of the law that is currently governed by ecclesiastical law. Canon law states that a Church of England church can be used only for Church of England ceremonies, including ceremonies for the solemnisation of marriages.

Some exceptions to this can be made under canon law. The Church of England may grant permission for a minister of another Christian denomination, even in this situation, to assist in the solemnisation of a marriage. However, certain aspects of the ceremony must be performed by the Church of England. Guidance published by the Church of England outlines the roles that each minister would perform:

"The Church of England minister who solemnizes the marriage must establish the absence of impediment, direct the exchange of vows, declare the existence of the marriage, say the final blessing, and sign the registers. A minister invited to assist may say all or part of the opening address, lead the declarations of intent, supervise the exchange of rings, and join in the blessing of the marriage. He or she may also read a lesson and lead all … of the prayers".

The Church of England has said:

"We see no need for Lord Deben's Bill, and believe that the current arrangements give sufficient pastoral flexibility for weddings which are conducted in Anglican churches and chapels, involving people of different denominations".

Over the last 100 years, Parliament has tended not to introduce legislation that affects the internal affairs of the Church of England unless that legislation is proposed by the Church of England itself. Ministers have referred to a constitutional convention whereby Parliament does not legislate on internal Church matters without the Church's consent. For example, a recent Bill affecting the Church of England directly, the Lords Spiritual (Women) Bill, was introduced during the 2014–15 Session following a request of the Church of England. There is a constitutional convention that Parliament does not legislate for the internal affairs of the Church of England without its consent. This will be blown out of the water. Under the Church of England Assembly (Powers) Act 1919, Parliament has a role scrutinising legislation that relates to the administration and organisation of the Church of England. However, this legislation originates from the General Synod rather than from Parliament.

10.59 am

Lord Beith (LD): My Lords, this short but interesting debate is a welcome diversion from the heavy diet of the European Union (Withdrawal) Bill, which we have on Mondays and Wednesdays. This is something that touches people's lives; we should therefore take very seriously what the noble Lord, Lord Deben, has brought forward and so lucidly explained. He has sought to remove an impediment in a Bill which is not mandatory at all but entirely permissive.

I was disappointed by the reaction of the right reverend Prelate the Bishop of Winchester; he was rather put on the spot but I think his response was out of tune with the way things have developed in recent years and I will seek to explain why. I think he rested too heavily on the constitutional convention, bearing in mind, of course, that conventions are conventions and no more than that. We should be very careful in using that language. He rested on the convention that this Parliament does not normally legislate for the Church of England without the Church's consent or, indeed, the Church having originated the legislation. What the Bill aims to do is amend a piece of legislation of which that was precisely the case; namely, the Marriage Act 1949, which places certain restrictions on the Church of England—this Bill would remove them.

The noble Lord, Lord Alton, set out clearly that this is, however, a permissive Bill: it forces nothing on the Church of England as a whole and forces nothing on any individual parish where the incumbent might have some doctrinal reason for feeling that a particular wedding should not take place. As the noble Lord, Lord Deben, points out, it does not enter the area of same-sex marriage, on which the Church of England takes a particular position. Contrary to the views of the noble Lord, Lord Robathan, it makes no doctrinal change; it does not enter into the area of doctrine at all—we might take a different view if it did. I cannot understand why the Church of England should resist hosting Christian marriage, of all things. The Church of England now hosts all sorts of things. Parish churches are encouraged, in order to make their buildings viable, to open their doors to industrial sponsorship, to social organisations, to all kinds of activities. Here we have fellow Christians who want to conduct Christian marriages, underpinning the doctrines shared by Christians about the value of marriage, and the Church of England considers that it has to continue placing this difficulty in the way and does not want any legal obstacle to be removed.

The noble Baroness, Lady O'Cathain, quoted from the Library guidance the existing rules in the Church of England about what a nonconformist minister or a Catholic priest can do. In case noble Lords missed it:

"The Church of England minister who solemnizes the marriage must establish the absence of impediment, direct the exchange of vows, declare the existence of the marriage, say the final blessing, and sign the registers. A minister invited to assist may say all or part of the opening address, lead the declarations of intent, supervise the exchange of rings, and join in the blessing of the marriage. He or she may also read a lesson and lead all or part of the prayers".

It is a bit demeaning: there are certain things that you really have to be a clergyman in the Church of England to do; if you are a nonconformist minister there are some things we will let you do, but there is a limit. I am sure that the noble Lord, Lord Griffiths of Burry Port, will reflect on that from his years of experience as a minister conducting weddings. It reminds me of a Methodist minister friend describing his participation in Brethren weddings hosted in the Methodist church: all he had to do was sit there throughout and sign the register at the end. The Methodist Church did not

[LORD BEITH]
place any other restrictions on it, but he had to carry out the legal requirement. We can surely move on from there.

We are in a world where we have shared churches, as the right reverend Prelate said. There are many in my part of the world, where the Church of England shares with Methodists or the United Reformed Church—it is extremely widespread in rural areas. Some nonconformist denominations have moved from big, old chapels into smaller premises which suit their regular worship but are not entirely suitable for holding a wedding. The parish church which is at the heart of the village, particularly in rural areas, seems much the better venue for that purpose.

The Church of England is an established Church, a role which it seeks to continue. It is sometimes a controversial role and there are those who would like that to change, but as an established Church the Church of England is the custodian—in many ways the very worthy custodian—of a wonderful heritage of parish churches. A great deal of effort goes into maintaining them but they are a shared heritage. It has always been the Church of England's own emphasis. I remember as a child the vicar saying, "This is the parish church of the whole village". He was saying to us Methodists: you belong here as well. Sometimes that seemed a little imperialistic, but lying behind it was just the parish system of an established Church. While that is the case, we surely do not want to be back in the days when Lloyd George was fighting the refusal of the Church of England to allow nonconformists to be buried by their own ministers in the village churchyard. Things have moved on so far since then that they could surely move on this issue.

11.05 am

Lord Griffiths of Burry Port (Lab): My Lords, it is a pleasure to take part in this debate. When I saw on the speakers' list that my name was figured there, with a B denoting Baroness, I thought that an instant act of transgendering had happened. I then thought that if that could happen at a stroke, perhaps whatever is preventing these marriages taking place can happen with similar prestidigitation. So I rise with the deepest voice that I can command in order to reassure Members of this House.

I am very grateful that the matter has been brought before us. The noble Lord, Lord Deben, explained that the 1949 Act was framed as it was by a Government, or a Parliament, who did not want to upset the established Church. As a Methodist minister I have never worried about upsetting the established Church and I reckon that I might do a little of that in my remarks now.

The noble Lord went on to talk about fudge. I remember reading *Seven Types of Ambiguity*, a great classical book that we Eng. Lit. students used to read. I think that we have had seven types of fudge, delineated very carefully and skilfully by the noble Lord, Lord Deben. I shall not run away from it, and I shall certainly not indulge in fudge in the hand-wringing, liberal, stereotypical way that was referred to dismissively on the Benches opposite: someone married in the Guards' Chapel might just feel that giving orders to Methodists is a good thing. I feel that fudge can be a very good, and in a theological sense, a very necessary thing: at the end of the day, however righteous, righteously established and brilliantly organised any Church body might be it cannot claim to have all the wisdom that can be possessed, all the experience that points to correct action. Humbly, under God, even Churches must recognise a higher power. That granted, fudge becomes an honourable thing. I have surfed on the waves of fudge through 50 years of Methodist ministry. Much of the fudge has been necessary, as I have had to discover ways of relating to the established Church.

The noble Lord, Lord Deben, also talked about the way non-Anglicans can easily be edged out in ecumenical experiences. I have more experience of being edged out than most people—I have been hidden behind pillars; I have had arguments. I was a canon of St Paul's Cathedral for 17 years. Organising a procession to go into a service at St Paul's Cathedral—what the public do not see, in the Dean's Aisle, behind the curtain—is an extraordinary thing. Precedence is what it is all about. Those of us who are honorary canons must understand our place, between the proper canons, the retired canons, the canons emeriti and those who thought they were canons but never were. It is a terrific thing to have to find your place in all of that when all you are is a Methodist minister.

Lord Robathan: Will the noble Lord let me know where he is next preaching? I am enjoying this so much that I would like to come and listen to him.

Lord Griffiths of Burry Port: I promise the noble Lord that before he goes home I will give him such a list.

I have been a Methodist minister for 50 years and I have had to work out a relationship with the Church of England over the whole of that time. My very first attendance at a Methodist Conference was in 1969, when the Methodist Church, in the days before the internet, voted on a proposal to bring the two churches together. It did it by the required majority—75% of those present and voting—and therefore voted itself out of existence. Then there was a gap as we waited for the Houses of the Convocation, in those days, to tell us whether they were minded so to do—and we discovered that by 68% or whatever it was, they had agreed, but not by 75%, so we had to reinvent ourselves, like David Bowie, and have another life.

One experience of fudge which perhaps noble Lords will be interested to hear part of— I must not disclose all the details: there are secrets involved in fudge—is to perform marriages for families of noble Lords down in the Chapel here. The intricate negotiations with Westminster Abbey could be put into a textbook relating the intricacies of the 4th-century theological search for a Christological doctrine that would suit everybody. But in the end the success was measured by the fact that the dear Anglican priest who came from the Abbey was quite content to be edged out and hidden behind a pillar. So we could do the wedding but he was there to record it and that was that. There are all kinds of imaginative things.

Perhaps as a matter of fact I should explain to the House the difference between a clergyman of the Church of England and those of us who are not. We do not have any authority to perform a marriage unless we have delegated authority from the Registrar-General. The Registrar-General interviews couples, goes through all the procedural aspects of things and, when he is satisfied, issues a certificate which is my authority, delegated by him, to perform the marriage in the building that has been authorised for the purpose. So we have never had the powers and that is the point at the heart of all of this: the Church of England is by law established and priests of the Church of England are also notaries public. They have the public status of officials of the state. They read the banns, they establish the mores, they take all the interviews and so on and they can give themselves authority in the other part of their capacity to perform these acts of marriage. That is where the difference lies.

Incidentally, on the prayer about being united and knitted together, and the part that was not quoted earlier in the debate, perhaps the knitting together is something that has to happen from heart, soul and mind. I hope that the Church of England will be generous enough to say to us Methodists, who have reinvented ourselves, "We were wrong 50 years ago. It is time, as an act of generosity, to take you back into our bosom". It is our mother Church. The right reverend Prelate the Bishop of Winchester is here and I am glad to take advantage of his supine position to make this point. I hope he will go away and argue with some conviction in the courts of the Church that it is really time that that horrible act of 1969 was reversed.

Since I am also a member of the Ecclesiastical Committee—perhaps I should have declared that interest at the outset—I feel that the modes of achieving these desirable objectives do exist. The noble Lord, Lord Deben, is absolutely right that this is a desirable objective. The right reverend Prelate the Bishop of Winchester will have heard the concerns expressed and I hope that he will take the measure of that concern to the courts of the Church, using the facilities that already exist, to bring back to the Ecclesiastical Committee a measure which will endorse and undergird the generous proposal included in the measure being put forward by the noble Lord, Lord Deben.

11.14 am

Baroness Vere of Norbiton (Con): My Lords, on what is very nearly my first wedding anniversary, I congratulate my noble friend Lord Deben on securing a Second Reading of his Bill. Like my noble friend, I have learned a huge amount in preparing for today's debate. Marriage law is very complex. I note his acknowledgement of the Church of England's ecumenical generosity in allowing its churches to be used by other denominations. In turn, I acknowledge the generosity of intention with which he has brought his proposal before the House today, which has been mentioned by many noble Lords.

Parliament lately has been debating various subjects that concern marriage. I was pleased to note the support last month from all sides of this House for the Registration of Marriage Bill, introduced by the right reverend Prelate the Bishop of St Albans. As he informed the House, the purpose of making provision to include mothers' names on marriage certificates is,

"to correct a clear and historic injustice".—[*Official Report*, 26/1/18; col. 1233.]

The Government are firmly committed to doing so. Also last month, in another place, Members debated marriage and support for family relationships more generally. My honourable friend the Parliamentary Under-Secretary of State for Work and Pensions, Kit Malthouse, responded by saying:

"The vital institution of marriage is a strong symbol of wider society's desire to celebrate commitment between partners".—[*Official Report*, Commons, 30/1/18; col. 286WH.]

It is a pleasure to be able to repeat his words in this House today.

It is true, as my noble friend Lord Deben noted, that the Marriage Act 1949 does not routinely provide for other Christian denominations to solemnize marriages according to their own rites and ceremonies in Church of England churches and chapels. Noble Lords, including the noble Lord, Lord Alton, referred to this as an accidental omission. But this is neither an injustice nor an accident. However, the law does provide for other denominations, both Christian and others, to solemnize marriages in their own places of worship and in their own ways. Such provision reflects a long-standing freedom that couples should be able to marry in their place of worship, regardless of denomination or faith. That is entirely right.

How Church of England marriages take place is a matter of law and practice that go back many centuries before the 1949 Act. There has long been a tight association between the Church's rites and ceremonies, its churches and chapels, and the reading of banns to give public notice of a marriage. We have a richness of ways in which partners can celebrate their commitment to each other before family and friends. Whether they choose to enter into marriage through a religious or a civil route, there is an unbroken connection between the place of the marriage and the type of ceremony that may be used.

Because provision for Church of England marriages and provision for other religious marriages were not made at the same time, there are some differences in the requirements that must be followed. None the less, important principles of public policy have endured and run throughout. The law sets out the requirements for a legally valid marriage. It also includes safeguards against marriages that should not take place at all, for reasons of important public policy. Marriage is one of our greatest institutions. The Government have always a duty to consider with the most studious care any proposals for change.

The Church of England has legislated for nearly 100 years through Measures that are received by the joint Ecclesiastical Committee. Although it is possible, it is not conventional for Parliament to legislate directly on matters that properly belong to the Church. I have therefore paid great attention to the contributions that all noble Lords have made today. I recognise that my noble friend Lord Deben has introduced a proposal that requires the Church's permission for marriages to take place. I listened carefully to what he said. I also

[Baroness Vere of Norbiton]
listened carefully to the right reverend Prelate the Bishop of Winchester, who set out the position of the Church of England. I am also struck by the right reverend Prelate's understanding that the Catholic Bishops' Conference and the Church of Wales are not supportive of this Bill. Many noble Lords, including my noble friends Lord Robathan and Lady O'Cathain, have noted that it must be for the Church of England to decide. Without the Church of England's consent to changing the law that affects it, the Government are clear that they cannot support the Bill. This is the Government's principal reservation.

I also note that the Government have not seen evidence of any demand from denominations or couples to use Church of England churches and chapels for their own marriages; nor have the Government heard of any dissatisfaction with the current arrangements, apart from those expressed by my noble friend Lord Deben—

Lord Griffiths of Burry Port: I am grateful to the Minister for giving me this space but I could give plenty of evidence of people who would like to avail themselves of this facility—plenty, plenty, plenty.

Baroness Vere of Norbiton: I thank the noble Lord for his intervention; perhaps I should have prefaced my "evidence" with "sufficient". We are certainly always open to receiving evidence because that is the best way to make law.

As a government Minister, I cannot of course comment on the ecumenical purpose of the Bill or on the practices of denominations. These are matters for others to determine, in their own way and their own time. I see that only this month, the General Synod of the Church of England has done just that in welcoming a joint report with the Methodist Church on how the two Churches can work more closely together, including in what they speak of as an interchange of ministries. The report is called *Mission and Ministry in Covenant*; I note that its authors acknowledge that they have built on the foundations of dialogue between the two Churches over many years, as mentioned by the noble Lord, Lord Griffiths. They also recognise that there is still much work to do. It is clear to me, then, that if Churches wish to take the initiative to work closely together, it is not a change that can be achieved overnight. Instead, it takes long consideration and, no doubt, prayerful reflection.

With all this in mind, and repeating that the Church's position is sufficient reason for the Government not to support the Bill, I turn now to the detail of what my noble friend has proposed. Clause 1(2) makes it clear that the proposal would extend to peculiars, royal or otherwise. The Government would wish to approach very cautiously any proposal from outside the Church that affected royal peculiars in particular, since they come under the direct jurisdiction of Her Majesty the Queen.

Clause 1(3) requires that the proposed marriages are solemnized and registered only by a minister licensed to perform marriages in a church of another denomination. The existing law sets out that a marriage in another denomination's registered building must take place in the presence of either a registrar or an authorised person. This authorised person will usually be a minister of religion, but not necessarily. The law does not require a minister to perform a marriage, only that the marriage should take place in the presence of the people required by statute. Furthermore, notice of such a marriage could not be given by the reading of banns, and the Marriage Act 1949 would require further amendment to provide for a superintendent registrar's certificate to authorise marriages by other denominations in Church of England churches and chapels. The existing law provides for offences relating to the solemnization of marriages; the Government would also need to consider whether these offences ought to be extended.

Clause 1(4) presents a problem of definition. I am aware that there is potential for dispute about which groups constitute a Christian denomination. Whether this is justiciable would be a matter for the court. Lord Ramsey, as the then most reverend Primate the Archbishop of Canterbury, understood this difficulty when he introduced his Private Member's Bill nearly 50 years ago. Now known as the Sharing of Church Buildings Act 1969, it extended to the denominations which had taken part in the negotiations for the actual construction of the Bill. Furthermore, it provided a mechanism so that other denominations could apply to various Christian umbrella organisations to have the Act extended to them. Although not the prime intention of Lord Ramsey's Bill, a consequence of a sharing agreement made locally with the Church of England under this Act is that other denominations may solemnize marriages in the Church of England building concerned. The requirements of the Act must be met, including that the other denomination has the building certified and registered in the usual manner.

I have endeavoured to be helpful to the House in setting out these points in detail. It remains the case that the fundamental issue for the Government is the Church of England's position on its own affairs. Because the Church does not support the Bill, I must, as a matter of principle, express the Government's reservations about the Bill.

I turn briefly to the point raised by the noble Lord, Lord Alton. He spoke very movingly of how differences in religion can affect families and communities, and the benefits of practical ecumenism. I accept his point that marriage is symbolic because it is a union—a coming together. None the less, families and communities have overcome their differences by themselves without changing the law. If one denomination is willing to involve another at an appropriate point in the marriage ceremony, that will surely be most welcomed by families and communities. That, however, remains a matter for the people involved, not for the Government.

The noble Lord, Lord Beith, commented on non-C of E participants in C of E weddings. He said that there are certain parts of the marriage in the Church of England that cannot be performed by ministers of other denominations. But in any marriage, whether religious or civil, there are certain requirements that must be met and the presence of certain people is required. My noble friend Lady O'Cathain helpfully noted these in her contribution.

I remain grateful to my noble friend Lord Deben for bringing this matter before the House today and encouraging such an interesting debate. I know that many of your Lordships have a close interest in these matters—in how different denominations work together in sharing their faith and witness. This has been a fruitful debate that has drawn on long reflection and wide experience from across the House. I should therefore like to thank all noble Lords who have taken part today.

11.25 am

Lord Deben: My Lords, I thank all those who have taken part in this debate. I say to my noble friend who has just spoken that none of the things she raised could not be altered in amendments to the Bill. There is no difference between us and no reason at all why we cannot meet all those things. I just want to come back at her clearly: the Bill does not tell the Church of England to do anything. It is entirely fictitious to suggest that we are breaking the convention. What we are doing is removing a legal impediment for the Church of England to make up its own mind, which is clearly different.

The 1949 Act says that churches are licensed for marriage according to the rites and ceremonies of the Church of England. The Church of England would have to get Parliament to remove that if it wanted to change it. All I am doing is removing that impediment to start with and leaving the Church of England to make up its own mind. That is what this House has done on successive occasions, and why the Church of England now has so much power to make up its own mind. I say that as somebody who was a member of the General Synod of the Church of England for more than a decade, so I know how the system works. But I know also that every time one raised this question, and I have raised it for many years, I was told that it could not be done because of the previous law in this House. All I am doing is removing that. If I hear anybody repeat the argument that we are asking, forcing or doing anything else to the Church of England, I will just ask them to look at the Bill. It does not say that at all. The fact that that is the only argument that has been properly brought forward suggests to me that the Church of England does not want to be challenged by the ecumenical realities of where it stands.

I much admire my noble friend in answering for the Government but, frankly, the idea that she has never heard of anybody being worried or upset about this leaves me flabbergasted—that is the only word I can think of—because this is the issue for so many couples, as we now have an ecumenical society. They are amazed when they discover that the Anglican girl and the Catholic boy, or the other way round—or the Methodist girl and the Anglican boy—cannot make the arrangement that they expect and want to make. They want to be married by the person who has been closest to them in their courting and their coming to terms with what marriage is. They are surprised to be excluded from that and blame first the Church of England. I have been able to defend the Church of England again and again by saying "It's not the Church's fault; it is not allowed to do it because of the state's law". I want to remove that here.

I have one thing to say to the right reverend Prelate. I have been in politics for many years, and I often hear speeches which go like this: "I'm so much in favour of this reform, so keen on the other reform, and on all these past reforms. I am absolutely on that side, it's just this new one that I am against". The Church of England has a long history of that and of never being in advance. But it always finally blesses the marriage with the deceased wife's sister—remember? That spent years getting through, because the Church of England could never bring itself to be just a bit ahead of what the public really wanted. There was the demeaning comment about a "marriage venue"; no one is talking about a marriage venue. We are talking about Christian people wanting to be married in the church which is their church, in their village, which they help to keep up, which they go to for ceremonies when they are there together. They do not want some hotel or some secondary place. They want to be where they see their faith continuous and with their neighbours. I say to the right reverend Prelate that that was the moment when he lost me. It was when he did not understand that ecumenism demands sacrifice and also demands getting round silly legalistic arguments. Of course we can insist that a registrar fills in the form, if that is what is needed. Of course we can get round all those things. This Bill says to the Church of England: "Here. All the impediments are taken away. You now have the chance to make a generous gift to the rest of society and a chance to show"—

The Lord Bishop of Winchester: The noble Lord makes me feel slightly uncomfortable. I want to clarify what I said at the beginning. I recognise the pastoral and personal issues that have been raised, but I say to him that there are a number of clergy in my diocese, and many other clergy in many other dioceses, who know that they have to conduct 150 weddings this year. They know what it feels like for their buildings to be used for event after event after event. My comment was not about the particular concern the noble Lord may have about a wedding that he is very interested in wanting to use the parish church as a wedding venue. but about the whole package deal of the Church of England's parish church—the local priest who knows the people concerned, reads the banns, prepares the people, uses the service that expresses the faith in which people are going to be married—that cannot be separated from the building. That is a very particular way of doing a marriage service.

I have no intention of saying to the noble Lord that he wants to change parish churches into wedding venues. I do not think that that was my concern. I just wanted to clarify that.

Lord Deben: The right reverend Prelate is making my point for me. We are talking about Christians who want to get married and one or other of them has a connection with a particular parish church. If there are 150 weddings, there are still going to be 150 weddings, but in one of them instead of the actual words of marriage being forcefully made by a clergyman of one denomination, they can be made by a clergyman or priest of another denomination, due to the generosity of the Church of England, which recognises that its

[Lord Deben]
place as the national church is the evolution of a whole historic story and that it needs to defend that by showing that generosity.

I say to the right reverend Prelate that what concerns me is that I have been involved in ecumenical movements for a very long time. As an Anglican I closed, forcibly, the last Conservative club in Liverpool that excluded Catholics. When I became a Catholic, I was cut off by relatives who thought that that was unacceptable. Do not let us kid ourselves about the amount of sectarian bigotry that still exists. Our discussions about Brexit have brought it to the surface again. All I am saying to the right reverend Prelate—and I am addressing him very directly as I finish—is that this is the next step in ecumenism. It is not good enough to say, "I am so keen on the past and am entirely in favour of all that but I cannot manage this step".

In the amendments, we can get around any of the legal problems. There is no difficulty. I have a host of different ways of doing that. They are not here because I wanted this to be absolutely clearly the words of the Church of England as far as I possibly could, but if the right reverend Prelate would like me to make a lot of changes, I am very happy to do so. It would have been nice had we had that conversation before, but my first discussion about this happened this morning. It is an interesting kind of way in which this has been handled. I just say please give the Bill its Second Reading because the time has come and there is no longer anything but mere political and bureaucratic reasons for trying to stop it.

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

Family Relationships (Impact Assessment and Targets) Bill [HL]

Second Reading

11.37 am

Moved by ***Lord Farmer***

That the Bill be now read a second time.

Lord Farmer (Con): My Lords, I am heartened by the healthy number of speakers for this debate—although I notice noble Lords disappearing—and appreciate very much the effort that they have made. I greatly look forward to hearing noble Lords' contributions.

This Bill would, if passed, ensure that all proposed changes to government policy are systematically assessed for their impact on family relationships, so they are supported rather than weakened. I will explain why policy should support families and what that will require, and summarise where we are now in terms of the family test introduced three and a half years ago. While it was a welcome forerunner to what my Bill proposes, there are strong indications that it is underperforming, and my Bill would remedy that.

In my briefing to accompany this Bill I outlined its purpose as follows. Policymakers do not habitually consider, in a systematic way, if and how policies support family relationships. It is as members of families that people usually experience the effects of policies and engage with public services. Families are impacted by policies and influence their effectiveness. Yet the focus of policy is typically on individuals. It is therefore essential to ensure that a family perspective is consistently applied to policy-making. In October 2014 the Government issued guidance for government departments on the application of the family test, which was an important first step. Departments are advised to think about family impacts in a similar way to how they consider impacts on equality to fulfil the public sector equality duty. However, equality—but not family—considerations are required by law. Moreover, departments are advised only to consider publishing assessments. The Bill would put family impact assessments and their publication on a statutory footing and require the Secretary of State to report annually on progress towards family stability targets and objectives.

I shall quickly acknowledge some of the people and organisations in this country who have consistently argued for family impact assessments: the Relationships Foundation, the Centre for Social Justice, Relate, the Family and Childcare Trust, Care and my noble friend Lady Stroud, who I am very glad to see here today. When they were in government, she and my right honourable friend Iain Duncan Smith ensured that the family test introduced in 2014 focused on family stability and the quality of relationships, not simply on family finances. While these are obviously very important, we in this country have a long track record of tracking household incomes and other indicators of disadvantage but we have been singularly bad at keeping our finger on the pulse of family breakdown. Indeed, the Centre for Social Justice's 2007 *Breakthrough Britain* report highlighted that although the last Labour Government recognised eight domains of social exclusion, they collected data on only seven; the eighth, family breakdown, was ignored.

This Government are not doing much better. They last published the English indices of deprivation in 2015, the seven domains of which map loosely on to the former domains of social exclusion. Again, these make no reference to the breakdown of family and other relationships. The Department for Work and Pensions' workless families strategy introduced new indicators last year. These include the proportion of children in families headed by couple parents who report relationship distress and the proportion of children in separated families who see their non-resident parents regularly. However, the social justice framework included family stability indicators: the percentage of all children not living with both their birth parents and the percentage of poorer children not living with both parents, compared to those in middle-income to higher-income households. These have completely disappeared.

In Committee on the Welfare Reform and Work Act, the noble Lord, Lord Freud, committed the Government to developing:

"a range of non-statutory indicators to measure progress against the other root causes of child poverty, which include",

among others,

"family breakdown … Anyone will be able to assess the Government's progress here. The Government are saying, 'Judge us on that progress'".—[*Official Report*, 9/12/15; col. 1585.]

As I have said before in this House, we cannot judge the Government on their progress against family breakdown as a root cause of child poverty when we no longer measure it but instead use the proxy of parental conflict. The DWP has given with one hand and taken with the other.

That makes no sense. We cannot ignore the importance of children being raised by both their birth parents where possible. There is the pain of losing daily contact with one of them, the blame that many children take upon themselves for the separation and the implications for financial hardship of raising children alone. One-third of children living with a working single parent live below the poverty line. Of course the quality of relationships is important but this is only half the story. Moreover, and rightly, the current family test asks questions about family stability and relationship quality.

Why should the Government support families? Well-functioning and stable families are important to all societies because of the considerable contribution that they make in, for example, generating productive workers, caring for family members and ensuring healthy child and youth development. It is always prohibitively expensive for the state to replace the functions that families perform, so Governments have both an altruistic and a vested interest in strengthening them.

When we neglect families, there are enormous fiscal and social costs. The Relationships Foundation recently published an updated headline cost of family breakdown of £51 billion. In previous years, about one-third of the overall cost was due to extra tax credits and benefits; one-third to extra health and social care costs; 15% to housing; a similar proportion to civil and criminal justice; and 5% to additional education costs. However, the sum of human misery is much harder to quantify. To take just one area, the charity Addaction found that more than half the children it was treating for serious drug and alcohol problems were from families that had split up.

The political philosophers Brighouse and Swift point out that,

"all the major political parties in the UK seek to present themselves as pro-family".

At every general election it is "family, family, family", but nothing significant appears to get done. All the major parties continue to allow the relentless trend of family breakdown to continue. As Professor Karen Bogenschneider observes, there is typically,

"a feast of family rhetoric but a famine of attention paid to the family concept. It remains one thing to endorse the important contributions families make to their members and society and quite another to systematically place families at the centre of policy design … and implementation".

We need policies with the explicit end goal of supporting families, so I and colleagues published *A Manifesto to Strengthen Families* to counter the lack of activity that we have seen heretofore, which is generating some real anger on my party's Benches. Around 60 MPs have signed it. We are not going to let this agenda go away.

However, Bogenschneider also refers to implicit policies that are not intended to affect families but have indirect consequences for them. The current family test aims to lay bare those indirect consequences so they can be mitigated where necessary. However, here again the Government could be accused of giving with one hand and taking away with the other. Departments are not statutorily required either to carry out the test or to publish the findings of the assessment process. The guidance only obliges policymakers to make a judgment as to whether the five questions in the test should be applied and whether the details of any assessment carried out should be published. While they must document the application of the test "in an appropriate way", ostensibly to build an evidence base about how policies impact families, that documentation seems to be available only to other civil servants. Its operation seems to be shrouded in some secrecy. An evidence base must be accessible if sedimentary layers of knowledge are to be added to it.

A review of progress in implementing the family test one year after its launch found that only four departments could cite specific instances when the family test had been applied, while a further four did not provide a meaningful response about how or whether their department was implementing it. More promisingly, the review outlined the many steps that the DWP was taking to ensure that officials in other departments were better able to assess family impacts. These included information exchange sessions and a policy profession course on implementing the family test across Whitehall. I would be obliged if my noble friend the Minister could inform us how many of these sessions and courses have taken place over the last two years, as such training must surely need to be ongoing, given the inevitable churn of personnel.

In response to Written Questions submitted in the House of Commons in December 2017, asking the Secretary of State in 15 different departments to which legislation his department had applied the family test, more than half provided a standard and completely opaque response:

"The Government is committed to supporting families. To achieve this, in 2014 the",

relevant department,

"introduced the Family Test, which aims to ensure that impacts on family relationships and functioning are recognised early on during the process of policy development and help inform the policy decisions made by ministers. The Family Test was not designed to be a 'tick-box' exercise, and as such there is no requirement for departments to publish the results of assessments made under the family test".

Such responses characterise the family test as highly discretionary, voluntaristic and opaque in its operation. Policymakers need neither apply it, document why they have not done so, nor publish documentation when they do carry it out. Accordingly, the family test is unlikely to achieve the cultural change in policy-making that was its original intent.

Also, language matters. The phrase "family test" is unfortunate because it implies that carrying it out will produce a pass or fail judgment on a government policy instead of a careful assessment of its effects on families in the round. It might unhelpfully disincentivise publication. Hence, the Bill would make it a legal requirement for government departments to carry out and publish family impact assessments where appropriate, using similar questions to those in the existing family test

[Lord Farmer]
guidance. Family impact assessment is an internationally recognised concept with much good practice to learn from. The Bill would also explore the benefits of extending the requirement to local authorities and ensure that the Government act in a concerted way to address family instability by publishing family stability objectives and targets, and their proposals and policies for meeting them.

Almost half of all children are no longer living with both their parents by the time they are 15 years old. Family instability is undermining our economy, our children and young people's mental health and our ability to tackle many of the major problems facing the Government, such as housing and social care crises. Addressing it directly is a priority, but so too is ensuring that government action is not indirectly making a bad situation worse. I beg to move.

11.52 am

Baroness Massey of Darwen (Lab): My Lords, it is a great pleasure to follow the noble Lord, Lord Farmer, and I thank him for introducing the Bill so cogently. Noble Lords may be encouraged to know that I shall not be looking at the impact of Brexit on families: I think we deserve a little Brexit relief after this week.

Families in the UK have changed significantly from when I was growing up. We are now a society with different faiths and cultures and different views on family relationships. We have more single-parent families, we have same-sex partnerships, we have more formal childcare, and so on. Families are what they are, and some families need support in their relationships.

The noble Lord, Lord Farmer, described well the thrust of the Bill, so I shall not repeat that. Of course, these issues have been debated before, notably in another place on 8 February. We have a manifesto for families, with recommendations that every government department should have a Minister responsible for families. Local authorities are called upon to set up family hubs to support families. I agree that families are at the core of communities and society. Getting it wrong for families is not only costly but painful—especially, I suggest, for children.

As the noble Lord, Lord Farmer, said, and I repeat, policymakers do not habitually consider in a systematic way how policies support family relationships. We should remember that individuals, with all their individual needs, make up families. I wish that we would concentrate more on what factors make things go right for families and people, rather than just carrying on about what is going wrong. I wish that we shared insights into what goes right with families.

Families have been high on the political agenda for many years, and rightly so. Issues such as parental leave, laws to protect children and victims of domestic violence, support for disability in families and the teaching of relationships in schools have all emerged. Trying to improve people's lives, especially children's lives, is not only admirable but makes economic sense—as the noble Lord, Lord Farmer, said.

I turn to the Bill, which suggests that we need to look at the impact of policies on families. I agree, but how do we do this without having a reverse effect or no effect at all? Let me briefly relate two anecdotes from my experience which taught me a lot about assessment.

I was once part of a project which looked at child impact assessment on a limited number of Bills in Parliament. Ideally, looking at the potential impact of policy is important before the impact is felt. I also suggest that it is important to include in planning assessments those on whom the impact will fall, such as children and families.

An example might be designing a family-friendly transport system. Any mother, father or grandparent—or anybody else—trying to balance two children, a pushchair and shopping knows how unfriendly transport can be, in both frequency of service and facilities. In the impact assessment project, we quickly realised that a Bill without the word "child" might still profoundly affect children. It is the same with families. Almost any policy from any policymaker in any field will affect families in practice.

The lesson here was about the need for early consultation before designing any intervention for children and families, and the need for agencies to collaborate to effect change. All of that is relevant to the Bill.

Another experience was when I served as an advisory teacher across London schools. I, and others in the same role, went into schools, usually at their request, to examine programmes of health education, offer training to teachers and deliver more effective programmes. It worked. When the role became more inspectorial, ticking boxes to say that such and such was or was not being delivered, it all fell apart.

Entities such as schools and families grow and develop from within, with support and encouragement from outside. We cannot simply judge them. People know that they are being judged and often act in ways contrary to what is intended. Families often need support, not just assessment and data. Many projects I know consult and involve families and communities thoroughly.

At the heart of all laws, policies and practice must surely be early intervention. It has often been said that most young people will become parents. They may or may not marry. What we do know is that the breakdown of relationships is common. Children can be encouraged to develop good relationships from an early age. Most, thankfully, learn this at home. Sadly, some do not and, unless there is intervention, they will continue a cycle of being ill-equipped to pass on those skills to their children. There is much excellent practice in schools, where good relationships between children and children and staff and children are encouraged and an ethos is developed in which consideration for others is paramount.

We probably all agree on what a good, functioning family might be. It begins with the parents and, usually to a lesser extent, other members of the family. Those parents have a right to be taught the skills of good parenting, inside and outside school. Most are not: most rely on instinct and example. I suggest therefore that Clause 2(b) on family formation should include the word "education".

It is a good idea to have someone responsible within a department who has oversight of family welfare; it is also important that local authorities,

which know their populations best, are enabled to do a good job. Sadly, cuts in services have affected this ability. I wonder how serious the Government are about supporting families when there are unacceptable levels of family poverty and unacceptable cuts to local services such as Sure Start, library services and recreational services. Families grow because they do things together and can afford it. The other government flagship, social mobility, is not going to happen without strong and stable families that support and encourage young people to aspire. We know that unemployment can create generations of unemployment, sometimes in very specific deprived geographical areas of the country.

I was interested in the troubled families programme, which, in phase 2, had 60 outcomes across, for example, crime, education, employment, health, domestic abuse and child safeguarding. That is all very well; these issues tear families, communities and society apart. I note that comparisons were to be made between councils, as they should be—but, on a positive note, I feel that comparisons should be about sharing good practice and not just making comparisons.

In October 2014, the Department for Work and Pensions published guidance for government departments on the family test, referred to by the noble Lord, Lord Farmer, which assesses the impact on the family of every single domestic policy. But I have the impression—and I get the feeling that the noble Lord, Lord Farmer, shares it—that, despite good intentions, this task is super-complex, with nobody really pulling the whole thing together. How are the Government going to make family policies transparent to decision-makers, families and the public, and how will family policy be made a genuine concern across all departments and at a local level? What are the implications of this initiative for budgets at national and local level?

I admire the dedication shown by the noble Lord, Lord Farmer, to improving family relationships. The Bill is an honest attempt to do just that. I would like to further discuss some of the issues, such as the role of assessment, with him and others.

12.02 pm

Lord Blencathra (Con): My Lords, it is a pleasure but a rather daunting task to follow the two such erudite and knowledgeable speeches made so far on this Bill, and I congratulate the noble Baroness for bringing her wealth of knowledge and teaching to bear on it. I strongly support my noble friend's Bill and the dedication that he has shown to this issue over many years.

I want to work backwards in the Bill and start with Clause 3, which sets targets for family stability and asks the Government to publish objectives and targets and proposals and policies to meet those targets. I assume that by targets my noble friend does not mean numerical targets—that X% or Y% of families must reach certain goals—but targets more in the sense of objectives. I want to take a step back behind the Bill and ask why it matters. What is the point of having strong and stable families? Why is it important?

I discovered many years ago in the Home Office, as Criminal Justice Minister, some fascinating statistics on how the level of criminality among young people depended on the strength of the family relationship. I am absolutely certain that that has not changed one iota over the last 20 or 30 years; we still get the same statistics and trends coming through. I choose my words very carefully here, as I do not want to be misconstrued, but it would seem that in a strong family certain factors are present, while in a weak family certain factors are lacking. A weak family is one where a single parent is trying to bring up children on his or her own. Usually, that single parent will be a woman, not through any fault of her own, but because the father has cleared off and abandoned his responsibilities. A more difficult factor is when the person is trying to bring up two or three children who, increasingly, may have different fathers, and she is struggling on her own.

The statistics also show that, if a factor is present where one or more of the parents or close relatives have been engaged in criminality, the children of that family face another uphill task to be on the straight and narrow. When there is one or more person unemployed, that is another, additional factor bearing down on a family. When the children are truanting and no one is doing anything about it, or when they are not in a loving or caring relationship, those are further negative factors.

I am not suggesting for one moment that, in any family where one or a couple of those factors are present, the children inevitably will go on to a life of criminality, but all the statistics bear out the facts that, the more of those negative factors are present, the greater the chance that the children of that family will themselves not have stable families in future, and the children themselves may go on to a life of criminality. I am making no judgment at all on the sex of the parent; that is irrelevant for these purposes. Two people bringing up children is more than twice as good as one person trying to bring up children. That is why strong and stable family relationships are important and why my noble friend's Bill is important.

I move on to Clause 2. I am so pleased that my noble friend has suggested in the Bill that the Secretary of State must carry out an assessment before extending it to local authorities. That is the right thing to do. I am worried that we should get this right in central government first, before we extend it to local authorities. We all know that there are some excellent and brilliant local authorities out there, but there are some pretty daft ones as well—and I can imagine some of them carrying out a family impact assessment when it is quite unnecessary, wasting money and discrediting the whole thing. I can imagine, when a local authority decides to change the colour or shape of the recycling bins or boxes, it could waste months doing a family impact assessment that is not necessary.

However, in housing policy a family impact assessment is absolutely vital, as it is with planning policy. I am appalled with the number of houses that are built without gardens these days. It is bad for the environment—no food for the hedgehogs or blackbirds—but it is appalling for the children to have no play space. I have seen that around the country. So, yes, planning policy impacts families, not just whether you have bungalows for older people or enough bedrooms for children but whether you have a play space as well. So that is an area where it may be appropriate.

[Lord Blencathra]

That brings me on to suggest that, before we extend this to local authorities, we would need a sort of checklist for them—things to think about that may impact on families. If there is just a general obligation for local authorities eventually to carry out a family impact assessment, that could damage the policy because they would be missing out in some areas and doing it improperly in others. So a sort of checklist may be helpful. Obviously, it should include education policy, social security and housing policy, as well as health policy when it is done locally. But what about care homes for the elderly? What does that have to do with families? Well, if they are separating a married couple who have been together for 50 years, that is a family. That is a grey area that needs to be thought about. So it is worth while doing an assessment and carefully thinking it out before we extend this to local authorities.

That brings me on to central government. In the briefing I read, I was surprised to see that only three departments—the Department for Work and Pensions, the Department for Education and the Ministry of Defence—referred to specific instances in which the family test has been applied. Noble Lords may ask what it has to do with the Ministry of Defence. There are two very important issues. First, the Ministry of Defence faces a problem at the moment with a shortage of money—it will always be short of money—and of recruitment. You cannot have an Army based on young, single men and women. We are losing married people from our Armed Forces at a rate of knots. Why are we losing them? Because the Ministry of Defence housing for our soldiers, sailors and air men and women is an absolute disgrace. It always has been and, at the moment, it looks like it always be.

In the press this morning, I read two Ministry of Defence stories—the first about the disgraceful treatment of a brave and heroic Army major who has been investigated for the seventh or eighth time for alleged offences in Iraq. It is an absolute disgrace that we have not stopped that. But the bigger story was about the number of people resigning from the Armed Forces because the accommodation in Aldershot—and Aldershot is not any worse than the rest—was so deplorable. As one woman said, "My tent in Afghanistan was better than the housing I got from the Ministry of Defence in Aldershot". Without going further down that route, I would love to see the Ministry of Defence's assessment of its housing and an impact assessment on families. If it could get it right for families, it would solve an awful lot of its other military problems.

Five departments said that they produced tailored guidance or tools for applying the family test, which I take to be a sort of checklist, and that brings me on to my point about a checklist for central government. If these departments have produced a checklist—which I assume will say, "If you are going to have a policy in areas X, Y and Z, apply the family test; these other areas are irrelevant and nothing to do with families, so you do not have to do the test"—that would be a very worthwhile tool and would make it more difficult for the Government to refuse my noble friend's Bill.

I was delighted to read this morning that my right honourable friend Michael Gove is planning to put in place a deposit scheme for plastic bottles. He is going to tackle the plastic bottle scourge, and rightly so, but I hope that he would not have to do a family impact assessment on that, because it is an area that seems quite irrelevant to families, although I remember as a boy making a lot of pocket money—threepenny bits at the time—collecting glass bottles, the ones with the screw tops. I hope that Michael Gove's scheme will allow kids to collect all these bottles and get 20 pence for them; that would really clean up the countryside.

I am being slightly facetious there, but we need to make sure that central government does not obviate its responsibilities here by saying, "The Bill is too wide-ranging; we cannot have a family test for everything—some things are irrelevant to families". Yes, some things are irrelevant to families, but let us come up with the checklist of things that are relevant, so that government departments cannot get round them. The Bill can of course have a regulation-making power to make sure that, if a new area crops up in future, it can be added to the checklist of things that government departments must do. We could make the case that a whole range of things tangentially affect families—cycling, climate change, overseas aid—but let us concentrate on the key areas and the key departments first.

It is vital for the Department of Health, social security and the Home Office. The Home Office has apparently not done any of this, but it must do family impact assessments. With its policy on law and order, crime and policing, it is one of the key departments affecting families. I had not thought of transport until the noble Baroness mentioned it. Getting on and off buses with prams and pushchairs and so on affects families. We should find the key government departments that make the biggest impact on families and make sure that, through this legislation, they are doing family impact assessments in the areas where families are affected. Then, if we get it working in the key departments of central government, in due course it can be extended to the other departments and then to local authorities.

With those little caveats, I strongly support my noble friend's Bill and I wish him all success. I know that the Minister will have to give the sort of generic speech that every Minister gives, probably rejecting the Bill—as we heard for the last Bill a few moments ago and as I heard for my Private Member's Bill; there is a market for coming up with a generic ministerial rejection speech—but I hope that is not the case today. I hope I am proven wrong.

12.13 pm

Lord Kirkwood of Kirkhope (LD): My Lords, it is a great pleasure to follow the noble Lord, Lord Blencathra; his ministerial experience is of great value to the House and I look forward to studying his speech in more detail in the *Official Report*. I am delighted to be here. My idea in coming was to support the noble Lord, Lord Farmer, in his consistent and long-established quest to make improvements in this important area of public policy. He has done an enormous amount of work behind the scenes, and this Bill is part of that. He is right to say that he should be pleased with the turnout that he has got this morning; the House will value his continuing work in this important area. I do

not think anybody is going to say anything critical about this Bill, except that maybe we should have more of it, and faster.

I have a small niggle, however, on the Long Title of the Bill in that it refers to the Secretary of State. The Secretary of State is referred to all through the Bill. I assume this is the Secretary of State for Work and Pensions, but there is an ambiguity there and, if we get to Committee stage on this important Bill, I will move an amendment to clarify that point—that is also to demonstrate to noble Lords that I have read the Bill.

Lord Skelmersdale (Con): It is my understanding that—this has always been the case, for as long as I have been in this place—a reference in legislation to a Secretary of State means any Secretary of State at any time.

Lord Kirkwood of Kirkhope: That is fantastically good news for the noble Lord, Lord Farmer, and the rest of us.

Lord Farmer: My Lords, I just agree with that.

Lord Kirkwood of Kirkhope: So, we are all agreed about that. I am now looking at new departments and new Secretaries of State with enthusiasm and I am glad the point has been clarified; I will go home a happier man.

Family impact assessments are a very valuable tool and we should be developing them. As this Bill makes quite clear, they allow for some perspective and anticipatory thinking at the policy-making level. I can see the effect of this; I serve on the Secondary Legislation Scrutiny Committee and government departments are now getting much cleverer about impact assessments supporting, in terms of statutory instruments, the primary legislation that spawns the orders. What we should be doing here, and what I think the noble Lord, Lord Farmer, is trying to do, is to change the culture in departments so that they are always thinking about how this will work through the policy development. If they are doing that right at the beginning, it makes it much easier to get the policy right.

I think that departments—from an opposition point of view, this might be an unusual thing to say—should be braver about talking about the real costs of some of this policy. I was looking recently at some of the predictions and forecasts—we can never be sure that they will happen that way—and, frankly, in the next 20 years, when you look at the demographic change that this country is facing and all the other problems such as climate change, the resources available to do this family support work will get harder and harder to find. In telling the unvarnished truth, nobody wants to frighten anybody about all this, although some of the forecasts are really quite depressing, but we have to be realistic.

Lord Framlingham (Con): I agree very much with what the noble Lord is saying, and I am following his speech with great interest. He is talking now about costs, but does he not think it is worth considering that, if the family stay together more, the likely result of that is an enormous cost saving, both in money and other ways?

Lord Kirkwood of Kirkhope: That is a helpful intervention, because I absolutely agree with that. Family impact assessments are an important tool in getting to that point. That was the point I was going to make.

We need to look not only to local authorities—as the noble Lord, Lord Blencathra, and the noble Baroness, Lady Massey, mentioned—but to try to capture some soft support systems in neighbourhoods and communities in future. That is new for me; I look to the noble Baroness, Lady Stroud, when I say this, but I have always kept a bit of distance from the agenda that she has been very positively promoting in her own way, because I always had a suspicion that Conservative Governments and Conservative Chancellors in the past have sometimes used it as a way of saying that we do not really need to keep up the benefit expenditure. I am in favour of individual entitlements to benefits, and when you look at the cuts, freezes and caps, that has not been made any easier. But even I—if I can put it that way—am now thinking that we really need to look at some of these symptoms that the Centre for Social Justice and others have been looking at, as additional methods of support. We can make it more cost-effective if we have more effective family policy, and I think that this Bill does that, particularly in setting up objectives and targets, looking at reporting and being transparent and honest about that reporting.

I have a couple of points to contribute to the debate. The DWP has an enormous amount of data. The quest of the noble Lord, Lord Farmer, could be assisted considerably if some of the really clever people in the research department there thought about how to cut across and tabulate some of the real-time information. There is a minefield—no, not a minefield, a mine. What am I trying to say?

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): A mine of information?

Lord Kirkwood of Kirkhope: Ministers have their uses. There is a mine of information in the DWP, and Ministers should go back and ask whether some assistance can be given to this kind of policy programme. The data needs to be made available to local authorities, although you obviously have to be careful about data protection. There are rules about that, but you should be testing them to the limit of what is useful if that makes a difference to identifying some of the anticipated problem families. Big data is now so clever that you could begin to get, not algorithms but almost algorithms, which would anticipate where the problems were. You could make available the priorities in terms of the spatial dimension in deprived areas; and professionals in the department, and in local authorities, could start to be provided with data on circumstances that would help them to anticipate where future problems would arise. In support of family impact assessments, the department should do a little bit of work to see whether any help could be provided in that direction.

I spent a very interesting morning at the universal credit centre in Dover, where I observed two applications. I am saying this against myself—I was really looking

[Lord Kirkwood of Kirkhope]
for problems that I could come back and attack the DWP about, but they both went swimmingly well. It was clear that the job coaches were signposting people who had individual problems. That is what they should be doing, but they could be doing more of it. The noble Lord, Lord Farmer, rightly said that policy is pointed at individuals. Universal credit is actually pointed at households. The claimant commitment could go as far as saying to people coming on to universal credit for the first time that, if anyone who has signed up to it sees problems arising in their household that might lead to family breakdown, they could phone. The "Ghostbusters" number should be that of the universal credit coach who could hold the ring and say, "Let's see what we can do". I know that they have only got a certain amount of time available and they are not looking for things to do. However, in the course of these interactions with people coming on to universal credit, we might start to look at family problems a bit more broadly. That is a good place to start the discussion.

Finally, I say to the noble Lord, Lord Farmer, that if this does not work, we should think about getting more robust about enforcing it. If the DWP cannot do it, it should go to the Cabinet Office or to somebody who has control of all the Secretaries of State, now that I hear they are all in play—I hope that includes the Treasury. In the course of discussing the Bill, I hope that this House will send a clear signal to central government that we are not going to allow the family test failure to happen again on this Bill. If they do not get it right, we will come back looking for more and we will not be long in doing it. I support the Bill and encourage the noble Lord, Lord Farmer, whom I thank for the opportunity for this debate. I will stand shoulder to shoulder with him in his future work in this important area.

12.24 pm

Lord Shinkwin (Con): My Lords, I, too, congratulate my noble friend Lord Farmer on securing a Second Reading of his Bill. The subject matter could not be more important, for the simple reason that without families there is no sustainable society. A breakdown in family relationships leads to, as some would say we are witnessing, a breakdown in society with massive, indeed unsustainable, financial, social and painful human costs. My noble friend Lord Farmer has already outlined this and the noble Baroness, Lady Massey of Darwen, and the noble Lord, Lord Kirkwood of Kirkhope, alluded to it.

As I said in my noble friend's debate on strengthening families in November 2017, I was delighted to be a co-signatory to *A Manifesto to Strengthen Families*. The measures that it advocates, of which this is one, are not just eminently sensible but essential. The family impact assessment is particularly important because, as has been explained, the voluntary nature of the family test and the rather haphazard way in which it has been applied suggest that it is unlikely to achieve the cultural change in policy-making that was originally intended.

That is surely the key point. We are embarking on positive, beneficial and non-judgmental cultural change, which recognises the family's pivotal role as the foundation of a stable society. I stress that I completely accept the point made by the noble Baroness, Lady Massey of Darwen, that families now come in all shapes and sizes. That is covered by paragraphs (a) to (g) of Clause 1(5) and by Clause 4. For the reasons set out, this Bill provides a crucial cornerstone to that process of cultural change because, without family impact assessments being conducted consistently across central and local government, establishing a cross-government family strategy, which is fundamental to strengthening families, is just not possible

The question is not so much why we should have family impact assessments on a statutory basis. It is, surely, why not? Indeed, how can we make measurable, cost-effective and sustainable progress towards stronger families and the stability that they bring without the measures proposed in the Bill? We only have to look at, for example, the mental health costs to teenagers of family breakdown to see that the growing instability caused by a systemic devaluation of the family comes at an extortionate price. The figure of £51 billion was mentioned by an earlier contributor to this debate. On the other hand, reversing that trend by strengthening families would be an extraordinary prize, which I thank my noble friend Lord Farmer for pursuing through his Bill. We have nothing to lose and everything to gain. The Bill deserves our wholehearted support.

12.29 pm

Lord Alton of Liverpool (CB): My Lords, I, too, welcome the opportunity to support the Family Relationships (Impact Assessment and Targets) Bill introduced by the noble Lord, Lord Farmer. He has done the whole House a great service by eloquently setting out the details of the Bill and the history of the currently inelegantly and, in his phrase, unfortunately named family test, which has clearly not achieved all that was originally hoped for when it was introduced in 2014. It is because the family tests are not shaping policy-making in the way that was hoped for that I agree with the noble Lord that statutory family relationships impact assessments and targets should be published.

I will say why the impact assessments are needed and why it would be best if that were a statutory provision. My remarks are predicated by my belief, which I share with the noble Lord, Lord Blencathra, and others, that the family is the building block of society. That view is completely at variance with that expressed in the third Reith lecture, as long ago as 1967, by Edmund Leach, the British social anthropologist, when he famously excoriated the family by saying:

> "Far from being the basis of the good society, the family ... is the source of all our discontents".

In reality, the breaking up of stable families is a far greater contributor to instability, unhappiness and discontent.

As the noble Baroness, Lady Massey, and the noble Lord, Lord Shinkwin, reminded us in their thoughtful remarks, families come in many shapes and sizes. Although some may resemble war zones, at their best

they provide stability, love and a network of care to face and deal with the many challenges and misfortunes of life. I cut my own teeth representing a community where half the homes had no inside sanitation, running hot water or bathrooms, but where the open doors of people's homes in back-to-back terraced streets, populated by aunts and uncles, grandparents, parents and children, were places where burdens were shared and where an elderly person would never have been found weeks after their death and no one any the wiser. It is instructive that, with the breakdown of families and communities, it is said that some 1 million elderly people do not see a friend or a neighbour during the course of an average week.

However, the costs of family breakdown are not simply social. Yesterday, I met Michael Schluter, one of the founders, in 1993, of the Cambridge Relationships Foundation, to which the noble Lord and others have referred. In a report published a year ago, it put the figure at £48 billion—updated, as the noble Lord told us today, to a staggering £50 billion—as the cost of family breakdown. Put another way, the cost to the average taxpayer is around £1,820 a year. But of course this is about not just money or economics. How do you put a price on the often intense pain and suffering felt by those experiencing family failure, especially when there are children involved? With children now only having a 50:50 chance of living with both of their birth parents by the time they are 16, we have far too little understanding of the sheer scale and extent of the emotional costs. Too often, it is this that is the real source of distress and discontent identified half a century ago by Edmund Leach. So what might we do? Back in 1996, in another place, during the passage of the then Family Law Bill, I argued for anniversary tax allowances: tax breaks that might be given incrementally as wedding anniversaries occur. I also argued for family impact statements and, among other things, in a book, *Citizen Virtues*, I suggested that,

"these should be attached to every new Government policy, just as local authorities attach environmental impact statements to planning applications and policies".

That brings me to the two reasons why I support the noble Lord's Bill. First, why are impact assessments needed? Governments rely on families to achieve many of their most important goals, yet neither the nature and extent of that reliance, nor the ways in which that contribution may be fostered or compromised by the actions of government, are clearly set out. Let us consider one example of the way in which policy goals rely on families: the hugely important question of social care. Carers UK reports that the number of people providing unpaid care of 50 or more hours a week has increased by 26% in the past decade. The UK's 6.5 million unpaid carers provide care valued at an estimated £132 billion a year. Without that contribution, the pressures on social care, and thus the National Health Service, would be even greater than they already are. Yet the ways in which housing policy, which has been referred to in this debate, may influence the ability of families to co-locate to provide care, for example, are simply not reported. The generation of baby boomers comprises the largest block of people ever to enter old age in the United Kingdom. Their couple and family relationships have generally been characterised by greater fluidity than those of the generation before them, with more step-families and more single people in old age. The full implications of changes in family stability for the family provision of social care are yet to be seen. There are many areas of policy that may influence the motivation, opportunity or capability to provide care but, without the assessments and indicators that this Bill calls for, they will remain hidden from view.

The mental health of both adults and teenagers, their physical health, the educational outcomes for children, the likelihood of needing welfare support, all these and many other policy goals are influenced by what happens in families, yet this vital resource is neglected in our policy-making. The noble Lord's Bill rightly recognises that it is not just primary legislation that should be assessed for its impact and that assessments should be complemented by family stability targets and proposals for how those targets should be met. It has long been a concern that there is no adequate mechanism for coherence to support families across all areas of government. All government departments rely on families and all influence them. Without a broad overview of how government is fostering a climate in which families can thrive and fulfil these responsibilities, family impact assessments will lack the necessary context. Equality and environmental assessments have worked because the context is understood and deeply embedded within the policy-making process. The current experience of family tests on policy suggests that the social capital of families is something of an orphaned asset as far as government is concerned.

Secondly, why should this provision be made statutory? The Bill rightly seeks to build on the existing patchily implemented family test and seeks to put it on a statutory footing to ensure that it becomes more deeply rooted in policy-making, influencing the culture of departments right across the piece, as the noble Lord, Lord Kirkwood, told the House a few minutes ago. The fact that the current non-statutory approach plainly is not working was made very plain by the series of Written Questions that have been referred to, which were put to multiple departments in another place in December. Like other noble Lords, I have looked at those Questions and the replies. Eight government departments provided an identical response, which was deeply troubling in two respects. First, that standardised reply did not even attempt to answer the basic question about what legislation the family test had been applied to since 2014. To the extent that departments are normally happy to admit when they have done something that you want them to have done, the complete failure to reference any specific application to any legislation makes me doubt that the departments in question had applied the test at all. Secondly, the Answers all contain the following words:

"The Family Test was not designed to be a 'tick-box' exercise, and as such there is no requirement for departments to publish the results of assessments made under the Family Test".

That is risible. The rather ridiculous inference of this statement is that all other impact assessments that result in published reports are just "tick-box" exercises. None of us believes that. If it were the case, the logic would be to scrap environmental impact assessments, child rights impact assessments, regulatory impact

[Lord Alton of Liverpool]
assessments and equality impact assessments, and I am not arguing for that. No one is interested in some bureaucratic box-ticking exercise. As other noble Lords have said, what we need is transparency, accountability and a strong incentive for government departments to take this seriously. If assessments are not published, there is no adequate mechanism for highlighting the missed opportunities, costly omissions or unintended consequences of failing to consider how the vital contribution of families may be supported or undermined.

In conclusion, I say to the noble Baroness, who I know is deeply committed to this issue, that government has made commendable efforts in seeking ways to enable policymakers to consider a range of factors in policy-making. I note, for example, the recent report from the Office for National Statistics on natural capital, which said that,

"by providing valuations of the UK's natural capital, decision makers can better include the environment in their plans to allocate resources to develop, and promote the growth of, the economy".

If we can factor in and report on the natural environment in our policy-making, as we should, surely we can and must do far better in assessing both the value of and our impact on the most important element of the social environment: our families. I pay tribute to the noble Lord for his diligence and assiduity in pursuing this issue with such dedication and passion and I wish his Bill every possible success.

12.40 pm

Baroness Stroud (Con): My Lords, I thank my noble friend Lord Farmer for his tireless work in bringing the Bill before the House. The first time he and I met, we talked about his commitment to the family, and he has never wavered from fighting to see family life stabilised in this country, particularly among the poorest.

The Bill matters. Family stability in this country is in crisis. The UK has one of the highest rates of family breakdown in Europe, and the fact that, as we have already heard, almost half of the nation's children are not living with both birth parents by the time they are 15 should be a source of serious concern to us. Almost half of children in our poorest communities have seen their parents split by the time they start primary school. These statistics matter, because each one represents a personal story of human pain. They matter because family breakdown entrenches poverty: poverty levels for children growing up in lone-parent families have almost double the "poverty risk" than children living in couple families. They matter too because they affect children's life chances, as we heard. Children who experience family breakdown perform less well at school, gain fewer qualifications and are more likely to be expelled from school.

But it is not just the nuclear family that is impacted by family breakdown. In the UK, as the noble Lord, Lord Alton, said, more than 1 million older people say that they go for over a month without speaking to a friend, neighbour or family member, and more than 2 million people in England over the age of 75 live alone. According to the 2017 report published by the Jo Cox Commission on Loneliness, more than 9 million people in the UK often or always feel lonely.

David Cameron said:

"Families are the best anti-poverty measure ever invented. They are a welfare, education and counselling system all wrapped up into one".

He said that,

"if we want to have any hope of mending our broken society, family and parenting is where we've got to start … So: from here on I want a family test applied to all domestic policy. If it hurts families, if it undermines commitment, if it tramples over the values that keeps people together, or stops families from being together, then we shouldn't do it".

The step that he took, as we have already discussed this morning, was the creation of the family test, an excellent way to ensure that issues affecting families are assessed and addressed. But the family test at present is not effectively applied across departments and is not applied in a uniform way.

The Bill seeks to address that by doing two things. First, it would require the Secretary of State to publish objectives and targets for promoting "strong and stable families" and for the Government to report on their progress towards meeting these objectives. Why is this so important? In policy terms, government machinery has little idea how to support family stability, let alone what approach would promote strong and stable relationships. It was my experience from five years serving in the DWP that politicians and civil servants were comfortable talking about childcare, parenting, or flexible parental leave, all badged under supporting families, but not about how to support the adult relationship that is at the heart of a family and from which family stability is achieved. I can remember the negotiations required within the coalition just to be able to collect and report on family stability data, and the moment we left the DWP, as my noble friend Lord Farmer said, the statistical set was discontinued.

The requirement in the Bill provides an opportunity to reverse some of the human pain that comes from the breakdown of the family, and improve the life chances of many, and will give civil servants the opportunity and mandate to gather the evidence base for recommending the best policy interventions from around the world that really support and move the dial on family stability. There are reasons why the UK has the highest levels of family breakdown in Europe, and we do not need to accept that this has to be the case.

Secondly, the Bill requires government departments to publish family impact assessments, setting out an assessment of the impact of a policy proposal on families and family relationships. I welcome the clarity that my noble friend Lord Farmer has introduced in defining the specific areas of impact that he is calling for. This provides clear benchmarks by which civil servants can undertake an assessment. He calls on government to consider family stability factors ranging from a person's ability to play a full part in their family's life through to factors that impact on the family formation, and from families undergoing transition such as the birth, adoption or fostering of children through to families where relationships are fragile.

For an impact assessment to be applied, Ministers and officials need clarity. This is by far and above the hardest judgment area for a civil servant. I can remember our work in the DWP when considering the family test on welfare reform. It was complicated. Would increasing the work requirement on a lone parent lead to better

life chances for a child or increase stress at home? What was one measuring? Would the benefit cap lead to increased incentives to partner with the father of one's child or to a greater likelihood of relationship breakdown? These are not simple areas. We also found that civil servants and Ministers were quick to equate more money with greater family stability and less money with greater vulnerability, rather than drawing from an evidence base of what factors strengthened and stabilised vulnerable families.

It was my observation that officials who applied the family test needed better evidence of what strengthens and what weakens families, and that departments needed to be helped to use this evidence base when preparing, designing and delivering policy rather than treating an impact assessment as a means of checking policy once it had been decided.

The strength of this Bill is that it clearly provides a definition of strong and stable families as those that have relationship qualities that contribute to the emotional health and well-being of the family, including that the parents or guardians with whom a child lives remain consistent over time. It clearly lays out the requirement for the Secretary of State to publish objectives and targets for promoting "strong and stable families" and for the Government to report on their progress towards meeting these objectives. It then clearly provides guidance on which areas need to be reported on for impact. This is all hugely helpful.

If we really believe that families are the best anti-poverty measure ever invented and that they are a welfare, education and counselling system all wrapped up into one, let us ensure that it is not government policy-making that undermines this key building block of a healthy society, and let us do everything we can to ensure that this valuable and precious unit of love, care, affection and identity is protected and supported with all due care.

12.48 pm

Baroness Howe of Idlicote (CB): My Lords, I am very pleased to be part of this interesting debate and, in particular, to speak in support of the Bill introduced by the noble Lord, Lord Farmer. The value of happy families is hard to quantify. Although it extends far beyond mere economics, it none the less has a profound impact on our economic life. The cost of family breakdown, for example, is extraordinary and continues to increase, as documented by the Relationships Foundation, rising from £37 billion per annum in 2009 to £48 billion in 2015. That, as we have already heard from the noble Lord, Lord Alton, is equivalent to £1,820 per taxpayer.

In that context, quite apart from broader well-being considerations, it makes complete sense that the Government should take care that the policies and legislation that they develop do not have negative unintended consequences for family life. Indeed, such is the importance of this commitment that it should be not merely an aspiration but a fundamental discipline of government.

Mindful of that, I was delighted when on 18 August 2014, as has already been referred to, the then Prime Minister, David Cameron, announced the introduction of the family test. He stated:

> "I said previously that I wanted to introduce a family test into government. Now that test is being formalised as part of the impact assessment for all domestic policies. Put simply that means every single domestic policy that government comes up with will be examined for its impact on the family".

In Answer to a Written Question in the other place in October 2014, the then Education Minister, Edward Timpson, said:

> "In addition, the new Family Test, announced by the Prime Minister on 18 August 2014, will also mean that every new domestic policy will be examined in terms of its impact on families".

In another Written Answer given in the other place in the same month, the then Secretary of State for Northern Ireland stated:

> "'From October 2014, every new domestic policy will be examined for its impact on the family".

The commitments made between August and October 2014 quickly broke down. It was later in October 2014 that the Department for Work and Pensions issued guidance on the family test for the whole government. It highlighted two crucial failings, one of which was the narrowing of the scope. In the first instance, the Government U-turned on their commitment to review every domestic policy. The guidance stated:

> "Policy makers need to make their own judgements about how they apply the test in a sensible and proportionate way at each stage of the policy making process ... While public policy by definition impacts the lives of individuals, families, communities and society as a whole, there will be policies, which do not have any impact at the level of the family per se, or where the impact is small and indirect, or temporary in nature. Where that is the case it may not be sensible or proportionate to apply the test".

Central to the rationale for the family test was the idea that, because the family is at the heart of the social environment, policies that are not developed with the family in mind can none the less end up impacting it. To this end, I am concerned that the guidance rather infers that it is obvious when the family is engaged and that, where the impact is small and indirect, it can be forgotten about. This is clearly seen in the Answers to Written Parliamentary Questions in which entire departments suggest that the policies and legislation they are working on are such that the family test is not engaged. The only department to provide detail about the implementation of the family test is the Department for Education in relation to policy areas that so obviously impact the family one is tempted to say that it should have been thinking of the family anyway, even in the absence of any new family test discipline.

The second area is optional testing and recording. DWP guidelines make it plain that the family test will be optional, that there is no requirement to conduct it and that there is no penalty for not doing so. The guidance, however, encourages the recording of assessments when they take place. It states:

> "It is important that the application of the Family Test is documented in an appropriate way as part of the policy making process. Where a detailed assessment is carried out, departments should consider a standalone document to bring together their analysis. Departments should consider publishing assessments where they are carried out, and where policy is being submitted for collective agreement through the Cabinet Committee process, the assessment should be included alongside other policy documentation".

[Baroness Howe of Idlicote]

However, once again, there is no legal requirement to record an assessment and no legal requirement to conduct it.

Answers to some of the most recently asked Parliamentary Questions make it clear that, for the most part, no records of when or where the family test was conducted are published. Interestingly, the Answers all contain identical words, suggesting a cross-departmental stonewalling policy. One Answer stated:

"The Government is committed to supporting families. To achieve this, in 2014 the Department for Work and Pensions introduced the Family Test, which aims to ensure that impacts on family relationships and functioning are recognised early on during the process of policy development and help inform the policy decisions made by ministers. The Family Test was not designed to be a 'tick-box' exercise"—

we have heard that mentioned before—

"and as such there is no requirement for departments to publish the results of assessments made under the Family Test".

When introducing the family test guidance, the Department for Work and Pensions stated:

"It is important that the application of the Family Test is documented in an appropriate way as part of the policy making process".

It is striking, therefore, that even that department now provides Answers to Parliamentary Questions that excuse the absence of any published reports, with the statement that,

"there is no requirement for departments to publish the results of assessments made under the Family Test".

On 14 December 2017, in the very week that some of these Answers were provided, breaking new records in government opacity, the Minister for the Constitution issued a Written Ministerial Statement in the other place, which the noble Lord, Lord Young of Cookham, provided to us. The Statement began:

"Since 2010, the Government has been at the forefront of opening up data to allow Parliament, the public and the media to hold public bodies to account. Such online transparency is crucial accountability for delivering the best value for money, to cutting waste and inefficiency, and to ensuring every pound of taxpayers' money is spent in the best possible way".

The Statement also refers to "the sunlight of transparency", and critiques,

"more bureaucratic processes … which were time consuming for public servants and opaque to the outside world".

It goes on to describe how,

"Single Departmental Plans … allow the public to track the Government's progress and performance".

Of course, the strength of the sun's light differs year-round, and so, it seems, does the Government's commitment to transparency. I have seldom encountered a less transparent process than the family test.

If one takes time to scrutinise the Answers to Parliamentary Questions, one is left with the question: is the family test actually happening? I have to tell the House that, with the exception of the Department for Education which has published four reports, your guess is as good as mine. This is surely no way to conduct government in the 21st century.

To this end, I strongly welcome the Bill from the noble Lord, Lord Farmer, which makes conducting the family test and publishing its outcomes a statutory requirement. It is a very moderate piece of legislation that does not hold to the original "every domestic policy" commitment. Clause 1 gives departments the opportunity to determine that some policy initiatives are sufficiently removed from the family and that the family test should not be applied. Crucially, however, thinking the issue through is required and any decision not to apply the family test must be accompanied by a published reason for not applying it.

If it becomes law, the family test will be bathed in the sunlight of transparency, as it should. If it does not, I fear it will become little more than a joke. That would be funny if it was not so serious. I hope very much that the Government will support the Bill, because the current arrangement is completely unsustainable.

1 pm

Lord Framlingham: My Lords, it is a great pleasure to follow the noble Baroness, Lady Howe, whose knowledge of this subject is second to none. I also congratulate my noble friend Lord Farmer, who is a great champion of the family. We should all be extremely grateful for his tenacity and belief in what he is trying to do and what we want done.

Every speaker in the debate has said this, but it is none the less true that there is growing concern about the fabric of our society, and many of the problems can be traced back to the weakening of the family unit. Over the past few decades, Governments of all colours have made lots of huge and silly mistakes, but none has been greater than the failure to acknowledge and stand up for the importance of the family, with all the consequences which have flowed from that. Strong and stable families are absolutely essential to the maintenance of a strong and stable society, and they are vital for the safe and secure care and upbringing of our children.

Why is there this ridiculous and almost fanatical desire on the part of many in our pseudo-intellectual and supposedly opinion-forming circles to deny this? Perhaps acknowledgement of the value of the family by these people would be accompanied by the need to admit personal responsibility and guilt, not just in their own lives but for the lives of those who have been affected by the views they have held and the decisions they have taken. Even our language about families seems designed to confuse. We used to have widows and widowers and we used to have unmarried mothers. Now we have single-parent families. What does that mean? Does a family have to have a husband and wife? Of course it is not essential or for obvious reasons always possible, but history shows it to be the most stable and, for children, the most supportive system. Why should we have to justify it? It has been the same for thousands of years without dispute, so why did we decide to downgrade it? It should not be necessary to bang the drum for the family, but bang it we must.

I am sorry that the Church does not have more to say about the role of the traditional family. I do not understand its reticence. By displaying openness and tolerance to other relationships and unions, traditional marriage has perhaps been weakened by neglect. As has been referred to in the debate, over the years we have seen a huge increase in the divorce rate. Divorce is devastating for children. We are dishonest if we deny

this to ourselves or to society at large. Financial arrangements may be made and plans for dividing time together put in place, but for the children concerned the effect is almost always absolutely devastating, and the damage done remains with them to a greater or lesser extent for the rest of their lives. That is true—uncomfortable, but true. Single parenthood from choice may work for the individual who chooses, but the children have not been given a choice. All the evidence shows that two parents give each other strength and support, and children of single parents start life at a disadvantage, obviously through no fault of their own.

Nothing undermines family life or parental responsibility more than the evils presented by the internet. It takes children to places where their parents cannot follow and they have absolutely no idea who their children are meeting or what they are doing. It is dangerous pernicious and has rapidly taken over the lives of many of our children for whom even rapid reform will come too late. We now have cyberbullying on a massive scale. I was devastated to find that thousands of primary school children are watching hard-core pornography. It is harder for an underage child to place a bet on a horse than to watch hard-core pornography. It is vital that the Government take the toughest possible action on this as a matter of the greatest urgency.

Sadly, just a few days ago, two young men were murdered. They were knifed to death in separate incidents within a few hours of each other just a short distance apart in the London Borough of Camden. As I drove home that evening, I happened to tune into a radio programme about it. The presenter was pleading with his listeners to phone in with their ideas and possible solutions and attempting to understand what had happened. I heard an expert on youth activities and members of the public all discussing reasons or possible solutions. They mentioned government and local government responsibility. They mentioned a lack of funding, counselling, youth organisations, youth groups and sport. One word they never mentioned in all the time that I listened was "parents". What is the key to this problem? It is parents and parental responsibility.

The longer this debate has gone on, I have slowly come to the conclusion that what has changed more than anything else over the years as far as keeping families together is not just love, because one hopes that love is always there, but other things. The financial need to stick together has gone, although not completely. Shame has gone too. I do not know what the answer is. It is tragic to have to admit that the only way we can keep families together is to make them poor again or reintroduce shame. That is a conundrum for us all that we must try to work through. I am sure that personal and perhaps selfish choice is, in many ways, at the heart of this. To a great extent we have lost the knowledge and the joy that is brought by putting yourself second in a family context.

The thread running through so many of the problems that I am talking about is the family, and the beginning of a solution to them is, without any doubt, the protection and reinvigoration of family life. My noble friend's Bill puts responsibility on the Government to play their part in this revival and it has my fullest support.

1.08 pm

Baroness Tyler of Enfield (LD): My Lords, it is a great pleasure to follow the powerful and compelling speech that we have just heard from the noble Lord, Lord Framlingham. I congratulate the noble Lord, Lord Farmer, on securing a Second Reading of this very important Bill and I pay tribute to his sterling and unstinting work as a champion of family policy, which is so often the Cinderella at the policy ball. I also draw attention to my declared interests in the register.

Today's debate has been primarily about aligning the widespread concern expressed across the House to ensure we do more to strengthen family life and family relationships, with the maxim that "what gets measured gets done". There is no doubt in my mind that we need to be doing an awful lot more to support family relationships, recognising, as I know we all do and as many across the House have emphasised, that modern families come in all shapes and sizes.

I had the privilege of being the chief executive of the charity Relate for a number of years. During that time, I came to understand the huge importance of the quality of family relationships and how much it matters. That is what I focused on and what I will focus on today. I also came to understand during that time that where family relationships are under strain it is children who are very likely to suffer the ill effects. More recently, as chair of the Children and Family Court Advisory and Support Service for six years, I have particularly learned the adverse impact that high levels of parental conflict, as well as witnessing or, indeed, experiencing domestic abuse, has on children's emotional and mental health and well-being. The evidence is also very clear, as we have heard this morning, that outcomes across the board for children are better for children who come from strong family backgrounds.

If we ask ourselves why all of this matters to government and whether it is not just a matter for families, the answer is very simple if one looks at some of the Government's stated priorities, which also happen to be key policy interests of mine. When it comes to the worrying increase in childhood mental health problems, we know that family life and secure and loving relationships play an important role in the mental well-being of children.

Turning to another area, social mobility, which is known to be a personal passion of the Prime Minister—it is also passion of mine—as co-chair for a number of years of the All-Party Group on Social Mobility I was very pleased in 2015 to chair a parliamentary inquiry into parenting and social mobility. I have even brought the report with me. Two key points emerged from that inquiry after looking at all the evidence. First, the point of greatest leverage on social mobility is what happens between the ages of nought and three, particular in the home. Secondly, whatever the effort and resources the Government put into formal early education—something I hugely and strongly support—its impact will always be limited if it is not combined with a good and strong family home environment.

I will mention one other area of policy, which is the issue of the pressures of intergenerational fairness. It is a relative newcomer on the policy block but it has a

[Baroness Tyler of Enfield]
lot to do with families. We have heard quite a bit about some of the housing issues and how the lack of affordable housing, and in particular the lack of the right type of housing for families, makes it a lot harder for the younger generation, particularly new families, to get their foot on to the housing ladder. These things really matter and policy needs to take account of them.

I also mention the late Jo Cox's commission's report on combating loneliness, which the noble Baroness, Lady Stroud, also referred to. That report emphasised the value of the family test in strengthening intergenerational relationships within families and reducing the potential for animosity between generations stemming from what many consider to be real generational inequalities.

All these things matter and are big issues. They matter in their own right and they demand a serious family-based response. Yet too often family policy is the one area that is overlooked as policymakers look for the appropriate policy levers to pull. In short, the focus of policy, as we have already heard, is too often on individuals rather than on families and the communities in which they live.

Family is arguably the most homeless of political issues. Strengthening families and developing policies to support families to care for each other, including for children, older relatives or family members with long-term health issues or disabilities, is a very important social policy objective. It is critical to social care, as we heard from the noble Lord, Lord Alton. Our social care system, in as fragile a state as it is, would collapse completely without the contribution that family members make. Where does responsibility for family policy actually sit within government? I argue that it sits both nowhere and everywhere, and that is a real problem. As an issue, it feeds into almost every area of government policy-making—although not every single one, as the noble Lord, Lord Blencathra, made clear—which means that a single Minister or department will never be able adequately to address the issue.

A consortium of charities and other organisations involved in family support, called the Relationships Alliance, which includes Relate, recently wrote a very thoughtful report assessing progress a year after the family test was implemented. It states the current situation well:

> "The absence of a transparent mechanism to record when the Test has been applied means that it is impossible to accurately assess how successfully the Test is being incorporated into the policy making process. There is little information available to the public about a process and little accountability for implementation of the Test. Whilst the Government rightly wishes to ensure that the Test does not become a 'tick box' exercise, this does not preclude recording and monitoring of its use".

It is also apparent, as we have heard, that only a very small proportion of departments have produced tailored strategy, guidance and tools to support the implementation of this. None of the departments that have not produced tailored guidance have referred to plans to do so. The work of the Department for Work and Pensions to support cross-government implementation of the test is valuable, but it is not a suitable substitute for a tailored implementation strategy within each department. Will the Minister inform the House how many departments have now produced a tailored implementation strategy? I share the concern already expressed, in the light of the inadequate responses to various Written Questions in the other place, that the Government seem to be so focused on not turning this into a tick-box exercise that they have lost sight of what it is about, which is to ensure that an assessment is actually carried out within departments of the impact of policies on families. This is not rocket science.

As things stand, it is hard to have confidence that the process is being followed from the outset of policy design, let alone at the end point when policies are being signed off across government. Imperfect though it may be, the statutory need to demonstrate compliance with the public sector equality duty, as already referred to, has helped to drive a culture of equality awareness in government, the key point being that it is statutory and not voluntary. We need a similar imperative for family impact assessments so that policymakers, Ministers and civil servants, learn to think about it so that it becomes intuitive to "think family" when policy is being designed.

I have long argued, based on my experience of working at Relate and at Cafcass, that the structure of government does not seem to recognise the fundamental importance of family relationships. There is at present no Cabinet lead for families, as was recommended in a number of important reports, both recently and less recently by the noble Lord, Lord Laming, in his report following the shocking death of Victoria Climbié. To be frank, we seem to be going backwards: until 2010 there was a Cabinet Sub-Committee on Families, Children and Young People, and during the coalition years the importance of families was recognised in the Cabinet Committee on Social Justice. As far as I can see—and I am very happy to be corrected if I am wrong—this is now taken forward and co-ordinated by a junior Minister in one department. What sort of message is that sending? A Cabinet lead would really help to drive implementation of these assessments. Back in 2016 it was clear that the Cabinet Committee on Social Justice was taking that lead. So will the Minister inform us which body has taken over from that committee?

The recommendation of the Relationships Alliance, which I have already mentioned, that as decision-making is increasingly devolved to local level, the Government should carry out a cost-benefit analysis of supporting local authorities and NHS bodies to carry out equivalent tests on policies, is very well made, and I am very pleased that the noble Lord, Lord Farmer, included it in Clause 2.

On Monday I had the privilege of visiting the Family Drug and Alcohol Court, which is working with parents who have a lot of problems, particularly with drug and alcohol dependency, and who need to turn their lives around before they can parent effectively again. Yesterday I had the real pleasure of visiting the Pause project in Hackney, which is working with mothers who have had more than one child taken away from them into local authority care, again to try to help them turn their lives around.

This sort of work is so important. I was shocked to the core, to be honest, to hear from one of the workers at the project about a case where there had been no

such help or intervention for mothers in this situation and one mother had had 13 children removed from her and taken into local authority care. I know that that is an extreme example, but it shows how important family support is and the help that the various projects and initiatives that I and others have mentioned can provide. Many of these are under threat as local authorities and the NHS are really struggling with finances and having to make cuts. That is why I think it is so important, when these decisions are being made, that these tests are carried out at the local as well as national level.

Although many of us in this House, myself included, welcomed the introduction of a family test and the stronger focus on families it was meant to give to government policy-making, it is very clear from the debate today that it has not lived up to its early hype. So it is time for this House to do what it often does best: improve both legislation and policy-making as the Bill passes through the House. I strongly urge the Government to support it. I support it very strongly myself and hope that at the end of the debate we do not get the standard rejection speech from the Minister, because the support across the House has been overwhelming.

1.22 pm

Lord McKenzie of Luton (Lab): My Lords, it is a great pleasure to follow the noble Baroness, Lady Tyler, and benefit from her expertise in this area. I agree with the noble Baroness, Lady Howe, that this has been an interesting debate. We should thank the noble Lord, Lord Farmer, for introducing it. Of course, the subject has been aired at both ends in recent times and the noble Lord has been true to his word in promising a Private Member's Bill when the *Manifesto to Strengthen Families* was debated in November last year. In doing so, he instanced what he saw as the inadequacy of the non-statutory family test and the potential benefit of family hubs and local one-stop shops to help disadvantaged children.

As we have heard, the family test was introduced as far back as August 2014, with the enthusiastic backing of David Cameron. But, as we now know, not all of his initiatives turn out well. The test comprises five questions that policymakers need to consider, including the impact of a policy on families, their formation and their sustainability. As the noble Lord, Lord Farmer, and others have said, publication of the outcome of such tests was not mandatory and few have been published to date. This issue was the focus of attention of the noble Lord, Lord Alton, a long-standing campaigner on this matter, the noble Baroness, Lady Howe, and the noble Lord, Lord Blencathra, who took us for a brief walk down memory lane to the days when you could get 3p on a recycled bottle—I think it was a Tizer bottle; that was the premium rate you could get.

So that we can get a better assessment of the consequences of the provisions in the Bill before us, can the Minister confirm on the record how many tests have been carried out or are under way, and precisely why the outcomes could not be published? Indeed, what is the Government's view of the future of this test?

Although the noble Lord, Lord Farmer, has previously acknowledged that Tony Blair was there first, we know that much of the current thinking on the role of the family emanates from the Centre for Social Justice. We have heard authoritatively today from the noble Baroness, Lady Stroud, who is a strong campaigner on this issue, as well as from the noble Lord himself. Their focus is on the scale of family breakdown in the UK, with the assertion that it plays a role in driving poverty and further enhancing disadvantages. It follows, they argue, that family breakdown is an issue for society itself, not just individual families, and that it is necessary to have data to begin to build a picture of this and to test policies against. I think that view was shared by many noble Lords, including the noble Lords, Lord Shinkwin and Lord Alton.

We should be clear that this is not exclusively a Conservative agenda. We on these Benches share an analysis which says that family breakdown and parental conflict can contribute to driving poverty, and that policy-making should encompass an assessment to avoid such outcomes. Where we would differ, I suggest, is in our asserting that lack of income is the fundamental cause of poverty. Research by the Tavistock Institute confirms that family separation can cause or increase family poverty and that the Government's emphasis on improving the quality and stability of family relationships is an important anti-poverty measure to help avoid relationship breakdown, or to ensure that it is better managed when couples part. However, it says the evidence is clear that incomes matter and that poverty and lack of money is in fact a major cause of relationship breakdown, as well as a consequence of it.

The Bill's requirements for the scope of a family impact assessment are potentially very wide and not without resource implications. Given the context of the Bill, one would have expected it to come with an impact assessment. Can the Minister say whether there is one and if not, why not? In particular, the definitions of family and families are commendably wide, including civil partners, a range of carers, children and grandparents. This begs the question of who would not be covered. Perhaps the Minister or the noble Lord, Lord Farmer, might give us a view on this.

To the extent that individuals and relationships are not included in this wide definition, we would need to be satisfied that their exclusion does not disadvantage them and that by focusing on some, others should not be allowed to slide into poverty. But we should be clear that we do not see these approaches as overriding the need to address income poverty—the fundamental issue, in our view. The Bill espouses lofty ideals of how families can be supported; at the same time, the Government have visited horrendous cuts on a range of social security provisions. The Bill is about impact assessment but we have struggled to get from government a cumulative impact assessment of a decade of cuts to social security on the incomes of families with children. How have these matters featured in the family test so far? To what extent are the "Targets for family stability" required by Clause 3 to have an income component?

The CPAG has looked at these matters and concluded that the cuts to the legacy social security system—benefits and tax credits—and the effects of universal credit will lead to alarming losses, which will damage the life

[Lord McKenzie of Luton]
chances of hundreds of thousands of children. Families already at greatest risk of poverty will lose most; I think the noble Lord, Lord Kirkwood, alluded to this. This is not just lone parents but families already on low incomes, larger families, families with young children and families where someone is disabled. It calculates that families with four or more children will be more than £4,000 per year worse off because of the cuts to the legacy benefit system, and more than £5,000 worse off following the cuts to universal credit.

Just consider some of the policy changes since 2010: the health in pregnancy grant abolished; child benefit frozen for three years; uprating of most working-age benefits restricted to 1%, and then frozen for four years; restrictions on the Sure Start maternity grant; the baby element of child tax credit abolished; the benefit cap introduced and then reduced; the two-child limit introduced; local housing allowances cut; and much more.

What possible countervailing policies to promote strong and stable families could wipe away the negative effects of all this? The Bill proposes that the Secretary of State must publish a report no later than six months from the coming into force of the legislation setting out the costs and benefits of extending the requirement for a family impact assessment to local authorities. Will the Minister say whether central government would be prepared to fund such engagement by local authorities should there be a decision to proceed? She will be aware that no new money was made available for public services in the recent local government settlement and that local authorities face a £5.8 billion shortfall by 2020. Of particular concern is the need for £2 billion to plug the gap in the shortfall in children's services, again needed to support the most vulnerable.

The Bill invites the Secretary of State within nine months to set out objectives and targets for promoting strong and stable families, and proposals and policies for meeting them. Should that come to pass they should presumably be informed by a consultation exercise. My noble friend Lady Massey produced some valuable insights for us from her experience, the lesson being the need for early consultation before designing any intervention for children and families and the necessity to cross barriers if change is to be delivered. In responding, perhaps the noble Lord, Lord Farmer, will share with us what he considers should feature in those objectives and targets.

On previous occasions the Government have declined to accept that family impact assessments should be put on a statutory basis. Given the passion displayed by the noble Lord, Lord Farmer, and others, we look forward to hearing whether the position of the Government has changed.

1.32 pm

Baroness Buscombe: My Lords, I thank my noble friend Lord Farmer and congratulate him on securing a Second Reading debate on the Bill. I also thank all noble Lords who have participated in today's excellent and thoughtful debate. My noble friend has worked tirelessly to strengthen families. This is evident both in this debate and beyond, in particular through his work to strengthen the family relationships of prisoners, who are often the most in need of a supportive family environment. I agree with the noble Lord, Lord Kirkwood, and my noble friends Lord Framlingham and Lady Stroud that we value his work and the message to him is: please keep going.

The Government have a critical role to play in supporting families. Strong families, in all their forms, are critical to our success as individuals and as a society. I am pleased to see, and to learn from having been in the Department for Work and Pensions for several months, that families have been climbing the political agenda in recent months with debates being held on how the Government can support families and on the critical institution of marriage and its place in government policy. However, I agree with the noble Baroness, Lady Tyler, that we need to do more.

It is right that the Government continue to champion the family as the bedrock of a strong society. The family test, which has been in place since 2014, has helped policymakers to put families at the heart of policy development. We developed the current family test in conjunction with the Relationships Alliance, a group of expert organisations with a rich depth of knowledge about family relationships and functioning. Led by the Department for Work and Pensions, we continue to engage with other government departments to help them to implement the family test, and by doing so, ensure that families are considered early in the policy-making process.

Yes, families come in all shapes and sizes, in the words of the noble Baroness, Lady Massey of Darwen, and the noble Lords, Lord Alton and Lord Shinkwin; that is a critical point that should be made. However, I say to the noble Lord, Lord Kirkwood, that there is no question but that, for example, the Cabinet Office is looking very closely at how we can do more to strengthen policies in support of the family, as indeed we are across government.

My honourable friend in another place, Oliver Dowden, who is the Minister for Implementation, led a debate on 8 February this year on the strengthening families manifesto, during which he said:

> "Within the Cabinet Office, we are continually looking at ways to measure the impact of policies in relation to the family. We currently analyse that impact through mechanisms such as the implementation unit, which falls within my brief. That is a central part of the initiative".—[*Official Report*, Commons, 8/2/18; col. 659WH.]

I should explain to noble Lords that the implementation unit is a cross-governmental unit to support departmental capability and public service reform.

With regard to the statutory basis for the family test, I reassure noble Lords that the Government continue to be committed to the family test and the benefits that it brings by ensuring that families are central to all the policies that we develop. The family test and the five questions within it are intended to comprise a broad and flexible tool that encourages consideration of the family from the first stages of policy thinking and throughout policy development. Good policy-making requires giving consideration to a range of important factors, and the family test is a tool to assist policymakers to take into account impacts on family relationships and family functioning.

I am pleased to see that the proposals for the family impact assessment laid out in the Bill take into account all the factors that we consider as part of the current family test. Indeed, we agree that the Government should consider these factors, and the family test already supports this to happen throughout government. However, we are concerned that placing such an assessment on a legislative footing could risk losing the flexibility to adapt and change. I have been very struck by a number of the ideas and suggestions from noble Lords in today's debate. Embedding such an assessment within primary legislation would mean that we lost that flexibility, which is an important feature of the current family test.

Noble Lords have made reference to the use of different language and talked about a different narrative and changing the culture. I believe it is very difficult to change culture. I say that as a lawyer; indeed, as a lawyer I am rather cynical that embedding policy in primary legislation can always succeed in changing culture. I am sure all noble Lords present will know that the recent report from the Jo Cox Foundation recommends that the Government should consider amending the family test to consider the matter of loneliness, which we know is a significant problem for many people across this country. Indeed, I would see loneliness in a sense as a subset of family and the breakdown of family, and that is something that we should consider in the round.

My noble friend Lord Framlingham spoke passionately about the impact of the internet on children and their response within their family and beyond. This is where, I fear, the truth is that legislation is a double-edged sword. It is easy to exclude if it is not on the list; indeed, the noble Lord, Lord McKenzie, made reference to the list of what constitutes the structure of a family. We have to take great care and think about future-proofing. However, that is not to say that we disregard much that is in the Bill or the spirit behind it with regard to the development of our policy.

The Bill also raises the matter of reporting on the costs and benefits of extending family impact assessments to local authorities—something raised by several noble Lords. We know that local authorities and the wide networks of partner organisations they work with are best placed to understand the families living in their areas, which is why central departments, including the Department for Work and Pensions, work closely with local areas on a range of family issues.

My noble friend Lord Farmer asked how many information exchange sessions and courses on implementing the tests had taken place over the past two years. The noble Lord, Lord McKenzie, also referenced the tests and the number of courses. When the family test was first introduced four years ago, the Department for Work and Pensions ran a number of seminars and sessions and supported departments with evidence packs and guidance. We continue to support departments to build capability of their own in this area, although I noted noble Lords' emphasis on the importance of consistency across departments.

The work being carried out at the moment at the Department for Work and Pensions includes the new reducing parental conflict programme, in which I know my noble friend Lord Farmer has taken a keen interest. Since today's Bill was laid last June, we have seen an increase in the total funding available for this vital work to up to £39 million. I note what the noble Lord, Lord McKenzie, said about cuts, but in many instances they have been accompanied by other support systems for the family. We are very careful to ensure that what we do does not drive breakdown in family relationships through income poverty, which he referenced. We understand, appreciate and accept that that would be entirely counterproductive.

Noble Lords have all stressed that it takes a lot more than money, critical though that is, to support the family. Through our new programme, we are actively supporting local authority areas across England to embed proven parental conflict provision into their mainstream services for children and families, as well as building and sharing the evidence base for what works to improve the quality of interparental relationships.

As we work with local areas on these critical issues, we will be able to gain a greater understanding of what support and guidance local authorities need in order to best consider the impacts of policies on families. Local authorities also need to retain flexibility to adapt and change how they assess impact on local families, including the ability to take local factors into account.

I was struck by what the noble Lord, Lord Kirkwood, said about his visit to Dover, which I have read all about. I am pleased that he found it a positive experience attending the jobcentre there. I am also pleased to be able to say that as work coaches in jobcentres become more familiar with the system of universal credit, they are enjoying and getting great satisfaction from, in a sense, going beyond their brief to support in a more holistic way the welfare, in the biggest use of that word, of those in front of them. I will also take what he said back to the department, because he is absolutely right: all the time we must think about ways in which we can so easily add to our support to the family through communication and signposting, which is so important.

I turn to the issue of family stability and the provision in the Bill which would require government to establish objectives, indicators and targets for promoting strong and stable families. We believe that families are vital. Not only are they the basic building block on which we build a successful economy and a stable society, but growing up in a loving family environment helps children develop into successful adults.

As my noble friend Lord Shinkwin said, without families there is no sustainable society. I was also struck and concerned when my noble friend used the words, "systematic devaluation" of the family, which was very much echoed in the speech by my noble friend Lord Framlingham. That is something that we should take great care of when thinking through our policy: how we respond to that idea of systematic devaluation of the family. But I was also struck by what was said in response to that, in a sense, by the noble Baroness, Lady Massey, who has spoken on this subject for so many years in your Lordships' House, with such eloquence, expertise and experience—and I so welcome her contribution today. She suggested that

[Baroness Buscombe]
we should ask what makes a family go right, and she is absolutely right. It is really important to think about what lends stability to a family. That is a very different experience, in many ways, from the experience and extraordinary expertise of the noble Baroness, Lady Tyler, in the work that she has carried out on all the evidence of what lends to the negative impacts of family breakdown.

To demonstrate our commitment to these key issues, last April we published *Improving Lives: Helping Workless Families*. This, with its accompanying analysis, set out nine national indicators designed to track the Government's progress towards tackling the root causes of poverty and disadvantage. It includes the new relationship distress indicators, which measure elements of parental conflict in both intact and separated families. This was based on recent evidence, which shows that, when it comes to the critical issue of improving children's outcomes, the quality of the relationship between the parents is far more important than the structure of the family. Indeed, my noble friend Lady Stroud referenced adult relationships, and we cannot underestimate their importance. As I mentioned, we are beginning to tackle the problems faced by workless families, who are three times as likely to experience parental conflict, through our new reducing parental conflict programme.

My noble friend Lord Blencathra referenced the Armed Forces and the importance of supporting them in this area. As the Department for Work and Pensions representative on the newly formed Armed Forces Covenant and Veterans Board, I reassure my noble friend that I am very much focused on the welfare of veterans and of our serving personnel. We are constantly looking at the range of extra support we provide to our Armed Forces families. Apart from anything else, as my noble friend said, retention of our Armed Forces personnel and their welfare is of vital importance.

I know that all the noble Lords present understand the importance of supporting families, and the benefits that strong family relationships can bring to us all. My department will continue to encourage active use of the family test, and continue the discussions across Whitehall, which will include the need for policymakers to consider whether any new policy supports strong and stable families or undermines these vital relationships. On a personal level, I am particularly keen to work with colleagues across government to reassess, perhaps, some of the narrative. A number of noble Lords today have referenced the use of language—how we explain what we are trying to achieve. Why do we use the term "conflict", for example? It sounds more like a war zone—and, yes, is "test" the right word that we should use? We should not be afraid to revisit that issue.

I thank all noble Lords who have participated in today's debate. I shall write to those to whom I have been unable to respond. I look forward to working with all noble Lords, because this is more than a Conservative Party issue—it is cross-government and cross-party. It is too important to be part of politics. So I look forward to working with all noble Lords as we strive to build a society that works for everyone, with the family at its core.

1.49 pm

Lord Farmer: My Lords, I have been hugely impressed by the contributions from all noble Lords today. There have been some extremely powerful speeches. Perhaps the Minister can encourage all government Minsters, particularly those at Cabinet level, to read *Hansard* today and get into their hearts and minds the spirit and power of the arguments that we have heard.

I am conscious of time; there is another debate after this. We have been powerfully involved in this, so it has taken longer than probably anticipated. I will just say that I am extremely grateful to everybody; we have made a powerful argument and there has been broad support. I will not attempt to summarise—as I know some people do at the end—all the excellent points that have been made but, if Cabinet Ministers do read this debate, I just note that we have recently had a Minister appointed for loneliness, as has been mentioned today. Loneliness is very much a part of families, and it would be much better to have a Cabinet-level Minister for families rather than for loneliness. Loneliness often comes particularly in old age, when people no longer have families, perhaps because of a family rift or something. It is a family Cabinet Minister who should address that.

I would like, however, to express my complete agreement with the noble Baroness, Lady Tyler, the noble Lord, Lord Alton, and others that the Government are in danger of being so obsessed with the family test not becoming a tick-box exercise that the right mechanisms will not be put in place to ensure it happens at all, or that it will be carried out in such a way that learning and cultural change—which is what we are talking about today—take place. Given that these are the bigger prizes that the test seeks to deliver, we all agree that it cannot simply be a hurdle for policymakers to jump over—I am sure all noble Lords can see how self-defeating this would be. I agree that passing laws is not always a panacea but, when the Government say that they are not minded to make family impact assessments a statutory requirement, the onus is very much on them to explain how they will boost and monitor the performance of the test. I underline again that the word "test" is a problem; I think "assessment" is a far better description of what is required.

As I have mentioned, there are several respected organisations—which the Minister also mentioned—which not only co-designed the original family test but are also highly motivated to continue helping the Government to improve their operation. Their ongoing involvement is essential. The role that well-functioning and stable families can play in delivering departmental priorities was also made clear, for example by the noble Lord, Lord Alton, regarding social care. At best, family impact assessments will not just reveal how to protect families from unintended consequences of policies, but how families can work in partnership with government to deliver the best outcomes for those policies.

I thank the Minister for her supportive response and her encouragement to keep going. I can assure her that I will, as will many colleagues, I am sure. So, much like a good Boy Scout, she should be prepared.

All that remains is for me to thank again everyone who has spoken—it has been a terrific debate—and to ask the House to give the Bill a Second Reading.

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

Criminal Records Bill [HL]

Second Reading

1.54 pm

Moved by ***Lord Ramsbotham***

That the Bill be now read a second time.

Lord Ramsbotham (CB): My Lords, I declare an interest as president of Unlock, the charity for people with criminal convictions, which, for years, has taken a keen interest in the reform of the Rehabilitation of Offenders Act 1974, which I will refer to as the ROA from now on, and whose co-director has issued a most comprehensive brief to those who are speaking today. I also thank the Library for its usual excellent briefing, which excellence I am sure all noble Lords appreciate and admire.

I am pleased to note that the Bill is listed under my proposed title, Criminal Records Bill, rather than as a revision of the ROA, because that better describes its subject, which is only one ingredient of the rehabilitation of offenders. Just over a year ago, when my previous attempt to revise the ROA was read for the second time, the prisons part of the Prisons and Courts Bill had not started its progress through the other place. I mention that because, at the time, I had high hopes that the need to revise the ROA might be picked up by the Government, as the revision was clearly in line with other reforms envisaged in the Bill, including the holding of the Secretary of State for Justice to account for the rehabilitation of offenders. But those hopes were dashed when the prisons part was dropped from the Bill—hence yet another attempt to persuade the Government of the need for reform.

The Bill is short, consisting solely of a suggested amendment to the list of those sentences that are excluded from rehabilitation under the ROA, a table of suggested alterations to the length of rehabilitation periods for adults and children and a clause suggesting that the title of the Act be changed.

I begin by reminding noble Lords of a little of the history of previous attempts to reform the ROA. It explains why I feel so frustrated that, despite all the evidence from many different sources, a Private Member's Bill, first by the noble Lord, Lord Dholakia, and then twice by me, should have to be used as a vehicle for trying to persuade the Government to take action on something that both their predecessors identified as a major inhibiting factor to the rehabilitation of offenders, which they profess to champion.

For many years, the main grounds for criticism of the ROA have included that it did not do enough to rehabilitate offenders, the length of its rehabilitation periods and the exclusion of prison sentences of over 30 months from its scope, the most trenchant criticism coming from the Better Regulation Task Force in 1999. Following this, the then Labour Government published a review entitled *Breaking the Circle*, in 2001, followed by a consultation, in response to which they said, in 2002, that they intended to publish a draft Bill containing their proposals for pre-legislative scrutiny. However, no such Bill emerged, which I have always regarded as a regrettably lost opportunity.

In 2010, the coalition Government that followed published a consultation document entitled *Breaking the Cycle*, in which they acknowledged that the Act was inconsistent with contemporary sentencing practice, as well as overly complex and confusing, resulting in many people not realising that it applied to them. The Government said that they were taking a fundamental look at the objectives of the Act, as part of their rehabilitation revolution, giving thought as to how it could be reformed, including broadening its scope so that it covered all offenders who received determinate sentences and reductions to the length of some rehabilitation periods. In the event, there was no mention of the Act in the Government's response to the consultation. However, a clause was added to the Legal Aid, Sentencing and Punishment of Offenders Act 2012—LASPO—which reformed the Act in two ways. First, its scope was extended to cover custodial sentences of up to 48 months and, secondly, the length of some of the rehabilitation periods was reduced.

There are, currently, three types of criminal records check in England and Wales: basic, standard and advanced. All employers can carry out a basic check as part of their recruitment process, the length of time when convictions or cautions have to be disclosed being laid down in the ROA. However, employers have to apply to the Disclosure and Barring Service, set up following the LASPO amendments, for standard and advanced checks. Professions that are protected, and for which disclosure is compulsory, are listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, which is now seriously out of date because it does not mention the DBS.

I said last time that the Government should establish a system for identifying and stopping ineligible requests for checks, which too many of the 4 million each year currently are. That requires either the Ministry of Justice or the Home Office to lay down clear criteria regarding the eligibility of applications. The DBS should publish and maintain accurate guidance on its processes. Together, the Government and the DBS should take action against employers who do not take reasonable steps to ensure that they are eligible to apply for checks. Although carrying out an illegal check is a criminal offence under the Police Act 1997, there have, as yet, been no prosecutions and the DBS does not see itself as an enforcement body.

However, while government has been idle as far as revision of the Act is concerned, others have been very active. In July 2016, the Home Office asked the Law Commission to review and report on an aspect of the criminal records disclosure system known as filtering. Although outside the scope of my Bill, filtering, which has been in place since 2013, is important because it regulates those jobs that are exempt from the ROA, requiring an individual to disclose convictions and

[Lord Ramsbotham]
cautions even though they are spent. The Law Commission found that the legislation governing filtering was hard to understand and inaccessible to users, that there was uncertainty as to what was or was not on the list of non-filterable offences, as the content of lists, which were in two different parts of the legislation, was changed from time to time, and that, overall, there appeared to be a lack of a principled basis for the inclusion of individual offences in the list. It said that there was a compelling case for a wider review of the disclosure system as a whole.

In March 2016, the Standing Committee for Youth Justice published a report *Growing Up, Moving On: The International Treatment of Childhood Criminal Records*, which I mentioned at Second Reading of my previous Bill. In December 2016, Charlie Taylor, now chairman of the Youth Justice Board, said in his report on the youth justice system that, in his view, the current criminal records system lacked a distinct and considered approach to childhood offending. Both reports were picked up by the Justice Select Committee in the other place, whose first report during Session 2017-19 was entitled *Disclosure of Youth Criminal Records*. The committee said that the current system for disclosure undermined the principles of the youth justice system and may well fall short of the United Kingdom's obligations under the UN Convention on the Rights of the Child. The Government, however, in their response dated January 2018, claimed that current disclosure arrangements, including rehabilitation periods and the filtering system, were proportionate and struck the right balance between protecting the public and an individual's right to privacy.

The Government claim that they can do nothing about reforming the disclosure system until the Supreme Court has ruled, which it is due to do in June, on an appeal that it has mounted against the dismissal, by the Court of Appeal, of its appeal against a judgment of the High Court, in a case brought against the current system. The same excuse for doing nothing was used by the officials in the Ministry of Justice and the Home Office who I went to see last year in a vain attempt to get government to review the ROA on its own account. I have to admit that, to me, this smacks of procrastination, quite apart from being a waste of public money. It is now 19 years since the Better Regulation Task Force reported its concerns. The Minister will realise why it is hard to take a department seriously that takes so long to action something that successive Governments have agreed needs to be done.

Since then, another voice has been added to those calling for reform. In his review of the treatment of BAME offenders in the criminal justice system last September, David Lammy MP said that,

"it must be recognised that a job is the foundation for a law-abiding life for ex-offenders, but that our criminal records regime is making work harder to find for those who need it the most. The system is there to protect the public, but is having the opposite effect if it sees ex-offenders languishing without jobs and drawn back into criminality. A more flexible system is required, which is capable of recognising when people have changed and no longer pose a significant risk to others".

The danger of being frustrated by such a long period of government inaction is that one is tempted to overstate one's case, which I hope, sincerely, I have not done today. As the Minister knows, protecting the public is the responsibility of every Government, which, in the case of those sentenced by the courts, should include ensuring that active, rehabilitative measures, designed to help them to live useful and law-abiding lives on release, are provided. Unfortunately, currently, the Prison Service and probation service are failing to rehabilitate far too many of those sentenced by the courts, for reasons that need not concern us today. But, if the Government are to do everything in their power to redress that situation, the onus is on them to examine all the causes of failure. Part of the rehabilitation process must include giving all those convicted of an offence the opportunity to have the positive things that they have done, during and since finishing their sentence, recognised, in law, and allowing them to be legally rehabilitated, subject to certain clearly laid-down conditions.

The current criminal records system has been judged to be bad in practice by successive Governments and many outside observers and wrong in law by the High Court and the Court of Appeal. I hope therefore that the Minister will accept the urgency of the need for a fundamental review of the whole system, as recommended by the Law Commission, which can be initiated only by government and not by a series of Private Members' Bills. If Scotland and Northern Ireland can do it, why cannot England and Wales? I beg to move.

2.07 pm

Lord Dholakia (LD): My Lords, I thank the noble Lord, Lord Ramsbotham, for this Bill, which has the support of these Benches.

Perhaps I may first make an admission: I introduced the Rehabilitation of Offenders (Amendment) Bill in previous Sessions. The purpose of my Bill was to make changes to the rehabilitation periods that are completed before cautions and convictions become spent under the Rehabilitation of Offenders Act 1974. The Bill passed all its stages in your Lordships' House but failed to secure a First Reading in the other place. This gives me an opportunity to put on record my thanks for the support I received from my noble friend Lord McNally and from the then Secretary of State for Justice, Ken Clarke, during the coalition Government.

The noble Lord, Lord Ramsbotham, mentioned that the Government tabled amendments to the then Legal Aid, Sentencing and Punishment of Offenders Bill, which amended the length of rehabilitation periods and increased the scope of the Bill to cover custodial sentences of 48 months.

We have a crisis in our prisons. Rehabilitation has become a distant dream. On 16 February—a week ago—the *Times* reported:

"Thousands more prisoners are to be released early under a government drive to relieve pressure on overcrowded and drug-ridden jails".

Will the Minister confirm whether that is so? The figures available for 2010 indicate that reoffending by all recent ex-prisoners was estimated to cost the economy between £9.5 billion and £13 billion annually. Will the Minister give the most up-to-date figures available on this? In the *Bromley Briefings Prison Factfile*, the Prison Reform Trust said:

"Nearly all prisoners (97%) said they wanted to stop offending. When asked what would be important in stopping them, most said a job (68%) and a place to live (60%)".

I said earlier that we support the Bill, which seeks to extend the protection that the Rehabilitation of Offenders Act currently provides to former offenders who have turned their lives around and avoided reoffending for a significant period. This includes ex-offenders who have served sentences of over four years but have then left crime behind them and stayed out of trouble for more than eight years.

The Bill also reduces the periods after which convictions attracting shorter custodial sentences and community orders become spent. The Rehabilitation of Offenders Act 1974 provides that after specified "rehabilitation periods" ex-offenders do not have to declare spent convictions when applying for jobs, housing and insurance. These factors were identified in the Bromley briefings. It is worth re-emphasising that the Act does not apply to people applying for jobs in sensitive areas of work, such as criminal justice agencies, financial institutions and work involving young people or vulnerable adults. In my view, there is scope for narrowing down the exceptions to the Act, but for the present the noble Lord's Bill would leave them as they are.

Despite those exemptions, since it was enacted in 1974, the Rehabilitation of Offenders Act has helped many ex-offenders to live down their past. Initially the Act applied only to offenders serving sentences of up to two and a half years. However, following my introduction of a series of Private Members' Bills to reform the Act, the coalition Government agreed to extend the Act to include offenders who have served sentences of four years or less.

Even now, however, many genuinely reformed ex-offenders can never benefit from the Act. More than 7,000 people a year are given sentences of over four years. At present, they can never be rehabilitated for the purposes of the Act, however much they do to change their ways and over however long a period. Therefore, an offender who receives a four-year sentence at the age of 18 and never commits another offence is legally obliged to declare that conviction. If asked when applying for jobs at the ages of 50 or 60, this still applies to them—and that means when applying for any job, not just employment in sensitive occupations.

Our provisions are still notably less generous than the rules that apply in many other European nations. Most European countries apply rehabilitation periods to sentences of longer than four years and their rehabilitation periods are often significantly shorter than ours. Is it not time to remove this anomaly?

The same is true in relation to young offenders. In 2016, the Standing Committee for Youth Justice published a report entitled *Growing Up, Moving On*, which compared the treatment of young people's criminal records in 16 comparable countries. It found that the system in England and Wales was the least generous of all the systems studied. A criminal record acquired by a juvenile in this country affects the young person for longer than in any of the 15 other countries compared in the study.

Again, since the Rehabilitation of Offenders Act was implemented, sentence lengths in this country have increased significantly. Many offenders who would have received sentences of four years or less back in 1974 are receiving sentences of five, six or seven years today. That means that many offenders who would have been helped by the current law if they had offended in the 1970s now find that their offences can never become spent during the whole of their lifetime.

Under the provisions of the noble Lord's Bill, offenders who receive custodial sentences would have to avoid crime for a specified period after the sentence was completed, including any post-release supervision period. An offender who received a custodial sentence of more than four years would then have to remain crime-free for an additional period of four years. That means that those offenders would have to avoid crime for more than eight years, and in some cases for a much longer period, before the provisions would apply to them. An offender who received a three-year sentence would have to stay out of trouble for a total of five years from the date of the sentence before his or her offence became spent. So for the more serious offences, offenders would have to avoid reoffending for very significant periods. Even then, the new provisions would not apply to jobs in sensitive occupations, for which they would still have to declare their full criminal record indefinitely. Less serious offenders who receive short sentences or non-custodial sentences would benefit from the Bill's provisions after shorter periods, but even then, only when they were applying for a position which does not involve work with children or vulnerable people or other sensitive occupations. These are important safeguards, which I am sure the Minister will welcome.

Taken overall, the provisions of the Bill would further reduce the scope for unfair discrimination against ex-offenders in the job market. Regrettably, such discrimination is still widespread. Surveys of ex-offenders in Nacro projects—the National Association for the Care and Resettlement of Offenders—have shown that 60% have been explicitly refused jobs because of their criminal record. I declare my interest at this stage as the president of Nacro. Of course, it is sometimes reasonable to refuse an ex-offender a job because of his record. For example, we must obviously bar offenders with a history of offences against children from working with children. Equally obviously, we should bar offenders with a history of offences against elderly people from working with or caring for the elderly. The Bill would not apply to cases such as these as they are covered by the exceptions to the Act. However, in many cases employers often turn down applicants because of offences that have no relevance to the job for which they are applying.

Unfortunately, the scope for discrimination against ex-offenders is wide because decisions to employ or refuse people jobs are not made at the top of companies. They are made by large numbers of individual managers and personnel staff who have usually had no specific training in how to deal with applications from people with criminal records. Unfair discrimination against ex-offenders is wrong in principle because it imposes an additional illegitimate penalty of refusal of employment on people who have already served the judicially ordered punishment for their crime. It also reduces public safety because an ex-offender's risk of reoffending is reduced by between one-third and one-half if he or she gets and keeps a job. The whole community benefits

[LORD DHOLAKIA]
when offending is reduced, and reformed offenders are also helped to avoid returning to wasting their lives in criminal activity.

In conclusion, the Bill would enable more people with criminal records to start again with a clean slate after a period—in many cases a very long period—free from criminal activity. That is a worthy aim and I am delighted to support the noble Lord, Lord Ramsbotham, in his efforts to achieve it.

2.18 pm

Lord Carlile of Berriew (CB): My Lords, as ever it is a great privilege to follow the noble Lord, Lord Dholakia, particularly given his remarkable and creditable record on the issues we are discussing today.

I congratulate my noble friend Lord Ramsbotham on presenting the Bill to the House. It deals with a very important issue. The noble Lord has a remarkable record and a huge fund of knowledge of the way in which imprisonment and other sentences of the court affect the lives of those who have been sentenced, not only when they are in custody but, importantly, when they leave custody. We tend to focus a great deal, though not always very effectively, on what happens to people when they are inside a custodial establishment. Much more difficult to pin down is what happens to them when they leave and in the years that follow, which can sometimes be the wreckage of their lives.

I would like to focus particularly on those who are under 18 years old when they are sentenced. I do so with some trepidation, knowing that the immediate past chairman of the Youth Justice Board will speak after me in this debate. The noble Lord, Lord McNally, did great service in this area and I am delighted that he is participating today.

In June 2014, a parliamentarians' inquiry sponsored by the Michael Sieff Foundation and the National Children's Bureau reported on its investigation of the youth justice system. Page 56 of the report of the inquiry, which I chaired, states:

"The panel recommends that, in the longer term, children who have offended be given a 'clean sheet' at 18, meaning that previous offences would be expunged from their record rather than only filtered. This would only be available if a specified period of time had elapsed in which there had been no further convictions. This would not be available for homicide, serial sexual offences and other violent crimes … A similar recommendation to this was notably made by the Home Office in its 2002 report 'Breaking the Circle'".

This issue, along with the views that are being expressed in the debate, has been around for a long time and I would simply remind the Minister, who I think comes fairly new to these matters, that five Members of your Lordships' House were on that panel, and of the three Members of the other place, one was Robert Buckland, who is currently the Solicitor-General with a wealth of knowledge of the criminal law process, and that our report was unanimous.

In dealing with the issue of children—for they are children—who are sentenced, I want to tell your Lordships about one small episode that I experienced while doing a piece of work some years earlier for the Howard League for Penal Reform. I went into a youth custody centre and as I was walking along the corridor with officers, a boy of about 17 said, "Will you come into my room, sir?" All over the walls of his room were certificates, all of them for maths, including one for an A* pass at GCSE. I said something really stupid to him, "You like maths, do you?" to which he replied, "I love it, sir. I want to be a maths teacher when I get out". I do not know what has happened to him since, but he would certainly have been able to obtain the qualifications to become a maths teacher. I asked him whether he had enjoyed maths when he was at school, and he replied, "I never went to school, sir". That is an example of someone who, while he was in custody, through the work of the education part of that establishment, discovered a real aptitude which he could offer to others later. However, I know, because I was an MP for 14 years and I have seen these problems in constituency surgeries, that someone like that young man applying for a teaching job at 23 or 24 years of age would not have a chance of obtaining it because his criminal record would be deployed against him. His sentence had been one of medium length.

We really have to deal with this problem. We can do any analysis you like, one of which I would call a social benefit analysis. Taking the example I have given, what would the social benefit be of that young man becoming a maths teacher or using his skills in some other productive way in employment that he obtained because his record did not have to go before prospective employers? The other one we could do is a cost-benefit analysis for society, to which the answer is perfectly obvious.

I regard this Bill from the noble Lord, Lord Ramsbotham, as an important and necessary provision. I would expect further focus in Committee on the issues I have raised about the under-18s and I would happily undertake part of that role. I know that we have the broad support of the excellent successor to the noble Lord, Lord McNally, as chair of the Youth Justice Board—Charlie Taylor. I and many others have spoken to him about these issues on numerous occasions because he keeps an open door and is interested in our views. I know what recommendations he would make to Ministers both privately and more publicly. The time has come to get to grips with changing the law so that convictions, whether for children or adults, do not wreck or at least badly dog their lives as they continue.

After all, the purpose of justice—certainly the purpose of youth justice—should not include wrecking the later lives of the people who have been through the custodial system, sometimes only to small measure as a result of their own fault and often because of the circumstances in which they found themselves. Those of us who have spent long periods in and out of criminal court rooms know that there is an underlying truth to what I and others are saying in this debate. Society must not simply say that they are responsible for their own actions. Of course they bear responsibility for their actions, but we bear responsibility for what happens to them afterwards.

My noble friend Lord Ramsbotham referred to current litigation that remains unconcluded. Ongoing litigation has never been a justification for the Government doing nothing. If there is merit in doing something,

the Government can do something and save us the costs of the litigation. That sounds like a pretty good litigation tactic.

2.25 pm

Lord Brown of Eaton-under-Heywood (CB): My Lords, this is the first time in 14 years' membership of the House that I have ever had the effrontery to speak in the gap and I hope not to abuse the privilege today. I would have put my name down to speak in this debate yesterday, but I was told that it might go beyond the time when I have to be away.

I recognised then and yet more clearly today, that, that said, there is little of substance that I can add to the impressive contributions made by the several seasoned warriors who have campaigned consistently on this issue over many years. I refer not only to the three who have already so tellingly and impressively spoken—special tribute is due to my noble friend Lord Ramsbotham for his tireless championing of this cause over recent years—but also to the noble Lord, Lord McNally, who is shortly to follow. All I want to add, for what it is worth, is an erstwhile judge's name to the list of those who support this Bill. It is an attempt to drag this country a stage further towards a more enlightened future, where more ex-prisoners—not least young offenders, of whom my noble friend Lord Carlile has just spoken—may be allowed to shed the mark of Cain and thereby improve their prospects of shaking off, too, the temptation to reoffend and instead obtain gainful and confidence-building employment.

It is infinitely depressing to learn that, as with the age of criminal responsibility, this country's position with regard to the disclosure of criminal records is more repressive and punitive than virtually any other civilised nation. Just as we criminalise children at 10, with the regrettable consequences that has for their self-image and prospects of a responsible, law-abiding future—a matter on which the noble Lord, Lord Dholakia, has worked so hard—so too in this country it takes longer than almost anywhere else, and longer than it should, for those convicted of crime to then live down their criminal records and so restore their prospects of resuming life in the community on level terms with others as to employment, insurance and so forth.

I hope that, at last, the Government will have the imagination now to welcome rather than to oppose this further attempt to improve the future, not just for ex-prisoners but for us all. I strongly support the Bill.

2.29 pm

Lord McNally (LD): My Lords, I do not think that the noble and learned Lord, Lord Brown, needs to apologise at all. It is extremely valuable to the case that we are trying to make to have a judge of his long experience expressing his views. As for the other speakers before me, each one was, in their different ways, a great influence on me when I had responsibilities in these areas. The country at large is grateful to them for the significant contribution that they have made to make our criminal justice system more civilised and more humane.

I await the response of the noble Lord, Lord Stevenson, on behalf of the Labour Party. I have always counted him as being on his party's more liberal wing. However, the truth is that the Labour Government, as the noble Lord, Lord Ramsbotham, mentioned, did nothing after their 2002 review of the working of the 1974 Act. Indeed, during their period of office between 1997 and 2010, successive Labour Home Secretaries went out of their way to show that they were not woolly liberals and had a determination not to be outflanked by the Tories on being "tough on crime". That is why nothing has been done: because the two major parties have been frozen by fear of the other exploiting any sign of a liberal move in this part of the criminal justice system. I look forward to the noble Lord's contribution. I hope we can rely on him and the Labour Party for taking the Bill forward.

The case for a fundamental review of the workings of the criminal records system and subsequent legislation to implement its findings is ever more pressing and urgent. When I was at the Ministry of Justice between 2010 and 2017, first as a Minister and then as chairman of the Youth Justice Board, it was constantly impressed on me that policy must be research and evidence based. My experience in those seven years left me with a firm belief in three core directions of policy. The first was that early intervention works in preventing young people entering the criminal justice system. The second is that through-the-gate support works. I still remember talking to an ex-prisoner working on a Carillion building site—Carillion had a good reputation for employing ex-prisoners. He said to me, "You know sir, you cannot imagine how lonely you feel stood at a gate of a prison with your clothes in a bundle and £40 in your pocket and you don't know where you're going to live and you don't know where you're going to earn a living". The attempts at through-the-gate support are entirely to be welcomed. The third is a mantra referred to earlier: a job, a home and a relationship work more than anything else in avoiding reoffending.

The proponents of the Bill argue that, far from it being woolly liberalism, it is overwhelmingly based on evidence from study after study, as the noble Lord, Lord Ramsbotham, pointed out. A criminal record is a major factor in preventing an ex-offender getting a job, and that inability to enter the world of work is a major factor in subsequent reoffending.

I was recently sent a booklet written by Sir John Timpson entitled *How Prison Leavers can Find a Career*. As the House will know, the Timpsons have a splendid record in employing ex-prisoners. The booklet lists some of the hurdles an ex-prisoner faces in housing, getting a bank account, a mortgage, credit cards or insurance and in finding a job. It gives the following statistics: 61% of prisoners reoffend after two years; 19% of prison leavers with a job reoffend after two years; and 3% of prison leavers who join Timpson reoffended. I would not claim that that is absolutely scientific, but it is interesting that one of the factors in the Timpson process is giving prison leavers not just a job but a range of other support as they get into the world of work. Let us be clear, measures that help offenders back into the world of work reduce crime and save the victims of crime from its trauma. There is hard-nosed, research-based evidence that a more intelligent use of criminal records can have a positive impact on levels of crime.

[LORD MCNALLY]

It would be a step forward if the Government carried out an independent, wide-ranging review of the 1974 Act. It would also be interesting to know whether the 2012 reforms I introduced through LASPO revealed any downsides: I know that the department has just conducted a post-legislative review of the LASPO Act. It was one of the fears of No. 10—it was not the Ministry of Justice, it was No. 10 that had cold feet about going further in 2012—but were there any adverse results of those modest reforms that we carried through, that small step towards liberalisation?

There are difficulties, of course. We have just finished our work in this House on the Data Protection Bill. There, we had to take account of the right to personal privacy and weigh that against the reality that modern technology has the capacity to track our every move and have instant recall of every incident and event from our dim and distant past. The right to be forgotten is difficult to deliver even for the most law-abiding citizen in our brave new world of artificial intelligence and data revolution. It is also true that reformers have to meet genuine public concerns that wiping the slate clean may result in the still-dangerous paedophile, the partner abuser, rapist or others who remain a danger to society disappearing into a maw of anonymity, only to offend again. That is why any management of criminal records includes the list of exclusions from its provisions set out in new subsection (1) in Clause 1.

Will the Minister clarify how protections provided by the domestic violence disclosure scheme—Clare's law—would be affected by the measures proposed in the Bill? How would the Bill affect the other sexual and violent crimes which the tabloids always imply would be given anonymity by its passing? It is significant that all the major reports referred to by the noble Lord, Lord Ramsbotham, call for reform along the lines proposed by the Bill, particularly as it applies to offenders under the age of 18—children in the eyes of the law. During my three years as chair of the YJB there was ample evidence of the overhang from offences committed often when the offender was in early teens that could continue to blight prospects into adulthood. A key element of the Carlile report—I know it was funded by Sieff, but it is known as the Carlile report, and rightly so—into the treatment of young offenders by the criminal justice system was, as we have heard, that with suitable safeguards, an ability to wipe the slate clean at 18 should be provided. My successor as chair of the YJB, Charlie Taylor, wrote a report showing that a childhood criminal record, even for a relatively minor offence or misdemeanour, can have severe implications during childhood and beyond into adulthood; this can affect an individual's education, employment and other prospects for years to come.

I am sure we all wish David Gauke well in his new responsibilities. He is our sixth Justice Secretary since 2010; I wonder whether there is a lesson to be learned there. I hope he will accept that there is an overwhelming case for an independent inquiry into an Act which is now 44 years old. We need to assess how the latest technologies impact on or undermine the workings of the Act, and to examine how the shadow of a criminal record can be lifted while retaining public confidence. Our aim must be to bring forward legislation fit for a 21st-century purpose and which avoids or minimises the unnecessary or disproportionate impact of criminal records on those who have genuinely put their criminal past behind them, while continuing to protect society from those who remain a danger and a threat.

On another Friday a few weeks ago, the noble Lord, Lord Snape, observed about this "last business on a Friday" slot that all that could be expected from the responding Minister would be for them to say "as little as possible" and not leave any hostages to fortune. I hope we will get more from the Minister today and that she will welcome the Bill as an overdue step in penal reform, which will help those trapped by the long shadow of a criminal conviction but also cut the reoffending rate, with benefits to victims and society as a whole, who bear the trauma and cost of reoffending. I wish the Bill well.

2.40 pm

Lord Stevenson of Balmacara (Lab): My Lords, like the noble Lord, Lord Carlile, and others, I pay tribute to the noble Lord, Lord Ramsbotham—a "seasoned warrior", in the words of the noble and learned Lord, Lord Brown—for his commitment to this cause and for pressing this Bill once again. The sensibility that he expressed is still important today and needs to be pressed, and it is good that he will be putting pressure on the Government to try to take it further forward. We will support him on that. We should acknowledge the work of the noble Lord, Lord Dholakia, which has been mentioned, and the contribution made by the Youth Justice Board, particularly by the noble Lord, Lord McNally, who manages to be effective and make his case well at the same time as trying to knock down those who might otherwise rally to his standard. He must learn to be a bit more generous in his remarks. I am not very good at categorising where I stand on the political spectrum, but I think he will be satisfied by what I will say today.

I am standing in for my noble friend Lady Chakrabarti. I am afraid that I cannot in any sense match her experience and knowledge, or indeed speak for her on this occasion. But I declare an interest in that when I was director of the Smith Institute we worked on two projects which I think are relevant today. One was work done with the then chair of the Youth Justice Board on restorative justice, a programme which is still to be taken up wholeheartedly by the Government but I think should be. We also did a report on a study that was done in conjunction with Centrica at Reading jail on the impact that having a job, good housing and proper support—points made by the noble Lord, Lord McNally—made to the rehabilitation of prisoners coming out from there when Centrica took the big decision, a bit like the one already cited, to recruit its fitters from those who were in Reading jail. That solved its problems of finding appropriately qualified people to take on that work but also had a huge impact on those lives.

The Bill contains a detailed plan for the revision of the current situation affecting spent sentences, and we support it. In his opening remarks, the noble Lord made the point that the Bill is very specific and detailed but actually it conceals a much broader concern, and

it would be a pity if we lost that. I hope that when the Minister responds she will engage with that. The Bill seems to be based on a feeling that the present system needs a fundamental overhaul and to map more closely changes in the criminal justice system, and also go wider than that because of the changes that are currently being made in the use of the disclosure system. It probably needs an independent, wide-ranging inquiry, and that inquiry is now long overdue.

It is really about what sort of society we want to live in and the Bill challenges us to live up to the ideals of fairness and proportionality that should be present in our criminal justice system, as they must in many other areas of society. It is also important to pick up what a number of speakers have mentioned, that it seems to be a particularly English and Welsh problem that we cannot sort this out in the way that has been suggested today. We have already made significant changes to the disclosure arrangements in Scotland and Northern Ireland. Why can these not be rolled out into England and Wales as quickly as possible?

As others have, I acknowledge the excellent report produced by the Library to prepare us for this debate, and I am also grateful to Unlock for its briefing; I will draw a little bit on that. In the speeches today and the material that has been circulated, the general view seems to be that the reforms made by the 2012 Act have not met the needs of either prisoners or the general public. We have heard today that rehabilitation periods remain too lengthy and in any case are not evidence based. Some convictions are never spent regardless of the progress made by the individual—an invisible punishment, it has been called—which will for ever shadow the individual and prevent full rehabilitation and re-engagement in society. Surely people must have the opportunity to have positive things they have done since leaving prison recognised in law, allowing them to be legally rehabilitated.

I was struck by the force of the argument made in one paper that the law should recognise a presumption that no one who is released from prison should face a lifetime of disclosure without the prospect of a review at some point. In the words of the noble Lord, Lord Carlile, we must not have a situation which wrecks lives; there must be some rehabilitation process available. As others have mentioned, something really must be wrong with a system that allows someone who has received an eight-month prison sentence for actual bodily harm to have their conviction spent before somebody who merely received a fine, for example, for speeding.

The noble Lord, Lord Ramsbotham, asked whether there was not a need to look critically at the way in which employers can get on to the list of excepted professions and cited the rise in the numbers of applications made for information about individuals under that provision. There are very few criteria in present law for how jobs are granted excepted status and the system seems to be too blunt, too unclear and too broad. We need to have much more detail about the thinking behind what rights prospective employees have in regard to employers asking for information about their offending history, and make sure that these are widely available.

A number of people mentioned the Taylor review, part of which was reproduced in the Library briefing that was circulated. It has some force, since it seems extraordinary to read that,

"a criminal record acquired in childhood can have far-reaching effects that go well beyond the original sentence or disposal. Certain sentences … never become spent … certain convictions or cautions will always be disclosed when an individual seeks employment … A key principle underpinning",

the approach to the Taylor review was that,

"children who break the law should be dealt with differently from adults".

That does not seem to happen, and I share the view that the current system needs to have a completely different approach for children, as opposed to adults.

In the previous debate on an earlier version of this Bill, my noble friend Lady Chakrabarti indicated support for it, describing the Rehabilitation of Offenders Act as "completely outdated" and the rehabilitation periods it enforces as,

"overlong and not based on any real evidence".—[*Official Report*, 27/1/17; col. 939.]

This remains the position of the Labour Party. The Government's response today, as the noble Lord, Lord Ramsbotham, hinted, is likely to be that the current disclosure arrangements, including rehabilitation periods, are proportionate and strike the right balance between protecting the public and the individual's right to privacy. I think that is bonkers, and I hope they have been listening to this debate.

2.47 pm

Baroness Vere of Norbiton (Con): My Lords, I thank the noble Lord, Lord Ramsbotham, for bringing this matter back to the House for debate today. Noble Lords have powerfully raised a number of important and varied issues. Like the noble Lord, Lord McNally, I do not want to speak for too long or to create any hostages to fortune, so if I am not able to respond to all the issues I will of course write.

Rehabilitation is one of the most important objectives of our criminal justice system and the Government support all ex-offenders who wish to turn their lives around. Work can reduce the likelihood of re-offending, as we have heard today, and for many it is a central element in leading a rehabilitated life. This is why the Rehabilitation of Offenders Act—or ROA—provides that rehabilitated offenders will be treated as though they had not committed the offence and, subject to exceptions, will not be required to disclose spent cautions and convictions.

While this is familiar to many noble Lords, it may help if I briefly describe the ROA and how it supports ex-offenders. Under the Act, most convictions and all cautions will become spent following a certain period of time. That period varies according to the disposal or sentence imposed for the crime. Convictions resulting in non-custodial sentences and those resulting in custodial sentences of up to, and including, four years become spent. Where a caution or conviction has become spent, the offender is treated as rehabilitated in respect of that offence and is free to withhold the fact of that caution or conviction for most purposes. This includes when applying for most jobs, as well as when applying for insurance or a bank loan.

[Baroness Vere of Norbiton]

However, the protections afforded by the Act are excluded in respect of specified areas of employment. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 lists areas of activity and proceedings that are exceptions to the Act. This means that an employer or other relevant body is entitled to ask for, and take into account, certain details of a person's spent cautions and convictions, as well as any unspent cautions and convictions. These activities usually involve working with children or vulnerable adults, or where sensitive information is handled and there is a risk to the public of an abuse of trust.

I now come to the specific proposals that the noble Lord has included in his Bill. As I understand it, the intended effects of the main amendments include: bringing all determinate custodial sentences of any length, except extended sentences for certain sexual and violent offenders, within the scope of the ROA, whereas currently only custodial sentences of up to and including four years may become spent; reducing the rehabilitation periods that apply to a range of sentencing disposals for both adult and juvenile convictions, so that they become spent more quickly; removing the rehabilitation periods applicable to fines and some other sentences, including some non-custodial sentences and sentences under the Mental Health Act 1983; and commencing the amendments to the ROA that were made in 2014, in so far as they relate to road traffic endorsements. The intended effect is that rehabilitation periods for road traffic endorsements would be reduced. They are currently of five years.

The current rehabilitation periods were introduced almost four years ago, in March 2014, when reforms to the ROA were commenced through provisions in the Legal Aid, Sentencing and Punishment of Offenders Act 2012. A conviction resulting in a custodial sentence of four years, or 48 months, or less may now become spent with the exception of offenders serving extended sentences. Previously, only convictions resulting in custodial sentences of 30 months or less could become spent. At the same time, most other rehabilitation periods were also reduced. Rehabilitation periods are substantially shorter for individuals who were under the age of 18 when they were convicted.

The Government believe that these reforms, which were approved relatively recently by Parliament, are proportionate and strike the right balance between protecting the public and helping ex-offenders to put their criminal pasts behind them. The Government are therefore not minded to support the Bill introduced by the noble Lord, Lord Ramsbotham, or the intentions behind it at this time. However, we give careful consideration to maintaining a policy which balances protecting the public and supporting rehabilitation, which is why the debate today is welcome.

I turn now to the nuances of the Government's position, and I hope it will be helpful if I say something about the position and why we have taken it. Noble Lords will be aware, as it has been mentioned today, that aspects of the disclosure regime are currently being challenged in the courts. Several joined cases—P and others—are due to be heard this summer by the Supreme Court. These cases focus on the question of whether the current scheme, which sets out which cautions and convictions can be filtered from criminal record certificates in certain circumstances, is compatible with rights under Article 8 of the European Convention on Human Rights; that is, the right to respect for a private and family life.

Filtering provides that certain old and minor convictions and cautions are protected from disclosure and are no longer included on a standard or enhanced criminal record certificate. Filtering does not apply to convictions where an individual has committed a specified serious offence, has more than one conviction or has received a custodial sentence. Filtering also does not apply to any caution for a serious offence. For individuals who were convicted or cautioned below the age of 18, convictions and cautions are filtered more quickly in acknowledgement of the special importance of supporting those who get into trouble when they are young to put the past behind them. The filtering arrangements seek to strike a difficult balance between the rehabilitation of offenders, their right to privacy and the protection of the public.

Noble Lords may ask why we cannot take a view on this Bill now, given that the Supreme Court litigation does not directly challenge the 1974 Act. The Government believe that it is sensible to consider any proposals for change to the current disclosure arrangements in conjunction with an authoritative judgment of the Supreme Court on the requirements of Article 8 in this context. Although the litigation relates to the filtering rules, we think it is necessary to consider the disclosure regime in the round.

The disclosure system has also been considered in a number of recent reports—for example, David Lammy MP's review into the treatment of and outcomes for black, Asian, and minority-ethnic individuals in the criminal justice system, and Charlie Taylor's review of the youth justice system. David Lammy called for a discretionary process for criminal records to be sealed and we confirmed in our response at the end of last year that we would consider the recommendation, following the conclusion of the ongoing litigation. We also stated that we would also consider the recommendations made by Charlie Taylor in his report.

Most recently, on 31 January this year the Government published our response to the Justice Committee's report on the disclosure of youth criminal records, a report that commended the earlier proposals by the noble Lord, Lord Ramsbotham, as representing a reforming consensus. This is a very important area, as noted by the noble Lords, Lord Carlile, Lord Dholakia and Lord McNally. Our response noted that the committee's report was reflective of the long-running debate on how the disclosure regime should balance the objectives of securing public safety and respecting an individual's right to privacy. As for the report's recommendations on reform to the statute, the Government made the following statements, and it is worth reading them in full:

> "The Committee makes a number of recommendations and conclusions relating to the legislation which governs the filtering of convictions and cautions from criminal records certificates. The Government notes these recommendations and the Committee's concerns. However, against the backdrop of the litigation, the Government believes that it is appropriate to consider these recommendations in conjunction with an authoritative",

statement from the Supreme Court. The Government's response continues:

"The Committee has suggested that the rehabilitation periods set out in the Rehabilitation of Offenders Act 1974, which are not subject to challenge in P and Others, should be reconsidered. The Government considers that it is important to consider the Committee's recommendations regarding different aspects of the disclosure system in the round, and will therefore consider this recommendation alongside the others".

So we are not able to support the noble Lord's Bill at this time, but we would welcome the opportunity to speak to him further in the interim about how we can increase the support available to ex-offenders. We are making continuing progress in a number of areas, and a wide range of initiatives are ensuring that offenders have the skills and experience that they need.

We are also looking at the reform of education. It remains at the heart of prison reform. Earlier this month, the MoJ launched the procurement process for the new education contracts that will underpin the delivery of learning and skills in prisons from April 2019.

Turning to employability, I note specifically the comments by the noble Lord, Lord Dholakia. We continue to work with Business in the Community on its Ban the Box campaign, calling on employers to give ex-offenders a fair chance to compete for jobs by removing the tick-box for unspent cautions and convictions. We also need to ensure that people with convictions, particularly children and young people, understand when and how they need to disclose their criminal record. The MoJ will work with stakeholders to improve government guidance and information available online to make sure that it is clear, consistent and easily accessible so that people understand their rights and responsibilities in respect of disclosing their criminal record. We will set up a stakeholder panel with a number of charities and voluntary sector organisations to make sure that the information we provide is consistent, up to date and accessible through online and offline channels.

I turn to a few of the points raised by noble Lords. The noble Lord, Lord Ramsbotham, raised the question of ineligible criminal record checks. The DBS publishes guidance on eligibility to support employers and registered bodies. Should an applicant feel that they have been asked to undertake a DBS check in relation to a role that is not eligible, they can contact the DBS to investigate. The DBS can suspend or cancel the registration of a registered body that fails to comply with the code. Knowingly carrying out an unlawful criminal record check is an offence under the Police Act 1997.

The noble Lord also asked about the Law Commission's recommendations. In the summer of 2016 the Home Office Minister invited the commission to undertake a review of the list of offences that are always subject to disclosure—that is, those that are never filtered. The Home Office and the MoJ are considering the recommendations made in the report. These include the current list of offences that are never filtered, which was drafted by the Law Commission based on a strict interpretation of the existing SI.

The noble Lord, Lord Ramsbotham, along with many other Lords, asked why the Government are not considering these recommendations before the litigation. I think I have spoken sufficiently on this area, but I noticed that the noble Lord, Lord McNally, mentioned that policy-making and legislation must be evidence based, and I agree, and we must surely hear the views of the highest court in the land, which is why it is important that we hear from the Supreme Court before we consider the recommendations of the noble Lord and others such as David Lammy, Charlie Taylor and the Justice Select Committee.

Turning to comments made by the noble Lord, Lord Dholakia, about the article in the *Times* about the prison population, we want prisoner numbers to come down, but we will not set an arbitrary figure. The purpose of prison is of course twofold. It is for justice for victims and the wider public by holding those in prison to account, but it is also a place for rehabilitation, and we must do much better by offenders and ensure that where we are able more swiftly to rehabilitate them by using home detention curfew or release on temporary licence, we use them when appropriate.

The noble Lord, Lord Ramsbotham, mentioned the cost of reoffending, and I can confirm that the latest estimate based on figures from the National Audit Office is that the annual cost to society of reoffending is £15 billion.

In conclusion, I can only reiterate that we will consider the noble Lord's proposals, among others, when we have the benefit of the Supreme Court's judgment later this year. This means we are unable to support his Bill today but we welcome his continued involvement in the issue. I thank all noble Lords for their contributions to the debate.

3.01 pm

Lord Ramsbotham: My Lords, I thank the Minister for that very disappointing response. I, of course, welcome any discussion with officials but I want to bring to them members of Unlock, the Committee for Youth Justice and the Law Commission, who know far more about the practicalities than any official who wrote either the Minister's disappointing response or the very negative report sent to the Select Committee on Justice in the other place following its report.

I despair, because here we have evidence coming from the ground of people facing impossible conditions. It has been relentless and supported by all parties in this House. I am extremely grateful to all those who spoke, particularly the representatives of the two Opposition Front Benches, for their support for the Bill. I know that the Bishop for Prisons was widely behind it as well. All parts of this House are supporting it based on the evidence. As the noble Lord, Lord McNally, said, we must take action based on the evidence.

That evidence is overwhelming. It has now been 19 years since the Better Regulation Task Force reported, and 19 years of doing nothing is simply not good enough. I despair of a Government who say that the evidence is not strong enough. Once, I was a member of an independent commission set up to look at asylum. We described the attitude of officials in the Home Office as a culture of disbelief. The culture of disbelief is unfortunately spreading into the Ministry of Justice as far as any outside evidence of what needs to be done is concerned. I wish that the Ministry of Justice and Her Majesty's Prison Service would set an example

[LORD RAMSBOTHAM]
by using several ex-prisoners who have come up with imaginative ideas for rehabilitating people in prisons. They are often refused because they are ex-prisoners. This includes drugs counsellors and others with practical experience. If only the Ministry of Justice would wake up to the fact that these people are very often the right people to bring in—because the voice of experience is terribly strong. I wish that message could come across.

I am extremely grateful to those who have taken part, and look forward to having discussions with officials to try to persuade the Government that they must make progress, as they have heard today from all speakers. I despair of waiting until June for that to happen. Surely to goodness we can start the process before the June judgment. The judgment has gone against the Government twice, once in the High Court and once in the Court of Appeal, so I wonder whether there will be any change. I ask the House to give the Criminal Records Bill a Second Reading.

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

House adjourned at 3.06 pm.