Vol. 790
No. 117

Friday
23 March 2018

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

House of Lords (Hereditary Peers) (Abolition of By-Elections) Bill [HL]
Committee.....537
Passports
Private Notice Question.....573
Conscientious Objection (Medical Activities) Bill [HL]
Committee.....576

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at
httos://hansard.parliament.uk/lords/2018-03-23

The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

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.

© Parliamentary Copyright House of Lords 2018,
this publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

House of Lords

Friday 23 March 2018

10 am

Prayers—read by the Lord Bishop of Rochester.

House of Lords (Hereditary Peers) (Abolition of By-Elections) Bill [HL]

Committee

10.05 am

Motion

Moved by ***Lord Grocott***

That the House do now resolve itself into Committee.

Amendment to the Motion

Moved by ***Lord Trefgarne***

At end to insert "but regrets that the bill is proceeding notwithstanding that the recommendations set out in the report of the Lord Speaker's committee on the size of the House have not yet been implemented."

Lord Trefgarne (Con): My Lords, this is the second Bill that the noble Lord, Lord Grocott, has introduced on this matter. Neither has ever found favour with the Government, who have consistently said that they will not give time for the Bill in the other place—that is, if it manages to pass through your Lordships' House. No new arguments have been made in favour of the Bill, although the debate on who should sit in the House has moved forward with the thoughtful contribution of the noble Lord, Lord Burns, yet the noble Lord, Lord Grocott, has not found it possible to adjust his Bill at all.

I should add that I have come here not to stop further debate on the Bill; I am here to play a part in the Committee stage, but I have put forward this amendment to ask the noble Lord, Lord Grocott, whether he might reconsider his Bill rather than continue with it today. It would be unfortunate to do so, as it would be better to continue by agreement and give the noble Lord the opportunity to think again. If he does not wish to reconsider, we will no doubt press on with the amendments tabled for the Committee stage.

To add to my point that we have discussed this Bill many times since the debate at Second Reading, we have had the report of the noble Lord, Lord Burns. His is an important contribution to the overall debate about who should sit in this House. As your Lordships may know, in the long term I am actually in favour of the rather unfashionable idea of electing our representatives to Parliament, but I know that many Members of your Lordships' House profoundly disagree with that—some, no doubt, think that they are better themselves.

Be that as it may, there are many ways into this House. First, there is the traditional route. Since the start of the century there has been a massive increase in political patronage by party leaders. That is the most straightforward way to become a Member of your Lordships' House. Next, we have what used to be called "the people's Peers", selected by a small but outstanding group of individuals chaired by the noble Lord, Lord Kakkar. Those selected make a useful contribution and sit on the Cross Benches. We also have the spiritual Peers—the Bishops and Archbishops—who grace our Benches and make such a difference to our debates.

We used to have the Law Lords, and I am sorry that they have gone, but there was an excellent suggestion in the Burns report that the Justices of the Supreme Court should be given seats in the Lords. If we ever had an 80% elected House, I would support the judges being part of the other 20%. Not only do they help to improve the quality of legislation but, as judges, they see very clearly some of the compromises that parliamentarians wrestle with every day and, ultimately, have to make. This better understanding of the legislative process is good for them as the most senior members of the judiciary and good for us as legislators as we hear their views.

Then there are the remaining hereditary Peers—92 Members of your Lordships' House, or about 12% of the total—who are entitled to sit here by statute passed as recently as 1999. That legislation was, incidentally, agreed across the parties in both Houses as a useful compromise in passing what was then termed "modernisation" of our constitutional arrangements.

When we debated this Bill last year, my noble friend Lord Strathclyde explained the genesis of the current number of hereditary Peers and the by-elections tied to them—the so-called Weatherill amendment, which was passed in the House of Lords Act. The by-elections that we are discussing today were an integral part of that overall deal, which in part was designed to win over those Peers and MPs who did not favour a wholly appointed House and believed that in the longer term the only practical way forward was to have an elected second Chamber but accepted that that might take some time.

Lord Steel of Aikwood (LD): Perhaps I may ask the noble Lord a question. He is presumably very proud to be a Member of this House, as we all are, but does he not accept that the amendment he has just referred to was supposed to last for a few months? As the Government are not going to legislate on House of Lords reform, the present arrangements will go on until at least 2021. Is he really proud of the fact that, by blocking this Bill and by blocking, as he did, the same provisions in my Bill in 2014, he is bringing the House into disrepute by sustaining for over 20 years a system which cannot be justified?

Lord Trefgarne: My Lords, I do not agree with that. I am in favour of House of Lords reform. Indeed, I would have supported the Bill introduced back in 2012, for a largely elected House, which of course did not even manage to get through the House of Commons.

However, the by-elections do serve a purpose, beyond helping the Government to get their Bill though

[LORD TREFGARNE]
Parliament in 1999. First, they are a strong link with the past—a golden thread that links us with the ancient Parliaments stretching back for generations. Secondly, they are a reminder that we have come from a House that was, only recently, entirely hereditary. Thirdly, and this is a point that I would like to expand upon, by-elections provide a different way into this House—a way which is not dependent upon prime ministerial patronage.

The noble Lord, Lord Grocott, has often said that his Bill is not personal, yet his mocking tone, and the use of the word "laughable" in his recent article in the *House* magazine, creates a very different impression. In his article, the noble Lord mocked the Liberal Democrats who recently voted in a by-election for the noble Viscount, Lord Thurso, to rejoin this House after a spell as an elected Member in the House of Commons. I was pleased to see the noble Viscount back in his place—he makes a valuable contribution to our debates. However, that is apparently not sufficient for the noble Lord, Lord Grocott. He described that by-election as "indefensible" and "laughable".

Lord Forsyth of Drumlean (Con): My Lords, far be it from me to come to the defence of the noble Lord, Lord Grocott, but I read the article. What he said was that having almost two and half times as many candidates as electors, and an electorate of only three, was laughable. He in no way impugned the authority or the contribution that the noble Viscount makes to this House.

Lord Trefgarne: I have already endorsed my admiration of the noble Viscount and continue to do so. I agree that there are some idiosyncrasies. That is why I have suggested that all hereditary Peer by-elections might be conducted as the one which we conduct for so-called officeholders, in which all noble Lords have a vote to select a new Member when a vacancy in that group occurs.

I do not have much more to say in favour of the propositions that I have made, but I hope that the noble Lord, Lord Grocott, will reflect again on the relevance of the by-elections in the context which I have described.

10.15 am

Lord Blunkett (Lab): My Lords, I oppose the amendment. The word "idiosyncrasies", which was just used, springs to mind rather powerfully. Earlier this week, we paid tribute rightly to the late Lord Ivor Richard, who I knew as a member of the Cabinet in 1997. The compromise that was reached in 1999 has been referred to, the Wetherill amendment included. It was intended to ensure that progress could be made on a modest way of modernising this second Chamber. Today, we are trying to take a very modest step in that direction as well.

I pay tribute to my noble friend Lord Grocott. When I heard him speak at Second Reading, I thought it was a masterpiece in forensic analysis and humour—humour, because the situation he was addressing sadly leads to us believing that we have to put aside something that, outside this House, is seen as a complete anachronism. I have heard many forensic speeches in my time from my own side—from John Smith and Robin Cook included, who I counted as friends—and I think they would have been proud to have heard my noble friend's speech and the case that he has made.

I want to be timorous today, in an unusual fashion. I would like to persuade the Conservative Benches and the Government that it is in their best interest to take this very modest step. We have the Burns recommendations and the restoration and renewal of the House, leading to the decanting of both Houses of Parliament, both Houses having voted for it. A combination of these measures requires us to take steps now which will then lead to a logical and rational balancing of the political and non-political interests in this House.

It is not just about those who are nominated by the Prime Minister, the Leader of the Opposition or the Liberal Democrat party; it is also about the balance with the Cross Benches and the Bishops' Benches. Unless we get it right on the anomaly of having by-elections for hereditary Peers, and unless we move now—I am opposing the amendment so that we can make progress—it will make it extraordinarily difficult to maintain that balance as we move towards implementing the Burns committee recommendations, which I hope we will rapidly do, combined with the prospect of decanting. When this House decants, there will be Members who logically choose that moment to retire, and there will be people who choose to leave in advance of it. In the lead up to the decant, if not handled very carefully, that will completely distort the balance of the different parties and Cross-Bench Peers in the House.

To continue the by-elections in that run-up period, and during the implementation of Burns, we would distort the balance between the nominated, those who go through the commission and those who are elected by this bizarre medieval process, which retains only one section—those who are here because their grandfathers or great-grandfathers or great-great-grandfathers were in favour with the monarch or managed to get their hands on sufficient property and land.

Lord Anderson of Swansea (Lab): My noble friend omitted one category: those who paid Lloyd George and Maundy Gregory for a certain favour.

Lord Blunkett: I had better not go into the payment of favours in your Lordships' House—it might be a difficult road to travel.

It is odd for a Labour Member to say this, but if noble Lords think it through, they will appreciate it. The historic mission of the Conservative Benches and the Government has been to be sufficiently willing to bend and move with the times, which has been of historic benefit to them. Therefore, I am surprised to hear that the mover of the amendment is in favour of very radical change: namely, a wholly elected House or a substantially elected House. It is odd to advocate a substantially elected House but to want to retain by-elections or inherited peerages. If you had this debate anywhere in the United Kingdom in any forum—from traditional media to social media, in colleges or

schools, where many Members of this House attend and make a positive contribution in explaining how our democracy works—people would think that you had lost your marbles if you argued not for the immediate abolition of the hereditary Peers but to continue to have by-elections to fulfil those vacancies.

In doing so, whatever else happens around us, whatever we do with Burns and the lead up to decanting, whatever happens in terms of the natural processes of noble Lords leaving this House either under the 2014 Act or by death, the hereditary Peers would retain their numbers. That is illogical, irrational and would cause extreme difficulties as we move over the next seven years to decanting to other premises with noble Lords rationally looking to reduce the numbers in this House. That is why we should wholeheartedly back my noble friend Lord Grocott's Bill.

Lord Tyler (LD): My Lords, I too oppose the amendment in the name of the noble Lord, Lord Trefgarne, and add to the points already made by the noble Lord, Lord Blunkett. This is in danger of creating yet another myth about the way in which your Lordships' House could and should be improved. His amendment is upside down and inside out and contrary to common sense.

I can best illustrate that with a practical example. I apologise in advance if this seems somewhat personal or even morbid, but it is the best way in which I can demonstrate the reality of the situation facing your Lordships' House. Suppose that suddenly and truly sadly both the noble Lord, Lord Trefgarne, and the noble Earl, Lord Caithness, were—heaven forbid—to be called to higher and greater things. There would then of course be two hereditary by-elections. Incidentally, I think that heaven would do well to forbid. The addition to the heavenly host of those particular noble Lords would be a problem for St Peter.

Whatever the nature and size of the electorate in the consequent hereditary by-elections, one factor is certain. Under the present arrangements two new hereditary Peers would be elected from the list of eligible hereditaries. However, they would of course be chosen within the vagaries and vicissitudes of the current system already referred to by noble Lords. The leadership of the Conservative Party—I hope that the noble Lord, Lord Young, will be able to elucidate this—and No. 10 could have no guarantee that the additions to the Government Benches were as useful or supportive as the Members that they were replacing. Indeed, they could not even be sure that they would be loyal Brexiteers.

That brings us to the amendment and to the report of the Burns committee. Throughout our debate on 19 December—throughout the House on all sides—there was a general recognition that the unique key to progress would be the active and complete co-operation of the Prime Minister and her successors. Without that, we would not make progress. The Prime Minister is clearly numerate. We already know from her letter to the Lord Speaker on 20 February that she had perfectly understandable concerns about the proposals of the Burns committee. In that letter she makes no direct reference to the central and crucial Burns recommendation of two out for one in. But given what I have already explained in terms of the inevitable consequences of continuing hereditary by-elections under the system that we have—which is so devotedly supported by the noble Lord, Lord Trefgarne, and the noble Earl, Lord Caithness—she would be entitled to be extremely cautious in supporting those colleagues on this issue. Just follow the arithmetic implications of the solemn departure of those two noble Lords. No fewer than four life Peers would have to disappear from the Conservative Benches, by whatever means, before the Prime Minister could have just one new recruit of her own choice. Two would already be wiped out by the second departing hereditary before a further two could justify just one new recruit.

I hope that the Minister, in responding to the discussion today, will be able to indicate to us that the Burns report, far from giving an alibi to the noble Lord, Lord Trefgarne, for yet more delay, actually gives us a very strong reason to move forward. If not, frankly, the arithmetic will be nonsense—nonsense in the terms described by the noble Lord, Lord Blunkett, but specifically in terms of the nonsense to the Conservative Benches.

Lord Hunt of Kings Heath (Lab): My Lords, the noble Lord talks about statistical nonsense, but does he think that the current representation of the Liberal Democrats in your Lordships' House bears any resemblance to the votes cast at the last election? Is that not nonsense too?

Lord Tyler: I was not going to go down that track but the noble Lord is an old friend and I am delighted to dispose of that myth too. My noble friends in this House did not support the deal that was referred to. We were not in that particular discussion. We do not support the deal that was done but we have been unique in being consistent in supporting the case for reform. We supported the case for the 2012 Bill, which gained a majority in the House of Commons of 338—the biggest majority of that type for a big Bill. There was a majority on the Conservative Benches, a majority on the Labour Benches, and unanimity among the Liberal Democrats. I stand four-square behind the reform of your Lordships' House but until that happens, just as we have to live with these unfortunate facts of life, we have to live with those facts of life too.

Lord True (Con): I was a member of the official group that was tasked to negotiate the details of the arrangement entered into by the noble and learned Lord, Lord Irvine, and Lord Cranborne, and there were Liberal Democrat representatives. I remember it well, so it is not actually true that the Liberal Democrats did not assent. The college system that noble Lords should be elected only by members of their party was insisted on by both the Labour Party and the Liberal Democrats, for the understandable reason at the time that they did not trust that the whole House would preserve the balance between the parties. As has happened since, because of the Carter convention, that has been respected. But it is simply not true that the Liberal Democrats were not there at the table.

Lord Tyler: My Lords, I can quote *Hansard* in a different sense, but that is not the important point for today's discussion. As my noble friend Lord Steel has pointed out, everybody in your Lordships' House, including some of the most important participants in those debates, anticipated that this arrangement would last for a maximum of a couple of years—that is all.

Lord Cormack (Con): Does the noble Lord not accept that we have had the Second Reading of this Bill already? He is making a Second Reading speech. The best way that the House could be assisted now would be for my noble friend Lord Trefgarne to desist his mischief, withdraw his amendment to the Motion and get on with the amendments to the Bill.

Lord Tyler: I was actually speaking to the amendment to the Motion but I was diverted by my friend down the other end. The amendment that the noble Lord, Lord Trefgarne, has promoted is upside down. The case for removing these absurdities is strengthened by the Burns committee report rather than the reverse. That is simply my point and I am grateful to the noble Lord, Lord Cormack, for bringing me back to it.

10.30 am

Lord Forsyth of Drumlean: My Lords, I shall make only a short contribution. If it looks like a duck and walks like a duck, it is a duck, and I know a filibuster when I see one. We have this ridiculous amendment to the Motion when, as my noble friend has pointed out, we have had a vote at Second Reading. We have all these other amendments tabled in the names of my noble friend and the noble Earl, Lord Caithness. What is going on here is an attempt to frustrate what is the majority view of this House. It is a majority view because we value the hereditaries and the important contribution they make to this place. I personally am opposed to an elected House and I thought the argument made by the noble Lord, Lord Tyler—that hereditary by-elections meant that the Prime Minister could not appoint people who would be compliant—was an insult to us all. None of us is compliant in this House, as my noble friend the Chief Whip will remember from yesterday. We act appropriately on our judgment, and that is the value of this place.

I saw in the Sunday papers that the Speaker in the other place had spent a bit of money on devising a new logo. When I looked at the new logo, I could not see the difference. Then I realised that it was not just about a few balls on a portcullis; rather, there was a huge difference. It has been proposed that the existing logo of the portcullis and the words "Houses of Parliament" should be replaced by one saying, "UK Parliament", thus downgrading this House. Again and again, this House produces excellent reports—I declare an interest as chairman of the Economic Affairs Committee—which are largely ignored.

The reputation of this House has fallen considerably because of the numbers, and frankly, as the noble Lord, Lord Grocott, pointed out in his excellent article in the *House* magazine and as the noble Lord, Lord Steel of Aikwood, has pointed out, this is about the reputation of this House. If we wish to maintain the hereditary presence—I was privileged enough to join the House while the hereditaries were still here and they make an excellent contribution—we have to get rid of a process that generates ridicule and damages us. It enhances the argument of those who would wish to get rid of the hereditaries and make this House an elected Chamber—one, as the noble Lord, Lord Tyler, has suggested, in which the Prime Minister's patronage and the patronage of the Chief Whip and others would run well. That is not what this House is about and it is not its function. I hope that my noble friend will withdraw not only his amendment to the Motion but these ridiculous other amendments, which are designed to prevent this House taking a decision and sending it to the other place for it to take a view.

Lord Balfe (Con): My Lords, perhaps I may make a couple of points as someone who gave both written and oral evidence to the Burns committee. The Burns committee did not deal with this subject. It decided specifically not to do so because it felt that it would be outside its terms of reference. We hear that the resolutions of Burns have not been implemented, but then, parliamentary reform is an ongoing process. From the 1832 Reform Act through to votes at 16, which will inevitably come, we have reformed the way we run the country and how parliamentary systems work. I believe that we are passing up an historic opportunity if we do not back the noble Lord, Lord Grocott.

Many years ago, I remember having a conversation over dinner with the late John Smith, a man I greatly admired. I asked him, "What is the most difficult thing you face?", expecting him to come up with some problem in the House of Commons. He replied, "The queue of people outside my door who think that they should be in the House of Lords". It is inevitable that at some point there will be a change of government. At that point, there will be a big difference between the number of Peers on each side of the House. In the city of Cambridge where I live, there is not only seething anger at what is seen as a party that is somewhat out of touch with aspirations of home ownership and the like; there are a lot of people who think. Let me tell noble Lords what I think will happen. If the Labour Party has any sense, which it does occasionally, it will include in its manifesto a line saying, "We will remove the right of hereditary Peers to legislate". This would then be covered by the Salisbury convention, and the measure could be passed. When there is a change of government, there will be a great demand for radical measures—and this is an easy radical measure. The balance of the House would change very quickly because there are more hereditaries on this side of the Chamber than on that side. That would get the Labour Party out of a difficult corner and reduce the number of people.

I urge my colleagues to think carefully before they reject what I stress is a very modest proposal. I would like to see it passed, to see Burns implemented and to see us demonstrate to the country that we are capable of reforming ourselves. We should not have this charade of pretending that somehow, this or that has not been completed. This is a challenge for the whole House: to show that we are not, as was described to me by

students at a recent meeting in Cambridge, the "pensioners' party", but that we are actually a part of the living government of this country. We play a vital role in the governance of this nation and the House of Lords has a definite place in the running of this country. We should get on with it, take the reforms on board and settle down to some sensible work. I hope that the Bill of the noble Lord, Lord Grocott, will be supported.

Finally, I appeal to the Government because it is the Government who can help. With great respect to the noble Lord, Lord Blunkett, I believe that, in the 1960s, we had the greatest Home Secretary of the past 100 years—Roy Jenkins. He dealt with a lot of radical measures by the simple means of saying, "I will give government time to these Back Bench initiatives". I ask the Government to seriously consider taking this Bill under their wing and enabling it to pass, because if they wanted to, they could. If the Bill falls it will be in part because of this House, but also because our Government have not willed it to pass. I hope they will look carefully at making time available for this Bill to go down the Corridor, where I do not detect any great opposition to it.

Lord Grocott (Lab): My Lords, I am very grateful to everyone who has spoken, all of whom have spoken in favour of the Bill. We are simply debating an amendment from the noble Lord, Lord Trefgarne, that regrets the fact that the Bill will be considered in Committee. I need to remind the House, and maybe even the noble Lord, what he had to say about the timing of the consideration of my Bill when it had its Second Reading in September. He said that the Bill is "untimely". The reason he gave was that the noble Lord, Lord Burns, was,

"chairing a Speaker's Committee to examine the size of the House, which will … have a bearing",—[*Official Report*, 8/9/17; col. 2155.]

on my Bill. He is now suggesting that we should not consider the Bill because not all the recommendations of the Burns committee have been met yet. I tend to get the feeling that the noble Lord, Lord Trefgarne, would not be in favour of the Bill going into Committee whatever the circumstances of the Burns committee or any other. But he was absolutely right in one respect when he said that the Burns committee would have an effect on this Bill. It does indeed: it makes the case for it even more powerful.

I remind the House that the principal recommendation of the Burns committee, which has overwhelmingly found favour in all parts of this House, is that the House should reduce its size over time to 600 Members. One of the amendments of the noble Lord, Lord Trefgarne—I have to keep a straight face as I say this—suggests that we should delay any further consideration on the Bill until the House has been reduced to 600 Members. He is saying that the whole of the House can start reducing itself, apart from the 92 hereditary Peers. I hope, in the course of his response, he will explain the logic behind that argument, because it escapes me.

I am a chap of generally sunny disposition, but I am strained at the moment because I fear the tabled amendments do not try to improve the Bill, which is the point of Committee; they are designed to wreck the Bill and/or delay it indefinitely until some time in the future. Nothing has changed in the noble Lord's approach, or that of the noble Earl, Lord Caithness, come to that, since we last discussed the Bill, but lots of other things have changed, including the Burns report. The noble Lords have tabled a large number of amendments—I think they put their name to 57 on a two-clause Bill. There are 13 groups, so they have at least reduced the number of groups that were considered last time. Normally a two-clause Bill should be able to get through Committee in two and a half hours, which is roughly the time we will have to deal with it today. Their position will be tested on whether they agree to see the Bill through its Committee stage in the time left to it.

I feel very strongly that it is important that the House has an opportunity to express its view on the approach of the noble Lord, Lord Trefgarne, to the Bill. He is asking us to delay it. My feeling is that the overwhelming view of Members of this House, on all sides—including, my guess is, a majority of the hereditaries, many of whom have come to me and said that they support the Bill, notably including the noble Countess, Lady Mar, who cannot be here today, who is the only woman among the 92 hereditaries—is that they want us to get on with the Bill. It might be that the noble Lord, Lord Trefgarne, is right that he has a lot of support here, but I think it is something he would want to test so that he and I can both judge the strength of feeling there is on this piece of legislation. I hope the noble Lord will stand up now and seek the opinion of the House.

Lord Trefgarne: My Lords, I am grateful for the point of view of all noble Lords who have spoken, not many of whom have agreed with me, I fear. Be that as it may, I am clear that we now ought to proceed to Committee. Therefore, I beg leave to withdraw my amendment.

Some Lords objected to the request for leave to withdraw the amendment, so it was not granted.

10.42 am

Division on the Amendment to the Motion.

Contents 2; Not-Contents 127. [See col. 571 for explanation of mistake in voting figures.]

Amendment to the Motion disagreed.

Division No. 1

CONTENTS

Hollick, L. [Teller]	Snape, L. [Teller]

NOT CONTENTS

Addington, L.	Balfe, L.
Ahmed, L.	Berkeley of Knighton, L.
Alderdice, L.	Berridge, B.
Alton of Liverpool, L.	Best, L.
Anderson of Swansea, L.	Bew, L.
Baker of Dorking, L.	Blunkett, L.

Bowles of Berkhamsted, B.
Broers, L.
Brooke of Alverthorpe, L.
Brookman, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Butler of Brockwell, L.
Butler-Sloss, B.
Campbell-Savours, L.
Chandos, V.
Chidgey, L.
Clancarty, E.
Cormack, L.
Cunningham of Felling, L.
Davies of Oldham, L.
Dear, L.
Dholakia, L.
Donaghy, B. [Teller]
Doocey, B.
Drake, B.
D'Souza, B.
Dubs, L.
Eccles, V.
Elder, L.
Empey, L.
Evans of Watford, L.
Falkner of Margravine, B.
Faulkner of Worcester, L.
Featherstone, B.
Forsyth of Drumlean, L.
Foulkes of Cumnock, L. [Teller]
Gale, B.
Garden of Frognal, B.
Garel-Jones, L.
Golding, B.
Goodlad, L.
Grantchester, L.
Grocott, L.
Hain, L.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Richmond, B.
Haskel, L.
Hayter of Kentish Town, B.
Hayward, L.
Healy of Primrose Hill, B.
Henig, B.
Hollins, B.
Howe of Idlicote, B.
Hughes of Woodside, L.
Hunt of Chesterton, L.
Hunt of Kings Heath, L.
Hussein-Ece, B.
Irvine of Lairg, L.
Jones of Cheltenham, L.
Kilclooney, L.
Kirkwood of Kirkhope, L.
Lawrence of Clarendon, B.
Lea of Crondall, L.
Low of Dalston, L.
MacKenzie of Culkein, L.
Mackenzie of Framwellgate, L.
Marlesford, L.
Massey of Darwen, B.
Maxton, L.
McAvoy, L.
McColl of Dulwich, L.
McIntosh of Hudnall, B.
McKenzie of Luton, L.
McNally, L.
Meacher, B.
Monks, L.
Moonie, L.
Morris of Handsworth, L.
Murphy of Torfaen, L.
Naseby, L.
O'Cathain, B.
Paddick, L.
Patel, L.
Paul, L.
Peterborough, Bp.
Pitkeathley, B.
Prashar, B.
Purvis of Tweed, L.
Ramsay of Cartvale, B.
Ramsbotham, L.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Richardson of Calow, B.
Scott of Needham Market, B.
Sharkey, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Sherlock, B.
Simon, V.
Smith of Basildon, B.
Smith of Finsbury, L.
Steel of Aikwood, L.
Stevenson of Balmacara, L.
Taylor of Bolton, B.
Thornton, B.
Thurso, V.
Tomlinson, L.
Tonge, B.
Tope, L.
Triesman, L.
Turnberg, L.
Tyler, L.
Watkins of Tavistock, B.
Waverley, V.
Wheatcroft, B.
Wheeler, B.
Whitaker, B.
Wilson of Tillyorn, L.
Winston, L.
Wood of Anfield, L.

10.54 am

Motion agreed.

Amendment 1

Moved by ***The Earl of Caithness***

1: Before Clause 1, insert the following new Clause—

"Overview

This Act amends section 2 of the House of Lords Act 1999 to end the process of by-elections for hereditary peers, thereby making the House of Lords a wholly appointed Second Chamber."

The Earl of Caithness (Con): My Lords, I beg to move Amendment 1 and in doing so I congratulate the noble Lord, Lord Grocott, and his praetorian guard for appointing four tellers for the Division. I and a number of my noble friends did not take part in that Division because we would have been very happy to see the amendment withdrawn and not to waste 10 minutes going through a Division Lobby.

Amendment 1, standing in my name, is what is termed an overview clause. It aims to spell out what the consequence of the Bill is. Before I come to the amendment, I want to say very briefly where I stand on the Bill because I have been referred to—I will not use the personal abuse that the noble Lord, Lord Tyler, used, but I think it is right that I set out exactly where I stand. I believe in the principle. I am very glad to see the noble and learned Lord, Lord Irvine of Lairg, in his place. He said on this matter in this House on 30 March 1999,

"this Bill is about principle".—[*Official Report*, 30/3/1999; col. 206.]

My opposition to the removal of the provision for the succession of hereditary Peers is also a matter of principle.

What was agreed in 1999 was that there would be hereditary Peers and successors pending further reform. I hope that we will get that reform through the Burns report. It is not the reform that I would like—I would prefer a smaller, elected House—but I will be very happy to support the noble Lord, Lord Grocott, when the Burns report is fully on its way to being implemented. I am also happy that the number of hereditary Peers should be reduced to the proportion that it is now, because as the noble Lord, Lord Grocott, rightly points out, if the House comes down to 600, the proportion of hereditary Peers goes up. If it goes up a few per cent, I would be very happy that the number of hereditary Peers comes down from 92 to 82 when the Burns report comes in, because that would bring us back to the status quo.

My opposition is not to what the noble Lord, Lord Grocott, is arguing for, but to the principle of doing it now, because it disconnects what we all agreed to in 1999, which was binding on our honour. The noble and learned Lord the former Lord Chancellor, who is here, was very firm and made it perfectly clear that, if we did not agree to the compromise that had been negotiated on Privy Council terms, the Government would renege and use the Parliament Act. He spelled it out very clearly, saying:

"I wish no one to be left in any doubt".—[*Official Report*, 30/03/1999; col. 208.]

Lord Grocott: The noble Earl said he did not want to waste time and that is why he did not take part in the Division. May I help him by saying that I am happy to accept his amendment? It does not do anything, but it seems to me that it does not do any harm either, so in order that we can move on to the next group of amendments he can rest assured that I accept his amendment. Therefore, I suggest that he concludes his remarks.

The Earl of Caithness: My Lords, that comes as a wonderful surprise and I welcome what the noble Lord has said. There are further amendments that are also designed to improve the Bill, but I will reserve what I was going to say about the difficulties of an unelected House for a later stage. Meanwhile, I am very happy just to move my amendment.

Viscount Trenchard (Con): My Lords, my noble friend Lord Caithness is right to propose this amendment because it clarifies the intent and effect of the Bill proposed by the noble Lord, Lord Grocott—

Lord Forsyth of Drumlean: My Lords, the proposer of the Bill has accepted the amendment. Why do we need to spend time on it?

11 am

Viscount Trenchard: I thank my noble friend for his advice, but the amendment has been moved and I wish to speak to it.

Lord Cormack: This really is a classic case of wasting the Committee's time. The noble Lord, Lord Grocott, has made it plain that he accepts the amendment and therefore no further debate needs to be had. My noble friend Lord Trenchard can doubtless read his speech against another amendment.

Viscount Trenchard: The noble Lord, Lord Grocott, has indeed accepted the amendment—

Lord Hamilton of Epsom (Con): When it comes to the question of wasting time, surely voting on a Motion that has been withdrawn is a bigger waste of time than anything.

Viscount Trenchard: That was indeed the point I wished to make, and which my noble friend has made more eloquently than I could. But the noble Lord—

Baroness Smith of Basildon (Lab): If I may assist the Committee, the House cannot vote on a Motion that has been withdrawn; it can vote only on a Motion that is before the House. The noble Viscount may have some very wise, erudite and sensible comments that the Committee is longing to hear, but would they not be best made on an amendment before the Committee that has not been accepted by the mover?

Viscount Trenchard: I hear what the noble Baroness says. I noted that the noble Lord, Lord Grocott, accepted the amendment, but I was not aware whether other noble Lords had accepted it.

On the regret Motion, my noble friend Lord Trefgarne sought to withdraw it, but in spite of that it was voted on.

Amendment 1 agreed.

Clause 1: Abolition of the system of by-elections for hereditary peers

Amendment 2

Moved by ***Lord Trefgarne***

2: Clause 1, page 1, line 2, leave out subsection (1) and insert—

"(1) The House of Lords Act 1999 is amended as follows."

Lord Trefgarne: My Lords, this amendment is in my name and that of my noble friend Lord Caithness. I do not intend to trouble your Lordships with any detailed explanation. It is all fairly obvious and I beg to move.

Lord Mackay of Clashfern (Con): My Lords, this is the first opportunity I have to comment on what has recently taken place. If it is a question of trying to avoid the idea that this House is not—what should I say?—economical in the way it moves, the business of having a vote against the withdrawal is extraordinary. One of the consequences is that the two Tellers who voted for the Motion were doing so against their judgment. In my respectful submission to your Lordships, it does not do any good for the rationality of the processes of this House that that kind of thing should happen. I am here to acknowledge fully that it was not the leadership of the Opposition nor, I think, the Liberal Democrats who did that. It is undesirable and I hope we will now proceed rather smartly. I am entirely in favour of this Bill but I was not very happy with what happened at the beginning of these proceedings. That is the reason that I did not take part in the vote; I did not think that it should have happened.

Viscount Astor (Con): My Lords, perhaps I may follow my noble and learned friend. The noble Lord, Lord Blunkett, said that it was a medieval process. Perhaps I should remind noble Lords opposite that the medieval process he referred to was brought to Parliament by the noble and learned Lord, Lord Irvine, when in government. It is not the fault of the hereditary Peers that nothing has happened since; it is the fault of the previous Government and the one before them. At least the coalition Government tried to bring forward some reform but it did not get as far as this place.

It is perfectly fair that we should be debating this in Committee. There are some of us who do not agree with the Bill and think it better to wait until the Burns inquiry is considered by the Government, and the Government bring forward legislation which encompasses a proper reform. I think my noble friend Lord Balfe said that we were a House of pensioners and that is a valid point. One thing missing from the reform process that we have talked about is an age limit, because it is quite clear that voluntary retirement is not really working—it is not bringing down the numbers in this House. There really ought to be a limit either on time served in this place or by age. I am reminded that one former Member of the other place, when he was first elected, came to this House and stood at the Bar. He said to me afterwards, "I've seen two people who I thought were dead, and with one of them I'm sure I went to his memorial service".

Lord Grocott: My Lords, this group of amendments includes a number which would kill the Bill. Amendment 5 would leave out subsection (2) and Amendment 24 would leave out subsection (3), but if we leave out subsections (2) and (3) we would not have much of a Bill left. In truth, the noble Lord, Lord Trefgarne, is confirming my suspicion that he is trying not to improve the Bill but to kill it, so I hope that he will withdraw his amendment.

Lord Butler of Brockwell (CB): My Lords, this is the only opportunity I have to say that it is not often I would do anything which the noble and learned Lord, Lord Mackay, did not approve of. But I voted against the Motion and I want to make the point that it was the only way in which the House could send a message to the Government, and to people outside, that the House is greatly in favour of the Bill going forward.

The Earl of Erroll (CB): My Lords, I am terribly sorry to intervene but the reason I did not vote on it was exactly the opposite. The Motion actually referred to regret about the Burns report; it would not in fact have prevented the Committee stage or any part of the Bill. It expressed regret that it had not been done, so, having read the Motion, I do not think that it conveyed exactly what people thought.

Viscount Trenchard: My Lords, I shall try again. I support these amendments because, unlike the opinion expressed by other noble Lords, I do not consider that the Bill represents a modest change. It is a very significant change. As my noble friend Lord Hague said in his speech to the Centre for Policy Studies in February 1998,

"The Government is now embarking on what is potentially the most damaging step of all— removing the main independent element in the House of Lords by excluding the hereditary peers. Mr Blair's justification is his dislike of the hereditary principle, although he sees no contradiction"—

Lord Berkeley of Knighton (CB): If I heard the noble Viscount correctly, he said that this would remove the largest independent sector but I thought the Cross-Bench Peers were independent.

Viscount Trenchard: The noble Lord is correct in saying that the Cross-Benchers are independent of the political parties but they are nevertheless appointed to this House by much the same process as Peers from other parties are nowadays appointed.

Lord Berkeley of Knighton: That is absolutely not correct. I will tell the noble Viscount how I was appointed to this House: I was asked if I would care to have my name looked at but to do that I, along with 400 other people, had to submit my name to the House of Lords Appointments Commission. There was then a rigorous process of weeding out. I finally went to a long and exhaustive interview before my name was put before the Prime Minister and Her Majesty the Queen.

Viscount Trenchard: I well understand that the noble Lord is very deserving of his place. I have the highest regard and respect for his contribution to your Lordships' House and to its proceedings. All I wish to make clear is that hereditary Peers should also be considered an independent element because they do not owe their presence or their right to sit in this House to prime ministerial patronage.

Lord Cormack: I am very grateful to my noble friend. Will he tell me whether he takes the Whip? Will he tell me how many times he has been moved to vote against the Government during his time here?

Viscount Trenchard: As my noble friend is well aware, I take the Whip. I have also voted against the Government on a number of occasions. I think the first time I voted against an amendment was in connection with the War Crimes Bill. At the time the Law Lords were present in your Lordships' House and, as has been noted today, I also agree that your Lordships' House has suffered from their removal. I was persuaded by the arguments put forward by several noble Lords at that time that the War Crimes Bill was an inappropriate piece of legislation. That was the first occasion on which I defied the Whip.

Lord Forsyth of Drumlean: Does my noble friend not realise that he is insulting some of his colleagues, such as me, by suggesting that because we were appointed by the Prime Minister we do not behave in an independent manner and exercise our judgment? I suggest to him that he ought to declare an interest as someone who has benefited from the by-elections.

Viscount Trenchard: I do not for one minute dispute that. I do not mean to insult my noble friend in any way. I do not believe that he thinks for one minute that I was being insulting. My noble friend knows well that I have great regard for him for the contribution he makes. Indeed, this is one of the very few matters on which I do not share his opinion.

Viscount Astor: Perhaps I can help my noble friend. I voted against the Government for the first time as a rather junior Member of this House, and the following week the Prime Minister rang me up and I joined the Government Whips' Office. It was a form of promotion.

Viscount Trenchard: If I may continue with the quotation:

"Mr Blair's justification is his dislike of the hereditary principle although he sees no contradiction in also parading himself"—

Lord Snape (Lab): I urge the noble Viscount not to take any more interventions because by doing so he rather underlines the need for the abolition of hereditary peerages. If he sticks to the script, as he does, he will be out of order because he is defying the *Companion*. Will he address his remarks to the amendment that we are discussing at present rather than indulging in reminiscences with his colleagues?

Viscount Trenchard: I am not sure that the noble Lord's remarks were not out of order. I am not sure that anything that I am doing is in breach of the *Companion*. I was unable to be present at Second Reading, and with your Lordships' leave, I would like to complete my remarks.

As my noble friend Lord Hague said those years ago,

"Labour's plans could lead to a House almost entirely composed of nominated peers"—

granted that those who are nominated are very well deserving of that nomination. He continued:

"This would be a huge and dangerous extension of Prime Ministerial power … Understanding the value of inheritance and the way families pass down values and duties from one generation to the next, Conservatives are not surprised that hereditary peers, no longer required or able to represent the landed and property interest, nevertheless make a valuable contribution to the provision of this remarkable service".

If the Bill before your Lordships' House today were to reach the statute book it would reduce the legitimacy of your Lordships' House. Hereditary Peers may offer something distinctive and valuable and provide legitimacy through their link with history and place. If those who support the Bill also support the notion that the House should be a representative body, there is something to be said for retaining a hereditary minority. Nobody can today claim that the House as presently constituted—

11.15 am

Lord Redesdale (LD): My Lords, I interrupt because I am in an interesting position which many noble Lords are not in. I voted for the abolition of hereditary Peers. I even left the House because my peerage was abolished in 1999, and I was returned by the Liberal Democrats six months later as an appointed Peer, although many in the House believe I am a hereditary Peer, which I obviously do not take as a slight at all.

There would be no real difference if hereditary Peers were made appointed Peers to recognise their position. It does not give legitimacy. The noble Lord said that prime ministerial patronage is being shown. Many hereditary Peers' ancestors were made up to this place precisely because of prime ministerial patronage at the time, so are we not embedding that patronage through the generations?

Viscount Trenchard: The noble Lord is quite correct that the original creations were due to prime ministerial patronage, but successive holders of the title who have sat in your Lordships' House were not so obliged and did not owe their presence to the Prime Minister. In that sense, they were independent because they owed it to the random accident of birth. The by-election system is very competitive. It is a combination of random accident of birth, a bit of geographical coverage and competition.

The charge that the House as presently constituted gives these Benches an unfair political advantage—

Lord Grocott: The noble Viscount is speaking to Amendment 2. Will he remind the House of the wording of Amendment 2 and how his remarks relate to it?

Viscount Trenchard: The wording of Amendment 2 is as printed on the Marshalled List:

"Page 1, line 2, leave out subsection (1) … The House of Lords Act 1999 is amended as follows".

Subsection (1) says:

"Section 2 of the House of Lords Act 1999 … is amended as follows".

Does that satisfy the noble Lord?

Lord Cormack: I would like—

Viscount Trenchard: My noble friend has already interrupted me once. I would like to continue.

Lord Reid of Cardowan (Lab): I am very grateful. If I could be generous in my advice, I would invite my noble colleague to remember the old Denis Healey phrase, "When in a hole, stop digging", because the longer he goes on, the more the tenor of this House is going to move forward from a small but reasonable amendment to some radical thoughts across these Benches. I know he would not want to contribute to that, so will he answer the question that has just been asked of him: how do his comments relate to the amendment that he has just read out? We now know he can read. Can he just explain to us how what he is saying relates to that amendment?

Viscount Trenchard: As the noble Lord, Lord Grocott, pointed out, the amendments have the effect of damaging the Bill, ensuring that it would not be effective. As I have sympathy with that purpose, I think that my remarks are very closely related to the amendments tabled.

Lord Foulkes of Cumnock: My Lords, if the only woman hereditary, the noble Countess, Lady Mar, had been here now, she would have brandished her copy of the Standing Orders, which say that speeches in Committee should last no longer than 15 minutes, and ask the noble Viscount to sit down. Can I pass on her message?

Viscount Trenchard: I thank the noble Lord for his advice. However, of the 17 minutes for which I have been on my feet, I have been interrupted for more than 50% of the time, although with your Lordships' leave I would like quickly to move to complete my remarks.

It is very valuable that there is more than one route of entry to the House. I do not think that uniformity of mode of selection, whether by prime ministerial support or meeting the approval of an Appointments Commission, improves the House's capacity to represent the community. In the Second Reading debate, the noble Lord, Lord Grocott, said:

"Tell us precisely why we continue to replace the 90 hereditary Peers".—[*Official Report*, 8/9/17; col. 2153.]

The answer is simple. As my noble friend Lord Trefgarne and others have said, the 1999 agreement is binding in honour on those who gave their assent to it. The noble Lord, Lord Grocott, will say that that no longer applies 19 years on. I disagree. I believe it should still be honoured 100 or 200 years on. Of course, noble

[Viscount Trenchard]
Lords have no idea what constitutional arrangements will be in force 100 years from now, but the 1999 agreement—

Baroness Smith of Basildon: I apologise for interrupting the noble Viscount, because we are enjoying his speech so much, but is he aware of the principle that one Parliament cannot bind another?

Viscount Trenchard: I am aware of that principle. Nevertheless, at the time, the noble and learned Lord, Lord Irvine of Lairg, gave a commitment binding in honour that this would remain in force until complete reform of the House of Lords was achieved, however long that takes. I think it was well understood that complete reform means the replacement of your Lordships' House by a wholly or largely elected second Chamber, as envisaged by the Parliament Act 1911, which restricted the powers of your Lordships' House until such time as it was replaced by a House selected by popular vote.

Lastly, it is a pity that the remit given to the noble Lord, Lord Burns, for his report excluded this question, because it is difficult to consider it in isolation. I agree with my noble friend Lord Trefgarne that a piecemeal approach to reform of your Lordships' House is wrong and believe that the report of the noble Lord, Lord Burns, should have also considered the question of hereditary membership of the House.

Lord Campbell-Savours (Lab): My Lords, I just make a procedural observation. There will be tens or hundreds of thousands of people watching our proceedings on television either today or this evening. Are they not entitled to know that most of the people who have spoken in this debate are actually hereditary Peers, defending their interest? I suggest that from now on during this debate, each person who rises to speak who is a hereditary declares that interest so that the public outside know exactly what is happening today in Parliament?

Lord Hamilton of Epsom: My Lords, I should like to speak as a Peer appointed to this House and pick up the remarks of my noble friend Lord Trenchard that we appointed Peers are somehow deserving of being in this House. I have always considered myself to be very lucky to be in this House; I am not sure how deserving I am. Let us face it, if you have an electoral system, which the hereditary Peers do, surely that picks out the best of the hereditaries and raises the quality of people in this House overall. That is the only point I want to make. It would be very sad, when we think of the very high quality of some of the hereditaries who we have in your Lordships' House, if we introduced a system to make it impossible for them to be here any more. That is why I support the amendments and hope to have a chance to demonstrate that in the Division Lobby.

Baroness Hussein-Ece (LD): My Lords, before the noble Lord sits down, is he satisfied that 51% of the population is excluded under the system that he supports in the bid of the noble Lord, Lord Trefgarne, to wreck the Bill? Does he not think that the rest of the country thinks that absolutely outrageous?

Lord Hamilton of Epsom: I think the rest of the country might take the view that everybody should be elected to this House. What they probably resent is the whole business of appointment where we get put into this House just on the whim of our party leaders. That does not seem to me a very scientific basis on which people should be put into this House—just how well you get on with the leader of your party.

Baroness Watkins of Tavistock (CB): My Lords, I want to speak as a Peer appointed through the Appointments Commission. I am, as you know, a nurse, and there was huge pressure from the nursing profession to get another Member here. I know that I, like you, was extremely fortunate to be selected, and I know some really excellent nurses who were not. The 1999 Act was designed to make this House more representative of the population that it serves. It is not about being in with a party, it is about contributing to the work of the House. I am aware that several hereditary Peers contribute in an excellent manner, but why should not some of them come through the Appointments Commission and apply in that way in future?

Lord Cormack: My Lords, we have lost sight of one important principle. The Bill of the noble Lord, Lord Grocott, does not eject any hereditary Peer from this House. We value their contribution. Despite the remarks of my noble friend Lord Trenchard, I still support the Bill. In this year of all years, as we celebrate the 100th anniversary of the Royal Air Force, we should all remember the enormous debt that we owe to my noble friend Lord Trenchard's grandfather, but we really ought now to move on. This House has demonstrated in previous votes a year ago and again this morning—although I accept the strictures of my noble and learned friend Lord Mackay up to a point—conclusively and absolutely that the majority of Members of your Lordships' House support the principles of the Grocott Bill and therefore oppose this string of amendments which would destroy the Bill.

We should also have regard to the admirable Burns commission, which perfectly properly parked two questions. One was the question of Bishops and the other was the question of hereditary Peers. But at the same time, it pointed out that if we reduce the size of the House, as those of us who truly care about the House wish, the percentages would be out of joint. Therefore, what the noble Lord, Lord Grocott, is doing, is not against the spirit of Burns at all. Indeed, it makes the enactment of Burns—I should say the acceptance of Burns, because legislation is not needed—all the more necessary and all the easier.

I say to every hereditary Peer who is here this morning—some are not, many of whom I know strongly support the Bill—that your position is not at risk. Your contributions can continue until you are summoned to higher places or decide to retire. But this is a constructive, modest measure, which has already had overwhelming support from all parts of your Lordships'

House. Those who seek by a maverick exercise to frustrate the will of your Lordships' House are in fact not serving it in the way they should.

Lord Hamilton of Epsom: For somebody who has just been involved in an extensive filibuster on the European withdrawal Bill, I think that is a bit cool, really.

Lord Cormack: What is offensive is the remark just made by my noble friend. If he had been here, he would have heard that most of the speeches made on the withdrawal Bill have been brief—certainly, mine have been. I have every right, as has every Peer in this House, to speak out on issues of great moment. His slur is unmerited and, if he respects himself and the House, he really ought to withdraw it.

11.30 am

Lord Mackay of Clashfern: I want to just say, in support of what the noble Lord, Lord Grocott, has said, that my understanding is that this Bill has received a Second Reading. Therefore, it is inappropriate to propose amendments that have the effect of destroying the Bill, because that is trying to reverse a decision that the House has already taken.

The other thing that I want to say is that my noble friend Lord Butler and I have worked together for years and years, but I dispute very much the idea that the only way in which this House could indicate in a very strong manner that it supports the Bill proposed by the noble Lord, Lord Grocott, is by an absurd procedure that requires two Members of this House to record their vote in opposition to what they really believe. I think that there would be something very seriously wrong with the procedures of this House if there were no other ways in which the House could show its support of the Bill.

The other empirical observation that I want to add is that, if you want to make progress on the whole, it does not help you to interrupt the people who are opposing you.

Lord Butler of Brockwell: Before the noble Lord sits down, can I just say in reply that, if he reads the newspapers tomorrow or listens to "Yesterday in Parliament", he will hear that the way in which the House demonstrated that it wanted to support the Grocott Bill was through that Bill.

The Earl of Erroll: My Lords, I want to say one thing on Amendment 59, which is the last one in this group and is a non-destructive amendment, which is why intrigued me.

Lord Campbell-Savours: My Lords—

The Earl of Erroll: The habit has started in the last few years of interrupting people in the middle, which slows everything up.

Lord Campbell-Savours: Will the noble Earl declare an interest?

The Earl of Erroll: I am a hereditary Peer. It makes no difference, actually, because I am not about trying to preserve things. I know that I will not be thrown out. Lots of people seem to think that it is a bribe to us that we will not be thrown out. If the noble Lord reads it, Amendment 59 shows the intention of the Bill, which is very simple—to change this into an appointed House over the long term without having to go to a vote of both Houses of Parliament. The point about this Bill is that this is a backdoor way of ending up with an appointed House. It might as well declare that intention on the front of the Bill. I know that it is not about throwing us out.

The one thing that I would like to say to the noble Lord is that it is totally irrelevant whether I am hereditary or not, because I have no interest in this. It is for the future. The only interest that I have is for my grandchildren to be able to elect the people who pass legislation, and if you put this on the front of the Bill it is non-destructive but it points out the intention of the whole thing.

I shall raise a quick point of interest, and then I shall sit down. The hereditary principle, I am told, was originally invented to stop the King being able to pack this place with cronies. So you established the great families as de facto people in very powerful positions. That is why we have the Earl Marshall and people like that. That is how the hereditary principle started; whether it works is another matter, and I heartily like the fact that we have an independent Appointments Commission bringing people into this House that is not through the political system. That is what worries me, and it is the reason why we should have proper reform, with most of the House elected, before we go down this route—otherwise we are not going to do it.

The Earl of Caithness: I would also like to speak to Amendment 59, which is in my name and grouped with this, because what the noble Earl, Lord Erroll, has said is absolutely right, and it is an important point that we will come to.

Lord Campbell-Savours: Will the noble Earl declare an interest?

The Earl of Caithness: In deference to the noble Lord, Lord Campbell-Savours, I am not giving way to him but I declare my interest as a hereditary Peer and declare my interest that I know why I am here. Some people in this House are, I guess, still wondering why they are here.

What the noble Earl, Lord Erroll, has said is absolutely right. I want to pick up three brief points on what has been said. The noble Lord, Lord Foulkes, talked about 15-minute speeches in Committee. I hope that he will pass the Standing Orders on to his noble and learned friend Lord Goldsmith, who spoke for 40 minutes at 10 o'clock at night in moving an amendment, and various others who have prevaricated in that Bill.

I totally agree with the noble Baroness, Lady Smith of Basildon, on what she said on one Parliament not binding another, but actually, what her noble and learned friend Lord Irvine of Lairg proposed was personal on each of us who came to vote. It was not one Parliament binding another; it was for each of us

[The Earl of Caithness]
who turned up to vote. Therefore, it is up to us to decide whether that is a principle that should be maintained, as I do, or that it is not a principle worth supporting anymore.

On the point about succession, I would be only too happy to support a Bill that gave the first child the right of succession to a hereditary peerage. That would be an extremely good move but, unfortunately, that is not the Bill that we are discussing. I have supported that before, and I would support it again.

Lord True: My Lords, perhaps I could briefly intervene and declare an interest as not being a hereditary Peer. I doubt that I would ever catch the eye of the selectors, even if there were such a provision.

The noble Lord, Lord Blunkett, referred to the late Ivor Richard. Having been present at those times, I add my appreciation to the great service that Lord Richard did to his country, his party and this House. It was an honour to deal with him, albeit briefly. The misunderstanding in what the noble Lord, Lord Blunkett, said was that the late noble Lord did not support an all-appointed House, which this Bill would produce. I heard many times in those days and since that Lord Richard supported the principle of a two-thirds elected House—believing that the public should be entitled to elect their politicians to both Chambers of this Parliament—and a one-third appointed House. That was his provision, and he was summarily dismissed in 1998 and further and different arrangements were made. My view on the future of this House, to follow on from the noble Earl who spoke, is rather akin to that of the late Lord Richard. I do not see in the longer term why the public should not elect the politicians to both Chambers of this House.

Apart from the point of honour, which is a personal point, and which, having been involved, I do hold, I accept that that will not count for other Peers, and I respect that and do not expect to bind them to that—but that is something that moves me in this respect, as well as my feeling that it is an objective fact and truth, however much we may protest otherwise, that the longer-term effect of this Bill would be to create an all-appointed House by stealth, bit by bit and stage by stage. That is the inevitable result of your Lordships agreeing to this legislation and, if it went down there, the other place agreeing to it.

I personally believe that such a proposition of the creation of an all-appointed Chamber permanently as part of our legislature in the 21st century should be brought before Parliament in a serious and major Bill by a Government in future. Yes, if the Labour Party or the Liberal Democrats or even our party succeeds in winning an election, and it is our view that we wish to present a Bill for the abolition of the hereditary peerage and creation of an all-appointed Chamber, that is the proper way in which to proceed in a democracy: to secure a mandate from the public before the election for such a great proposition, and to go forward. In my submission, we should not, in a hole-in-the-wall piece of legislation, move bit by bit towards that end. I detect a certain eagerness, exemplified on the Benches on my side, to push this Bill forward. It has not escaped my notice that some of the most eager are those who wish to create an all-appointed House in the longer term.

I have sympathy with those hereditary Peers who have spoken. I do not believe that we should start challenging the right by which one sits here. As has been said, that would be a difficult and uncomfortable place for some of us to go to. While we are all here, we are all equal. We are all Peers and should be allowed to be heard. I would not follow my noble friend Lord Hamilton entirely, but having sat through many hours on the European Union (Withdrawal) Bill, the minority sometimes feels it has to hear a lot from the majority. I do not particularly care for majorities ganging up on minorities. I support Amendment 59, and if it is pressed I will vote for it.

I will make some other brief points. As my noble friend Lord Caithness said, the argument about gender within the peerage is strong and valid, but that matter needs to be addressed by wider legislation on the peerage. If the noble Baroness wishes to attempt that, she can bring legislation forward.

So far as binding the Parliament's successor is concerned, the original deal had two parts. The first was that, until the end of that Parliament, hereditary Peers who departed—the proper English word is died—would be replaced by ones on the list of those who had been put forward at the election. It was not conceived at the time that this arrangement would continue, but provision was made by Parliament for it to continue in successive Parliaments. That is the process we have now, which came into effect after the 2001 election. So provision was made specifically for this to last until such time as your Lordships' House is finally reformed.

The noble Lord, Lord Steel, who is no longer in his place, referred to his Bill. A serious mistake was made in that Bill—which I did not support—requiring that a hereditary Peer who retires should be replaced. Under the original arrangements, when there was no retirement system, a hereditary Peer who took leave of absence would not be replaced. In the Bill introduced by the noble Lord, Lord Steel, it was your Lordships, in your wisdom, who made the deliberate decision to extend to retired Peers the privilege of being replaced.

Lord Forsyth of Drumlean: The noble Lord, Lord Steel, included that provision in order to avoid the kind of exercise we are seeing from some hereditaries today.

Lord True: I do not know about that but, having heard what other hereditary Members of the House have said today, I doubt that would have been the case. At the time, I thought it was a very odd decision, but there it is. That is why retirement is there, and if an amendment comes forward to remove it I will support it, irrespective of the wider provisions.

The proportion of hereditary Peers is now lower now than it was in 1999, when there were 666 of us. I do not believe that that is a conclusive argument either way: I simply note the fact. I found unattractive the appeal to self-interest of my noble friend Lord Cormack, who said: "You will not be affected, so do not worry, you can come along with us". That exemplified the

eagerness to beguile noble Lords into accepting a long-term result. No one in this House, including my noble friend, should feel they have to act upon self-interest, even if that were the case.

11.45 am

I will support Amendment 59 if it is moved and give notice that I degroup Amendment 33A in my name, which is in a later group with Amendment 6. This is not in order to effect delay. When the House discussed this before, the noble Lord, Lord Grocott, said that he might accept the principle concerned. The final, fundamental objection to the Bill is its political effect. It strikes very heavily against the Cross Benches and the Conservative Party, because of their larger proportion of hereditary Peers. The Conservative Party currently has 49 hereditary Peers out of 246. If the Bill went through, that would reduce in time to 197, whereas the Labour Party, with four, would be reduced in time to 189. Unless a hereditary Peer who left was replaced at once by a life Peer without objection, this would have a damaging effect on the political balance of the House. I give notice that I am degrouping Amendment 33A. If we get to it—I hope we do, because we should proceed—I hope the noble Lord, Lord Grocott, will then indicate that he would consider accepting it on Report.

I support Amendment 59 and counsel your Lordships against aligning themselves with a Bill that would produce an all-appointed House without the consent of the people.

Lord Reid of Cardowan: I have listened very carefully to the noble Lord, Lord True. His speech was probably the most substantial criticism so far of the Bill—which I support. Does he notice the apparent contradiction at the centre of his arguments? Up until now, the main argument against the Bill is the independence and independent authority of the hereditaries. In his closing remarks, the noble Lord made the opposite argument: the reduction in hereditaries was important because it affected the party-political balance, as the hereditaries had an overwhelming party-political role in the numbers of the Conservative Party. Does he see the apparent conflict in those two arguments?

Lord True: My Lords, I do not see any distinction at all, though I am always grateful for a compliment from the noble Lord, whom I esteem highly. I do not particularly follow the argument about independence. It is true that hereditary Peers come here by a different route, but I have never made that argument. As was said in a challenge to the noble Viscount, it is an objective fact. They come here through election by a political college and they take a political place. I therefore have some doubt about the argument. There are nuances in all these things.

Lord Balfe: Does the noble Lord accept that his point about the disproportionate effect on these Benches is exactly why such a reform might appeal to certain elements in the Labour Party when they become the Government of this country, as they inevitably will?

Lord True: I never like to challenge or take issue with my noble friend, but his argument is—to put it politely—feeble in the extreme. If the Labour Party wished to achieve its historic objective of getting rid of the hereditary peerage and was armed with a popular mandate, I very much doubt it would wait until the noble Lord, Lord Strathclyde, died in 2060 to do so. The noble Lord's argument is immaterial to that.

A noble Lord: My Lords—

Lord True: I will not take further interventions. There are serious points to be made against the Bill and some of those that I have addressed remain unresolved.

Lord Tyler: My Lords, very briefly, I am wholly opposed to this whole group of amendments for the very important reason given by the noble and learned Lord, Lord Mackay of Clashfern: these are wrecking amendments. If they were going to be pursued appropriately in your Lordships' House, they should have been raised at Second Reading as an opportunity to vote against the Bill then. I am particularly opposed to Amendment 59, which has been given so much emphasis in the last few minutes and reads:

> "Whereas it is no longer intended to substitute for the House of Lords as it at present exists a Second Chamber constituted on a popular basis".

That is a subjective supposition. It may be true; I do not know whether it is true. What sort of timescale is envisaged? It is not a fact and, therefore, for us to put it into the Bill would be absurd.

If I may take this opportunity, the first person who I think would have reacted to that particular suggestion would be our former colleague Lord Richard. I served with him in a number of capacities but, in particular, through a whole year on the Joint Committee on the then draft Bill brought forward by the coalition. He would not have accepted that as a statement of fact, because it is not a statement of fact. It is a supposition. I therefore hope we will dispose of this whole group of amendments and, in particular, dispose absolutely clearly and without any doubt of Amendment 59, if only to make sure that Lord Richard's view on this issue remains with us. He was always clear and consistent and argued his case with such conviction; we should at least respect that in this case.

Lord Grocott: My Lords, I intervene very briefly on this group in the hope that I can speed things up, because these amendments are clearly designed to wreck the Bill. The vote should have taken place at Second Reading; the noble Lord, Lord Trefgarne, and others decided not to vote against Second Reading. We are now nearly two hours into this debate and we are on the second group of amendments. I conceded the first group entirely to the noble Earl, Lord Caithness, and said that I would accept his amendment. What is taking place now—I know there have been interventions—is an abuse of this House. To be crystal clear about this, virtually none of the contributions has been about this group of amendments—or very few; there have been one or two exceptions. They have

[Lord Grocott]
been Second Reading speeches, repeating time after time tired old arguments that are long out of date and have been long refuted.

I very rarely disagree with the noble and learned Lord, Lord Mackay; I can think of no other way in which the House could express its opinion as to the overwhelming majority who support this Bill and are concerned about the reputation of the House and this very small part of our constitution. It is part of our constitution that we have elections in which there are 11 candidates and three people entitled to vote—try to defend that. Do not go into the history books and explain precisely why the original 1999 Act was passed in the way that it was. I could wax lyrical on that—I was working in Downing Street at the time. The noble Lord, Lord Trefgarne, and others, made it pretty plain—by whatever right they must explain for themselves—that the Labour Government, with our majority of 170-odd and with a precise and unarguable commitment in our manifesto to end the hereditary peerage, would be prevented from doing so. It was made perfectly plain to us that many of the 750 hereditary Peers who were here at the time would not just block the Bill—they were intent on doing that—but wreck the Labour Government's democratically elected manifesto and programme.

It seems to me that the same thing is happening now, but by different means. A tiny minority in this House are trying to block the overwhelming view of the majority. I greatly respect the procedures of this House. They are terrific in the way that they enable people to make contributions, to table amendments and to speak frequently. It is a great privilege to which we are all party. But to deal with, effectively, just one group in the best part of two hours—after an attempt was made to delay Committee stage—is a clear abuse of this House. If the people who persist in opposing the Bill do not do it by the proper mechanism, which is to vote against Third Reading—Report and Third Reading are to come, quite apart from it going to the Commons thereafter—then their proper course of action is to let the Bill proceed and let it be amended in a way that improves it, not that wrecks it. Then, if they are still not happy—which many of them will not be, I know—it is their right to get rid of it at Third Reading. I think we should expedite this, and I hope that the noble Lord, Lord Trefgarne, will quickly withdraw his amendment and others will not move substantial amendments. I can see that they make the House look ridiculous and, in some cases, make themselves look ridiculous.

Viscount Astor: Perhaps I may remind the noble Lord that, in the previous Parliament, when he was Chief Whip, on the boundary changes Bill, his party kept your Lordships up all night, filibustering with what were, in effect, Second Reading speeches, to frustrate that Bill. He cannot have it both ways.

Lord Grocott: May I just remind the House of whether the Bill became law?

Viscount Astor: The noble Lord's party blocked the Bill; that is my point.

Lord Grocott: I am afraid the noble Lord needs to attend rather more frequently before he makes interventions on what happened when. The Bill was passed. There were long discussions and long debates; I do not object to that. However, what is happening here is a deliberate attempt to do in Committee what should have been done at Second Reading. These are age-old procedures and I respect them enormously: First Reading, Second Reading, Committee, Report and Third Reading. To do what is being done now in Committee is an abuse and it should stop.

Lord True: My Lords, before the noble Lord sits down, he has spoken of abuse—we are in Committee, so I may come back—I believe that I tried to make a reasonable speech and I asked the noble Lord a specific question on Amendment 33A. He has not had the courtesy to respond. I am disappointed by that; it was meant as a constructive amendment to enable progress to be made, I do not accept widespread, scatter-gun accusations of abuse against those of us who seek to make a contribution on this matter.

Lord Grocott: My Lords, the noble Lord, of all people, should know that we will debate Amendment 33A when we reach it. If I start responding to amendments we have not even reached, we will go on even longer.

Lord Trefgarne: My Lords, when I moved Amendment 2 a little while ago, I should have said that I was speaking at the same time to Amendments 5, 24, 31, 35, 52, 53 and 59. I beg leave to withdraw Amendment 2.

Amendment 2 withdrawn.

Amendments 3 to 5 not moved.

Amendment 6

Moved by ***Lord Trefgarne***

6: Clause 1, page 1, line 4, leave out subsections (2) and (3) and insert—

"(2) In section 2, after subsection (4) insert—

"(4A) Standing Orders relating to the filling of vacancies must provide that any party or group specified in the Standing Orders need not take up its entitlement to fill any vacancy among the people excepted from section 1, and that in this event the vacancy will be allocated to one of the other parties or groups specified in the Standing Orders, by a method specified in the Standing Orders, for that party or group to fill.""

Lord Trefgarne: I beg to move.

The Earl of Caithness: My Lords, I shall speak to this group of amendments. I also resent the accusation that I have been using delaying tactics. After the noble Lord, Lord Grocott, intervened to accept my Amendment 1, I immediately sat down so that progress could be made.

The noble Lord has presented his arguments under two headings. The first is that he has this prejudice against hereditary Peers and their succession. This is part of Labour policy, I fully understand that, and I fear that there is also probably resentment at being

out-argued by my noble friends Lord Cranborne and Lord Strathclyde in 1999. The Prime Minister at the time is not the first person to have been out-argued by a Cecil, and doubtless will not be the last. That is well known in history.

The second flank of the noble Lord's argument is about the by-elections. He has made some very witty speeches and written witty articles on this subject. These amendments deal with the by-elections. I wish to address in particular Amendment 10 in this group. The noble Lord has pointed out, at Second Reading last year and before that, that some circumstances in which certain by-elections are conducted are not entirely compatible with modern thinking on how they should take place. He has a point. However, the point of these amendments is to retain the by-elections but give the noble Lord what he wants: namely, a change in how they are constituted.

Noon

Lord Grocott: The noble Earl really must acknowledge what he is doing. It is not a question of amending the by-elections; the clue is in the Title of the Bill, which includes the words, "Abolition of By-Elections", so all the amendments in this group are clearly trying to reverse or block the fundamental purpose of the Bill. They are all about changing bits and pieces in the mechanism by which the by-elections take place. These by-elections are unimprovable, and the noble Earl ought to acknowledge that this whole group of amendments would wreck the Bill. I hope that he will draw his comments to a conclusion.

The Earl of Caithness: My Lords, if that is the noble Lord's sole argument he should not have said what he did at Second Reading and he should not have used those arguments in his recent articles. He argued very firmly that the present basis of election was unfair in some aspects and rather stupid in others. We are seeking to correct that. If the noble Lord is going to absolutely set his mind against that, he should not have said what he did at Second Reading or written what he did; that is the equivalent of claptrap, because it has absolutely nothing to do with the fundamental point.

I support my argument with a few quotes from when this issue was debated in another place. I refer particularly to the comments of the then Sir Patrick Cormack, now my noble friend Lord Cormack, who said:

"I believe without equivocation … that the House of Lords will be better for the 92".

I understand that he has changed his mind but I think he ought to explain that to the House.

Lord Cormack (Con): I did that as the party's Front-Bench constitutional affairs spokesman in another place, welcoming what was happening at that time. As has been made very plain by the noble Baroness the Leader of the Opposition in this House, no Parliament can bind its successor. We are now almost 20 years on. I would therefore ask my noble friend to reflect on what he has said.

The Earl of Caithness: My Lords, I have reflected and I have stated exactly what I did. My noble friend also went on to say that we should,

"recognise that the interim House, as it is called by some, which will assemble next week, could exist for some considerable time".—[*Official Report*, Commons, 10/11/99; cols. 1200-01.]

So my noble friend knew exactly what the situation was, and what he said was repeated by John MacGregor, now the noble Lord, Lord MacGregor of Pulham Market.

Lord Foulkes of Cumnock: I think I am right in saying that the noble Earl is the 20th Earl of Caithness and his title goes back many centuries. Instead of speaking here, would it not be better if he went back up to Caithness, got down on his knees and thanked the Lord that he lives in the United Kingdom and not in France, where they had a rather more ruthless way of getting rid of their aristocracy?

The Earl of Caithness: Well, some survived that too and doubtless some of us will survive this onslaught against us. My noble friend Lord Deben, the then Mr Gummer, also said what a good thing it was to have some hereditaries here because:

"A society is better run when, even if it is not entirely rational, power is spread a bit, with the opportunity for different people to make different comments about different things.—[*Official Report*, Commons, 10/11/99; col. 1173.]

All I am asking is that the noble Lord, Lord Grocott, consider that we amend the way by-elections take place at the moment to make them for the whole House rather than just individual parties, and that we revisit this when, as I said earlier, there is greater implementation of the report of the noble Lord, Lord Burns.

Lord Trefgarne: In this short intervention I support the proposition to which I referred earlier that the by-elections should be conducted on an all-House basis.

Lord Campbell-Savours: For the benefit of the public, will the noble Lord declare an interest?

Lord Trefgarne: My Lords, there are arrangements for declaring interests set out in Standing Orders. I do not think that what the noble Lord proposes is required by Standing Orders. If he would like to arrange for the Standing Orders to be changed, that, of course, would be another matter.

As I was saying, I believe there is a powerful argument for running all by-elections on an all-House basis, as those for the so-called officeholders are at present. Also, the list of candidates for hereditary Peer by-elections has, I think, only one female on it. I have a Private Member's Bill waiting in the list behind the noble Lord, Lord Grocott, to change all that. I hope your Lordships will support it.

The Earl of Erroll: My Lords, this is all about the by-election process. If the noble Lord, Lord Campbell-Savours, would like to declare how he got here and what he did to get here, I would be very happy.

Lord Foulkes of Cumnock: I want to speak on behalf of my noble friend. He served as a Member of Parliament with great distinction for many years and looked after the interests of thousands of people; he deserved to get here.

The Earl of Erroll: Thank you for that but in the same way that we have to declare interests, the noble Lord should also have to. I am sure that he has served with great distinction but does that, towards the end of the career, qualify him for going automatically into the House of Lords?

Leaving that aside, I go back to the nub of what I want to talk about, which is the by-elections. I have been reading the 1999 Act. As far as I can make out, the whole thing, including the party proportions, is set in our Standing Orders; it is not in the primary legislation. So, actually, as an interim measure, I would have thought the first thing we should do is amend our Standing Orders to make them more sensible. I know that there will be changes in the party balance but I think that is right. Having done that, we can then deal with the democratic issue of whether or not we slowly become an appointed House. I realise that for some people that will not be acceptable, because it might result in there being less pressure to change to an appointed House more quickly. I personally think that we should look first at our Standing Orders. That is what this series of amendments is about. However, I do not think they need to be in primary legislation to achieve that.

Lord Grocott: My Lords, unfortunately, the contributions that have been made have to be dealt with even though they clearly do not address this group of amendments. Changing the Standing Orders does not alter the fundamental reason why these by-elections must end. A key argument, which has already been made, is that changing the Standing Orders will not alter the gender balance of the people who sit in the Lords currently as hereditary Peers. As my noble friend rightly reminded us, people are watching this debate and, I guess, wondering what on earth is going on, so we need to remind them of the facts. Of the 92 hereditary Peers in the House at the moment, one is a woman and she supports my Bill. It is worth remembering as well that in the 19 years since the original Act was passed, the situation has got worse. There were four women among the original 92, so the whole operation has got worse during the 19 years of this temporary measure. It has no prospect of getting better under the present system, and Standing Orders do not touch this because, of the 198 people who are currently on the register of hereditary Peers, just one, coincidentally, is a woman. None of these amendments addresses that. Do we really say that in 2018 we should continue with a system, even when the size of the House is diminishing overall, in which 92 protected places are virtually exclusively male? I hope that before anyone speaks on any of these amendments to try to improve the unimprovable, which is the current system of by-elections, they will address that problem and why they continue to support an effectively men-only 92 bloc that cannot be reduced, and which will not be reformed unless my Bill goes forward.

Lord Shinkwin (Con): My Lords, I will speak to this group, with particular reference to Amendment 25.

I am conscious that I was not born with a silver spoon in my mouth; I was born with a broken leg, which is how doctors diagnosed my disability. I therefore have no more of an interest in the perpetuation of privilege than I do in the perpetuation of prejudice on the grounds of disability, for example. But surely we all have an interest in ensuring that a focus on privilege does not prejudice either the perpetuation of the noble tradition of public service or, crucially, our capacity to reform and strengthen your Lordships' House and improve it from within.

I am struck by the simple fact that not that long ago, someone like me would have been lucky to get into a workhouse, never mind your Lordships' House, because of my disability. Fortunately, attitudes have changed, society has evolved, and social reform achieved over many decades has enabled me to contribute to your Lordships' House as a Member. I thank all noble Lords, past and present, for enabling that to happen, including social reformers among hereditary Peers.

I am not against reform. Indeed, it is essential, which is why I want your Lordships' House to retain the power and the opportunity to reform itself from within. By-elections—in accordance with Amendment 25, of all Members of your Lordships' House—give it that power because through by-elections we have the opportunity to address the point made by the noble Baroness, Lady Watkins of Tavistock, about the representative nature of the House. We have the opportunity to change the face we present to the public. The total number of Peers—a subject some noble Lords have mentioned today—may be important to us. The fact that on paper—if not in attendance, since the average daily attendance in the 2016-17 Session was 484—we are larger than the elected House may weigh heavily on our consciences. But I would be prepared to wager that what is far more important to the person in the street in terms of the legitimacy of your Lordships' House is that noble Lords are more representative, not necessarily politically but in terms of women, disabled people and people from black and minority-ethnic and LGBT backgrounds.

I appreciate that, as has already been touched on, as the law stands, the vast majority of titles may be inherited only by a man. I do not support that, and indeed I know that my noble friend Lord Trefgarne has, in the past, attempted to legislate on that issue. Unfortunately, we are constrained as to what we can do as a House in that area. However, we can surely do our bit on disability, because I know of at least one hereditary Peer whose ancestors served our country with distinction as Members of your Lordships' House who would love to have the opportunity to do the same themselves by standing successfully as a candidate in a by-election of your Lordships' House. I can think of no more powerful message to send to the public that we are both capable of and committed to making your Lordships' House more representative than if we were to use by-elections to elect more disabled Peers to serve as Members of it.

12.15 pm

Lord Forsyth of Drumlean: We all value enormously the contribution which my noble friend makes to this House, and I very much support his view about improving the diversity of this House and having more disabled people in it. But surely by limiting the cohort in the way that by-elections do, he is arguing against himself.

Lord Shinkwin: I do not accept that point, because if one looks at the appointments to this House, one can argue that if we were all to agree today that in future by-elections we would prioritise the election of disabled hereditaries, we could make quite significant progress on improving the composition.

I will close with the following point, on which I hope we can all agree. We recently marked the centenary of women aged 30 and above being given the vote. Would it not be wonderful if, to complement our commitment to reform from within through by-elections, we also gave our support to this country's second woman Prime Minister should the majority of people whom she recommends that Her Majesty send to your Lordships' House be women, with a significant proportion of them from BAME backgrounds? Both measures, taken together, would do more to strengthen the legitimacy of your Lordships' House than any reduction in our numbers, important though that is. The retention of by-elections is therefore a crucial part of the organic process of reform from within. For that reason I support Amendment 25.

Lord Trefgarne: My Lords, I am grateful for all the contributions we have just heard, and I beg leave to withdraw the amendment.

Amendment 6 withdrawn.

Amendments 7 to 9 not moved.

Amendment 10

Moved by ***The Earl of Caithness***

10: Clause 1, page 1, line 4, leave out subsections (2) and (3) and insert—

"(2) In section 2, after subsection (4) insert—

"(4A) Standing Orders must provide that any vacancy must be open to any hereditary peer, and that the method used for the by-election to fill that vacancy, including the electors eligible to vote, must not be based on any party political affiliation.""

The Earl of Caithness: My Lords, I would like to move Amendment 10, and I am emboldened to do so by what my noble friend Lord Shinkwin just said. It is worth reminding the House that at the moment, there are 214 ex-politicians in this House. Add to that—

Lord Grocott: My Lords, I remember distinctly, because it was only 20 minutes or so ago, that when we began discussing this group, the lead amendment of which is Amendment 6, the noble Earl, Lord Caithness, devoted most of his speech to Amendment 10, which is in this group. He has been in this House for 40 years or something of that nature, though not as long as the noble Lord, Lord Trefgarne, so he knows we have dealt with this group of amendments. Of course he may want to speak to his point at a later stage of the consideration of the Bill, but he has already addressed the specific point of this amendment within the group that we have now disposed of. I respectfully suggest to him that we should move on to the next group, which begins with Amendment 11.

The Earl of Caithness: I do not think the noble Lord is right. Although the amendments are grouped for the convenience of the House, you can still speak to an amendment individually whether or not it has been in a group. I am speaking to Amendment 10. I just wanted to add a few words because I wish to test the opinion of the House on this, as I think it is important. There are at the moment 214 ex-politicians in this House, added to which there are another 101 ex-councillors, and I have excluded councillors who became politicians in later life. That is about 40% of the House. If one removes the hereditaries, the balance of the House shifts yet further. It is for that reason that I think we ought to have an electoral system that is different from the one that we have at the moment, and I beg to move.

12.21 pm

Division on Amendment 10

Contents 20; Not-Contents 111.

Amendment 10 disagreed.

Division No. 2

CONTENTS

Astor, V.
Bridgeman, V.
Caithness, E. [Teller]
Colgrain, L.
Erroll, E.
Fraser of Corriegarth, L.
Hamilton of Epsom, L.
Holmes of Richmond, L.
Hooper, B.
Liverpool, E.
Mancroft, L.
Montrose, D.
Robathan, L.
Selsdon, L.
Shinkwin, L.
Swinfen, L.
Thurlow, L.
Trefgarne, L. [Teller]
Trenchard, V.
True, L.

NOT CONTENTS

Adams of Craigielea, B.
Addington, L.
Ahmed, L.
Alderdice, L.
Alton of Liverpool, L.
Andrews, B.
Bakewell, B.
Balfe, L.
Berkeley of Knighton, L.
Best, L.
Blunkett, L.
Bowles of Berkhamsted, B.
Brennan, L.
Brookman, L.
Brown of Eaton-under-Heywood, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Burns, L.
Butler of Brockwell, L.
Campbell-Savours, L.
Cashman, L.
Chandos, V.
Chidgey, L.
Collins of Highbury, L.
Cormack, L.
Davies of Oldham, L.
Desai, L.
Dholakia, L.
Donaghy, B. [Teller]
Dubs, L.
Dykes, L.
Elder, L.
Forsyth of Drumlean, L.
Foulkes of Cumnock, L.
Golding, B.
Goodlad, L.
Grocott, L.
Hamwee, B.
Hanworth, V.

Harris of Haringey, L.
Haskel, L.
Haworth, L.
Hayter of Kentish Town, B.
Hayward, L.
Healy of Primrose Hill, B.
Henig, B.
Hollick, L.
Hollins, B.
Hunt of Chesterton, L.
Hussein-Ece, B.
Kennedy of Cradley, B.
Kirkwood of Kirkhope, L.
Lamont of Lerwick, L.
Lawrence of Clarendon, B.
Lea of Crondall, L.
Liddle, L.
Loomba, L.
Low of Dalston, L.
Ludford, B.
Mackay of Clashfern, L.
Mackenzie of Framwellgate, L.
McAvoy, L.
McColl of Dulwich, L.
McIntosh of Hudnall, B.
McKenzie of Luton, L.
McNally, L.
Meacher, B.
Monks, L.
Morris of Handsworth, L.
Murphy of Torfaen, L.
Naseby, L.
O'Cathain, B.
Paddick, L.
Palmer of Childs Hill, L.
Peterborough, Bp.
Pitkeathley, B.
Prashar, B.
Ramsay of Cartvale, B.
Randerson, B.
Reid of Cardowan, L.
Rennard, L.
Richardson of Calow, B.
Scott of Needham Market, B.
Sheehan, B.
Sheikh, L.
Sherbourne of Didsbury, L.
Sherlock, B.
Simon, V.
Slim, V.
Smith of Basildon, B.
Snape, L. [Teller]
Steel of Aikwood, L.
Stevenson of Balmacara, L.
Stirrup, L.
Stone of Blackheath, L.
Taylor of Bolton, B.
Thomas of Winchester, B.
Thornton, B.
Tomlinson, L.
Tonge, B.
Tope, L.
Triesman, L.
Turnberg, L.
Tyler, L.
Uddin, B.
Watkins of Tavistock, B.
Wheatcroft, B.
Wheeler, B.
Whitaker, B.
Wilson of Tillyorn, L.
Winston, L.

12.32 pm

The Deputy Chairman of Committees (Baroness Morris of Bolton) (Con): My Lords, I have to tell your Lordships that in the first Division the number voting Not Content was in fact 129, not 127 as announced.

Motion

Moved by ***Lord Young of Cookham***

That the House do now resume.

Lord Low of Dalston (CB): My Lords, the business list for today indicates that after we have received the reply to the Urgent Question, the House will move into Committee on the conscientious objection Bill. As we have made good progress on the Bill of the noble Lord, Lord Grocott, I suggest that we keep going on that to see whether we can get through the rest of that business today, rather than move on to the Committee of another Bill.

Lord Young of Cookham (Con): My Lords, I understand the appetite to make progress on the Bill that we have been discussing. There have been discussions through the usual channels, including with the sponsor of the Bill, and it has been decided to split the day half and half between the Bill we have just been discussing and the conscientious objection Bill. I think that the House ought to stick to the arrangement agreed through the usual channels.

Baroness McIntosh of Hudnall (Lab): My Lords, can the noble Lord say whether further time will be available for the Committee stage of the Bill of the noble Lord, Lord Grocott? That may be something that exercises the people who are interested in it.

Lord Young of Cookham: The Government will not be making time for the Bill. Its progress on a Friday is something that will need to be discussed with the Chief Whip.

Lord Low of Dalston: My Lords, that is why I proposed that we should keep going on this Bill. We have made good progress on it and, as the noble Lord has indicated, there is no assurance of getting further time for it. I accept that an agreement has been reached through the usual channels but the House is sovereign on these matters and I would like to put it to the House that, after we have heard the Answer to the UQ—

Lord Winston (Lab): I am grateful to the noble Lord for giving way. Although I personally have every sympathy for the Bill of my noble friend Lord Grocott, and I would like to hear whether he feels that there is a way of getting it through the House, the second Bill raises some very significant ethical issues which it is important to discuss. The conscientious objection Bill is not a trivial measure and it is right and proper that we discuss it in Committee, as arranged by the usual channels.

Lord Grocott: My Lords, although I am no longer a proper member of the usual channels, I can tell the Committee that, in discussions with those channels, it was decided that the fair thing to do was to split today between the two Bills. In answer to the question from my noble friend Lady McIntosh and without betraying any private discussions, I have every reason to believe that further time will be made available for the Committee stage of my Bill, which has the overwhelming support of the House.

Lord Mackay of Clashfern (Con): I support that. I had hoped that we would have finished the Committee stage of the Bill of the noble Lord, Lord Grocott, by now, and it is unfortunate that we have not done so. The amount of time that we had for it seemed reasonable. I support what has obviously already been agreed, as I have some interest in the next Bill as well. However, I invite the usual channels to do their best to get more time for this Bill as soon as possible.

Lord Young of Cookham: Without committing my noble friend, who is sitting on my left, the Government are open to further discussions, through the usual channels, with the noble Lord, Lord Grocott.

The Deputy Chairman of Committees (Baroness Morris of Bolton) (Con): My Lords—

Lord Low of Dalston: I accede to what has been said: the noble Lord, Lord Grocott, has reached an agreement through the usual channels. The House has sent a strong signal today that it wants to see further time made available for the noble Lord, Lord Grocott.

In the hope that that request will be acceded to, I will not press the point that we take further time in Committee today on the noble Lord's Bill.

The Deputy Chairman of Committees: I apologise to the noble Lord, Lord Low, for being so eager to resume the House.

Motion agreed.

House resumed.

Passports

Private Notice Question

12.38 pm

Asked by ***Lord Naseby***

To ask Her Majesty's Government why the UK has not followed the example of France and Germany and restricted the tender process for the new UK passport to UK-based companies.

Lord Naseby (Con): My Lords, I beg leave to ask a Question of which I have given private notice.

The Earl of Courtown (Con): My Lords, all EU member states are bound by the same procurement rules. However, contracts do not need to be put out to tender where services can be obtained from a state-owned company. Some countries have a state-owned passport printing operation. However, in the United Kingdom, we have not had a state-owned passport printing facility since the 1990s. The printing of blank passports overseas presents no security concerns.

Lord Naseby: I note my noble friend's Answer, but do not Her Majesty's Government realise that this possible decision will have a huge adverse effect on the whole of British industry and the British people as they face Brexit? We now know that the French and Germans can produce their own passports without going beyond their country boundaries because of some obscure rule of the EU—which we are leaving. We see in the press the stated figures: the French bid of £490 million and the UK bid of £540 million. The difference, therefore, in annual cost is £4.4 million. On the basis of the 6,931,924 applications for passports in the UK in 2017, the difference works out at 63p per passport. Against those figures and the suggestion that the French bid was possibly made on a loss-leader basis—as one who worked in industry before coming to this place, I point out that loss-leaders are not unknown, particularly when dealing with interesting bids such as this one—will the Minister give an assurance that nothing will be signed or sealed until the whole matter has been reviewed?

The Earl of Courtown: My noble friend mentioned the arrangements that occur in some countries in the European Union. As I said in my opening Answer, contracts do not need to be put out to tender where services can be obtained from a state-owned company. Some countries have a state-owned company; we do not have that here in the United Kingdom. I will not comment on any commercially sensitive details but I should add that there will be a saving of £120 million to the taxpayer over the course of this contract.

Baroness Smith of Basildon (Lab): My Lords, does the Minister not understand that he sounds rather complacent on this issue? I have to ask: why do other European countries have state-owned companies? It is because of their concerns around security. To most of us, it seems quite a bizarre decision that, while other countries are producing their passports at home, we have taken that away from a company which, by all accounts, has provided an excellent service to this country. There is a risk of workers in this country losing their jobs now that that company has lost a flagship contract. Given the rhetoric of Ministers that Brexit means taking back control, is the Minister able to tell the House how taking back control means handing out the passport contract to another country?

I have two further questions on the issue of security. First, the Minister dismissed security implications because the passports are blank, but I would question that and ask whether our security agencies feel the same. How are we going to ensure compliance when a company outside the country is producing the passports? Secondly, as we move forward with the digital development of passports, what plans are being considered now to ensure compliance with security arrangements in those circumstances?

The Earl of Courtown: I thank the noble Baroness for her questions, in which she made a number of points. There will be jobs created in this country under the new contract. Under the present contract, 20% of the blank passports are already manufactured overseas. As far as the security issue is concerned, under the new contract all passports will continue to be personalised with the passport holder's personal details, such as name and photograph, in the United Kingdom. This will ensure that no personal data will leave the United Kingdom.

Baroness Ludford (LD): My Lords, the farce of the blue passports continues. The Minister has confirmed that the Government could have created a state company to produce these passports and they seem to have been remarkably unprepared for the furore that was bound to welcome this application of EU public procurement rules. Will he also confirm that we could have had whatever colour of passport we wanted, since burgundy was always optional? We could have had pink, for example. Can the Minister also remind the House of the Prime Minister's Mansion House speech, when she said she wanted a reciprocal binding commitment to fair and open competition with the EU? Presumably that covers not only state-aided competition but public procurement, so we will essentially continue to apply EU competition rules. Finally, will the Minister remind us whether Brexiteers are protectionists or global free traders? Surely they cannot be both.

The Earl of Courtown: My Lords, the first thing that I should make clear is that the regulations under which this tender was competed for were under EU law, WTO law and UK law. As for the colour, the noble Baroness mentioned pink—rather similar to her rather fine coat—but I like the idea of having a blue passport again. The noble Baroness also drifted off into other areas that are outside this Question, therefore I will not answer.

Lord Forsyth of Drumlean (Con): My Lords, can my noble friend not see the irony that jobs will be lost in the north-east, which voted overwhelmingly to leave the European Union, because the Government are arguing that a state company in France, which does not have to make a profit, should be given preference over a company that does have to make a profit and is employing people in Britain? Surely that is an extraordinary position for a Conservative Government to take.

Will my noble friend indicate why he thinks there is not a security issue concerned with the manufacture of British passports? I note that he has not gone on the security issue: he has chosen another argument, which is that nationalised companies should be given preference over companies that need to make a profit. That is yet another reason why we need to get out of the European Union.

The Earl of Courtown: My Lords, I thank my noble friend for his question. He rather put words into my mouth in certain areas. What is really important in this issue is to ensure that we get value for money for the taxpayer, as I am sure my noble friend would agree. He must also be aware—I am sure I have heard him say as much in the Chamber and I would be very surprised if I had not—how important it is that the UK is now a global country and able to seek the best deal for the taxpayer for this sort of contract. This is a good contract. It will save the taxpayer money. All these contracts have to go through a commercial process. In this case, as I said, jobs will be created in this country by this new contract.

Lord Foulkes of Cumnock (Lab): My Lords, the Minister talks as though the contract has already been concluded. My understanding, from those involved in submitting bids, is that it has not been concluded and there is an opportunity for the Government to think again. Will he go back to his Secretary of State—that is as much as I can ask him—and say that, on both sides of this House, there is a desire that this should be reviewed in the name not just of security but of national pride.

The Earl of Courtown: My Lords, I thank the noble Lord for that question. As far as the process of tendering is concerned, the three bidders were notified of the outcome of the competition on 21 March. Following the notification, there is a regulatory standstill period of a minimum of 10 days before the contract can be signed. A public announcement to confirm the winning bidder will be made once the contract has formally been awarded. I also note what the noble Lord said and I will ensure that the Minister is aware of his concerns.

Conscientious Objection (Medical Activities) Bill [HL]

Committee

12.49 pm

Clause 1: Conscientious objection

Amendment 1

Moved by ***Lord Steel of Aikwood***

1: Clause 1, page 1, line 2, leave out from "No" to "in" and insert "person with a conscientious objection to participating in a hands-on capacity"

Lord Steel of Aikwood (LD): My Lords, Members will realise that Amendment 1 and the amendments associated with it in the grouping go to the heart of the argument in this Bill. I am sorry that I was not able to be here for the debate at Second Reading or I would have spoken then, but it might be helpful to the Committee if I give a brief outline of how the conscience clause arose in the first place. I say that because most noble Lords believe that the Medical Termination of Pregnancy Bill, as it then was, began under me in the House of Commons. That is not the case. That Bill was passed by this House in the mid-1960s. It went through all its stages here and was waiting for a Member to pick it up in the House of Commons.

In the meantime, going back as far as 1939, there had been an interdepartmental committee of inquiry, involving the Department of Health and the Home Office under the late Sir Norman Birkett KC, which argued that the abortion law should be changed. My Bill, which was passed by this House under the auspices of Lord Silkin, was in fact the sixth attempt in the House of Commons to change the law on abortion. The others had all failed not through lack of support but through lack of time. I drew the third place in the ballot, which meant that I had the time to introduce the Bill.

The first thing I want to say is that it is wrong that issues of this complexity and seriousness should be left to the lottery, which is what it is, of the annual ballot for Private Member's Bills in the House of Commons; it is not the right way to proceed. Once an issue like this comes before both Houses, the Government should provide the necessary time, both Houses should of course have a free vote, and we should proceed in that way. The same thing happened with my Bill on retirement. It would never have got through the Commons had it not been for a Conservative MP who picked it up.

The Bill I presented and which was carried at Second Reading by a large free vote was the Bill that came from this House. However, during the Committee stage many amendments were made to the Bill, largely by myself. Most of them had nothing to do with this Bill and I shall not go into them, but the important one was the conscience clause. How did that come about? Quite simply, I had in my constituency the leading Catholic seminary known as St Andrew's College, Drygrange. Its representatives were naturally a bit

upset that their MP was introducing a Bill to which they were so strongly opposed, so they asked me to speak to them. I think that I went twice, if not three times, for discussions with them. It was they who suggested that in view of the strong opposition to the Bill, there should be a conscience clause, given that under the new legislation no person was required to undergo an abortion, so nor should any person be required to participate in an abortion. I went to meet them armed with an important document which had been published by the Board of Moral and Social Responsibility of the Church of England, entitled *Abortion: An Ethical Discussion*. Unfortunately it is now out of date and out of print, but perhaps I may quote two short extracts from it.

In referring back to the fact that Catholic tradition had changed over the centuries—from the moment of animation to the moment of conception—the report argued:

"It cannot be maintained, however, that this 'absolutist' position has ever commanded, or commands now, general acceptance in the Christian conscience … If we were to accept the absolutist principle and declare the foetus to be in all circumstances inviolable, this pamphlet would end at this point. There would be really nothing more to be said: there could be no further discussion, in terms of Christian ethics, of the problems attending the complicated pregnancy … and a Christian committee could have nothing to say to the legislature except to advocate a total prohibition of all induced abortion. Such a determination would be, in fact, a novel departure from the Christian moral tradition".

That was the argument I put to the college representatives, but I accept their argument that it was wrong, in passing the legislation, to inflict responsibility on those who strongly objected to it. I came back from those discussions to talk with other members of the committee, including the late Norman St John-Stevas, who was a leading opponent of the Bill. We worked together to introduce the conscience clause as it now stands in the law.

Then, a few years ago, two midwives who had reached a senior position in Glasgow objected to being involved in the administration of abortion in the hospital. The health board took them to court and argued that the conscience clause should not be extended to the extent they were arguing for. The case went up to the Supreme Court, which made it quite clear that it supported the original intention of the Act. Its judgment said:

"Parliament will not have had in mind the hospital managers who decide to offer an abortion service, the administrators who decide how best that service can be organised within the hospital … the caterers who provide the patients with food, and the cleaners who provide them with a safe and hygienic environment. Yet all may be said in some way to be facilitating the carrying out of the treatment involved".

That is why I believe the Bill is wrong in principle. It seeks to reverse the Supreme Court's decision, which is upholding the law as it was passed by this Parliament. I beg to move.

Baroness Thornton (Lab): My Lords, my name is added to this group of amendments. I intend to speak very briefly to say that the purpose of the amendments tabled by the noble Lord, Lord Steel, is to redefine in the Bill what constitutes participation in an activity to bring it into line with the existing law. This would mean that healthcare professionals could opt out of hands-on participation, such as performing a surgical abortion or dispensing abortion pills, but not out of things such as organising a staff rota where some of the staff on the rota might be taking part in abortion services. This is because we support the right of healthcare professionals to opt out of participating in a hands-on capacity. The noble Lord explained the history, roots and the discussions that led to this and why it has been maintained for so many years as the acceptable and sensible way forward. It is not just my view or that of these Benches. It is also supported by medical bodies such as the British Medical Association, the Royal College of Obstetricians and Gynaecologists and many other organisations, including the British Pregnancy Advisory Service. I will leave my remarks at that while we have this debate.

Lord Winston (Lab): Does my noble friend not agree that there might be some fellows of the Royal College of Obstetricians and Gynaecologists who do not agree with the briefing material that the council has sent to the House of Lords?

Baroness Thornton: That is the point, in a way, of the current situation: it allows people to disagree and to not have to participate in hands-on terminations.

Lord Brown of Eaton-under-Heywood (CB): My Lords, I too support the amendment and the obvious corollary amendments later, which are designed to confine the conscience exemption to hands-on participation, as explained in the Supreme Court decision to which the noble Lord, Lord Steel of Aikwood, referred—the Doogan case, which came from Scotland. As amended in the proposed way, the Bill would precisely give effect to that unanimous decision of the Supreme Court. It was a single, convincing judgment from the noble and learned Baroness, Lady Hale, who is now, of course, the President of that court. That decision is the last and most authoritative word on the true interpretation of Section 4 of the 1967 Act, the conscientious objection clause, which has now stood for half a century.

Although an article by the noble Baroness, Lady O'Loan, in *The House* magazine published shortly before Second Reading suggested that the Doogan decision had in fact narrowed that statutory exemption and that therefore there should now be a wider interpretation in order to "re-establish" or "reaffirm" what Parliament enacted 50 years ago, that is not so. As I have no doubt the noble and learned Lord, Lord Mackay of Clashfern, would confirm, Doogan, on the law as it currently stands, was correctly decided and what this Bill now seeks to do, therefore, is to persuade Parliament to change the law and to give an altogether wider reach to the previous conscience clause than has hitherto been thought appropriate.

1 pm

In paragraph 11 of her judgment, the noble and learned Baroness, Lady Hale, referred to a House of Lords decision in 1989 which rejected the claim by a health centre secretary and receptionist who had argued

[Lord Brown of Eaton-under-Heywood]
that the conscience clause entitled her to object to typing a letter from a GP referring a patient to a consultant with a view to a possible termination. Is it now suggested, one asks, that Parliament should overturn that decision? The House of Lords held in that earlier case that participating—that is the critical word that governs the 1967 Act and, of course, this Bill too—meant,

"actually taking part in that process",

that process being the termination of pregnancy. The noble and learned Baroness added this sentence:

"It did not have the extended meaning given to participation by the criminal law".

I respectfully suggest that that comment exposes the fallacy in an argument that certainly the noble Lord, Lord Elton, who, alas, is not in his place today, advanced at Second Reading. His argument was that we should approach the question of how closely associated with a pregnancy termination one must be in order to invoke the conscience clause in the same way as one decides who should be regarded as guilty of aiding and abetting a burglary. Plainly, anybody keeping a look-out during a burglary or anyone driving a getaway car is guilty, but I respectfully remind those who are attracted to this analogy that of course burglary is a crime: it is something we actually take steps to discourage. That is why we have wide secondary criminal liability for it and punish those who contribute in any way to its commission. Abortion, by contrast, is lawful, and those undergoing it are entitled to terminate their pregnancies.

Baroness O'Loan (CB): I hesitate to interrupt the noble and learned Lord, but will he confirm that abortion is not always lawful? Abortion is lawful only in those situations in which it was decriminalised under the Abortion Act 1967.

Lord Brown of Eaton-under-Heywood: I absolutely accept that of course that is right. I was putting it in that shorthand way simply to make the point. Of course, everything that I say in this respect plainly applies only to lawful abortion under the Act. It is in that context that we are debating the question. I suggest in parenthesis that it is intolerable that, for example, certain abortion clinics are from time to time surrounded by protestors who harass and intimidate those who are attending for—let me insert the word—lawful treatment by termination.

I return briefly to the judgment in Doogan, which explains, at paragraph 11, that participation means actually taking part in the process. Following a lengthy section of the judgment, which I will not weary the House with but which closely analyses the competing arguments on the case, the noble and learned Baroness, Lady Hale, returns to the all-important question at paragraph 38, the paragraph that the noble Lord, Lord Steel, quoted. I will just give a slightly fuller quotation, because he left out one or two bits that I think are worth reading into the record. He read this bit but I will read on. Paragraph 38 says:

"It is unlikely that, in enacting the conscience clause, Parliament had in mind the host of ancillary, administrative and managerial tasks that might be associated with those acts. Parliament will not have had in mind the hospital managers who decide to offer an abortion service, the administrators who decide how best that service can be organised within the hospital (for example, by assigning some terminations to the Labour Ward, some to the Fetal Medicine Unit and some to the Gynaecology Ward), the caterers who provide the patients with food, and the cleaners who provide them with a safe and hygienic environment. Yet all may be said in some way to be facilitating the carrying out of the treatment involved. The managerial and supervisory tasks carried out by the Labour Ward Co-ordinators are closer to these roles than they are to the role of providing the treatment which brings about the termination of the pregnancy. 'Participate' in my view means taking part in a 'hands-on' capacity".

That is the theme taken up by the shorthand encapsulation of this judgment in Amendment 1 and a certain amendment which will follow.

In the very next paragraph of the judgment, there then follows an enormously helpful and detailed exegesis of that approach—a test of the principle against what was in that decision. It is an agreed list of 13 tasks included in the role of the two petitioners in that case, as labour ward co-ordinators. Some of those tasks were held to be covered by the conscience clause and others were held not to be. Some were specifically held to be covered but to an explicitly defined extent.

It is tempting to read out the entire paragraph and to invite a clear indication from those who resist these amendments as to where they are suggested to be too restrictive of the exemption provision. But in the interests of brevity I will simply quote three of the shorter sub-paragraphs, which set out certain of the agreed tasks. The first task referred to,

"management of resources within the Labour Ward, including taking telephone calls from the Fetal Medicine Unit to arrange medical terminations of pregnancy; this is not covered by the conscience clause as interpreted above".

The sixth task referred to is,

"responding to requests for assistance, including responding to the nurse call system and the emergency pull; responding by itself is not covered; it would depend upon the assistance requested whether it was part of the treatment for a termination".

Finally, there is sub-paragraph 11—no, perhaps sub-paragraph 10, as it is shorter. It refers to:

"communicating with other professionals, eg paging anaesthetists; this is a managerial task which is not covered by the conscience clause as interpreted above".

If it is unamended, the Bill would provide exemption from all these tasks by those in the position of the two Doogan petitioners.

Lord Alton of Liverpool (CB): I wonder whether I may press the noble and learned Lord on the specific question of exemption. While I share some of his concerns that a list that included hospital porters and so on would be exhaustive, was never envisaged and is not what I think the sponsor of the Bill would wish to see, where does the noble and learned Lord stand on the question of Mary Doogan and whether she should have the right to opt out of participating, even through facilitation through lists rather than in a hands-on way as the amendment states? Where would he stand on something as specific as that case? Notwithstanding whether it was lawful or not, does he think that the law should be changed to provide reasonable accommodation for someone such as Mary Doogan?

Lord Brown of Eaton-under-Heywood: With respect, I stand precisely with the Supreme Court. I think those 13 tasks were analysed and responded to by the court in precisely the right place. Of course these borderlines are not easy to draw, but the court went to infinite pains to draw them as precisely as possible, consistent with the proper exercise of conscience if you are what was there described as involved in a hands-on participatory role, but not otherwise. It is simply an ever-widening sphere of activity ever further from the actual direct termination if you simply throw the exemption open to anybody on an administrative or managerial basis. I stand with the Supreme Court; it is a decision to which I would happily have subscribed.

What is now sought by this Bill is a significant, if necessarily worryingly imprecise, enlargement of the scope of the conscience clause. I shall add only this. As I observed at Second Reading, two responsible and respected bodies, the Royal College of Midwives and the British Pregnancy Advisory Service intervened in the Supreme Court proceedings in the Doogan case, opposed the petitioners and supported the opposite view. They opposed giving a broader scope to the right of conscientious objection. They suggested that to do so put at risk the provision of a safe and accessible abortion service and could put at risk the employment of those with less extreme conscientious objections than the two petitioners. Be that as it may, it certainly must not be assumed that the existing law risks a diminution of the obviously necessary workforce involved in giving effect to lawful abortion rights.

I concentrated my observations on Clause 1(1)(c), on termination, but in truth they apply similarly across the entire scope of the Bill. I therefore strongly urge the Committee to accept Amendment 1.

Lord Turnberg (Lab): My Lords, I strongly support the amendments in the name of the noble Lord, Lord Steel, and others. I apologise to the Committee for not being here for Second Reading for various reasons. I was almost prevented from coming today, but I managed to struggle here. I have the utmost respect for the noble Baroness, Lady O'Loan, and for the reasons behind her Bill, but when I examined it I was immediately struck by what seems to be a conflict between, on the one hand, putting a patient's best interests first and, on the other, the doctor's conscientious objection to providing certain treatments. I should perhaps explain how I came to that concern and why I support these amendments by expressing my interests.

I was in the distant past dean of the faculty of medicine in Manchester—a faculty, incidentally, that included nursing and dentistry as well as medicine—and then president of the Royal College of Physicians. In both roles, I was at pains to instil high standards of care in our students and trainees, but I must say that I was brought up short later when I became president of the Medical Protection Society. In that role, I had to face doctors who had failed their patients in one way or another—quite a shock to the system after what I had been trying to do until then to ensure ethical and moral behaviour, focusing heavily on putting the patient at the centre of everything that we do as doctors.

1.15 pm

When I was in clinical practice, I was aware that if a patient asked me to give them some treatment that I considered inappropriate or likely to be harmful—that is, not in the patient's best interest—I could refuse. I could refuse to be forced into it against my better judgment. I was fortunate never to find myself in that sort of conflict with a patient, once we had discussed the options and the reasons why I objected. Above all, everything I tried to do was in the patient's interests as far as I could judge them, and I tried to follow the dictum: first, do no harm. It is this element—putting patients first—that bothers me about the Bill and why I believe the amendments are so important.

As a practising doctor, I was not personally involved in decisions about abortion, human fertilisation or embryology, but I was often involved in decisions about end-of-life care. I hasten to say that not all my patients ended their life under my care—some had the good fortune to survive—but end-of-life care always involved difficult decisions. The most pointed decisions are, first, about stopping treatments that are thought futile and, secondly, whether life-support systems should be turned off. Here, there is no way around the basic need to consider what is in the patient's best interest.

It is relatively easy if the patient tells you that they do not want any further treatment. To continue trying to give a treatment that the patient objects to is tantamount to assault, in my mind. At the other end of the spectrum, however, where patients are unconscious, perhaps on life support and with a terminal illness from which recovery seems impossible, it is vital to have a full and open discussion with close relatives and everyone else concerned with that patient's care. Of course, the diagnosis has to be clear. It has to be clear that recovery is unfeasible or that brain death is proven beyond doubt, but once that is so, everyone concerned has to feel that they have been heard and explanations have been carefully and sympathetically made.

It is perfectly reasonable for a doctor to have conscientious objections to providing the treatment outlined in the Bill, providing of course that patients do not suffer as a consequence, especially when it is likely that patients do not share those objections. I have, I think, shown that it would be objectionable for a doctor to be forced into acting in a way that conflicts either with his or her better judgment or, as covered by the Bill, because of their religious or other basic beliefs. However, we have two perfectly good Acts of Parliament—the Abortion Act 1967 and the more recent HFE Act—that ensure that doctors will not be forced into doing anything that they find morally unacceptable. It goes too far to suggest that those doctors can or should prevent anyone else carrying out such treatments where it is in the patient's best interest to have them.

That is why it is quite inappropriate to include in the Bill such wide powers for an objecting doctor to be able to prevent others providing treatments to which they personally object. Indeed, if it is the patient's interest—which comes first—such doctors are currently under an obligation to refer their patients to someone else, particularly if by not doing so that patient is likely to come to harm. The first "do no harm" dictum

[LORD TURNBERG]
of Hippocrates really should come first. That is why I support this amendment, which specifically limits conscientious objections to the doctor with hands-on responsibility, and no one else who may care for the patient. Many of the amendments we will shortly consider simply emphasise that point. Together, they make it difficult to understand why we need the Bill at all when we have two other Acts that cover the difficulty of conscientious objection so well.

Baroness O'Loan: I may have misunderstood the noble Lord, but I think that he said that the Bill would enable a doctor who will not engage with a particular process to prevent somebody else from engaging in that process. Is that what the noble Lord said? Could he explain to me why he said it, if so, so that I can understand better?

Lord Turnberg: The wording of the Bill makes sure that a doctor who has conscientious objections to a procedure has a responsibility under the Bill to prevent others being involved in such procedures, and in their training and supervision, which makes it very difficult for someone working with them to carry out such procedures.

Baroness O'Loan: Can I ask the noble Lord to refer me to the section of the Bill that does that, because it is not the intention of the Bill, and I actually do not believe that it is the effect?

Lord Turnberg: I can. Clause 1(1)(c) refers to:

"No medical practitioner with a conscientious objection to participating in … any activity … required to prepare for, support or perform termination of pregnancy",

in this instance.

Viscount Craigavon (CB): My Lords, I spoke at Second Reading against this Bill, very much in support of the result of the judgment of the noble and learned Baroness, Lady Hale. From what she says towards the end of her judgment, we are not tied to the literal meaning of "hands on". I also refer to the article on this Bill in the *House* magazine by the noble Baroness, Lady O'Loan, in the week of the Second Reading, where she employed the apparently simple phrase the "taking of human life". In terms of realising that we all do not share our definitions of the same starting point and end point of life, I believe that in this field we do not all have the same premises to anchor our consciences. To the extent that this Bill is built upon a particular version of what is meant by "human life", we are bound to end up with differing conclusions and disagreements.

As has been made clear by the noble and learned Baroness, Lady Hale, at the end she enlarged on her "hands on" phrase with her examination and analysis of the 13 tasks of the petitioners' role. I believe that is the best definition of the phrase that we need, which has been very fully covered by the noble and learned Lord, Lord Brown of Eaton-under-Heywood. He, like me, regards that as an anchor for interpreting the current law.

To go back to a much earlier part of the noble and learned Baroness's judgment, to paragraph 11, she went back in time to help to show how the law had arrived at the present situation, and how "participation" had come to be defined. The noble and learned Lord, Lord Brown, gave details of the case that I was going to mention—the 1989 case, in the House of Lords. The noble and learned Baroness interestingly said that it was,

"a case which all parties accept was rightly decided",

the "all parties" being the parties before her in that case.

I shall not give the details of the Janaway occupation, which the noble and learned Lord, Lord Brown of Eaton-under-Heywood, gave, but it was decided then that participating meant actually taking part in the process of terminating the pregnancy. The noble and learned Baroness, Lady Hale, added that it did not have the extended meaning given to participation in the criminal law, as the noble and learned Lord, Lord Brown, again enlarged on. So that submission failed and, apparently, all parties to the present case agreed it was rightly decided, as I said.

I mention all this detail in order to ask whether we are in danger, by this Bill, of having to reverse what was decided in 1989, or even earlier. The Bill is trying to solve very complex problems by the very heavy imposition of a statute law that is quite unsuitable and insensitive for what it is trying to achieve. When we come to Amendment 15 it will be seen how much the weight of this statute law proposal would need to be softened by a more balanced and humane approach. For the moment, I fully support Amendments 1 and 3.

Lord Cashman (Lab): My Lords, I support Amendment 1, in the name of the noble Lord, Lord Steel, and the other amendments in the group. I will restate what I said at Second Reading, so that there is absolutely no doubt. I completely respect conscientious objection—religious and non-religious. I respect and defend the right to freedom of religion and belief, but not the right to impose them upon others who do not share them and, by so doing, diminish the rights and legal choices of others. It is always a joy to refer to the comments of the noble and learned Lord, Lord Brown of Eaton-under-Heywood, with whom I absolutely agree. This is an attempt to rewrite the law in the light of the Supreme Court judgment delivered by the noble and learned Baroness, Lady Hale, in the Greater Glasgow Health Board v Doogan.

If the Bill were to become law unamended, we would see conscientious objection so widened beyond the wise judgment of the noble and learned Baroness as to make certain services, such as IVF treatment, end-of-life care and abortions, difficult to access and sustain nationally. We would witness the imposition of belief to curtail the legal choices and options of others. I support these amendments because they would reinforce existing law. As has already been said, conscientious objection is clearly laid out in statute, and has a clear interpretation in law. This is that no person shall be under a duty to participate in a "hands-on" capacity in the termination of pregnancy, except in a clinical emergency. This definition is long established, supported

by medical colleges and professional organisations as well as organisations such as the British Pregnancy Advisory Service. There is no convincing, independent, impartial evidence to indicate that it is operating poorly.

Therefore, these amendments seek to retain the existing scope of conscientious objection, which is already in legislation. It is in the Abortion Act 1967 and the Human Fertilisation and Embryology Act 1980. It is worth restating that the Abortion Act 1967 says that,

"no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by this Act to which he has a conscientious objection",

but provides an exception for termination,

"to save the life or to prevent grave permanent injury to the physical or mental health",

of the woman. The interpretation of this provision is found in the 2014 Supreme Court judgment in Doogan. That judgment absolutely upholds the concept of "hands on". The noble and learned Lord, Lord Brown, has already gone into the details of that judgment.

In conclusion, the current law effectively balances rights. Conscientious objection must seek to balance the rights of healthcare professionals to act within their own ethical principles and the rights of patients to access legal medical care. The support of professional bodies and organisations for the principle of conscientious objection makes it clear that healthcare professionals are not expected to take a hands-on role in terminations of pregnancy, IVF or end-of-life care, which I will come on to when we debate later amendments. At the same time, patients must have the ability to exercise their rights to access legal healthcare. Conscientious objection cannot be allowed to undermine the rights of women, and others, to access services.

1.30 pm

Lord Mackay of Clashfern (Con): My Lords, I want to speak in very general terms in relation to Amendment 1 by the noble Lord, Lord Steel. As the noble Lord explained, in the Act that he ultimately had the responsibility for leading, it is quite plain that conscientious objection in the area of abortion is recognised and protected. The question really is: what is the extent to which that should be recognised? I should perhaps say that I am an honorary fellow of the Royal College of Obstetricians and Gynaecologists—though, needless to say, I have not sought to put it into practice in any sense.

I have of course been in this area of responsibility for statutory provision, in particular in relation to the Human Fertilisation and Embryology Act 1990. Your Lordships who are old enough to remember those proceedings will also remember that the Government decided that, for most of the issues that were of significance under that Bill, there should be a free vote. The Bill started in the House of Lords. One key question that needed to be decided, in an open vote—not compulsory, not whipped or anything of that sort—was to what extent research on embryos should be allowed. There was general agreement that, at least up to the first 14 days after conception, matters were not such that there was really a human life involved. It was certainly possible to take the view that, from 14 days onwards, a human life was involved and that, as life developed, ultimately there was hope that there would be a fully developed, healthy child. The dispute, which was very lively in this House, was whether research should be allowed on embryos before that happened. Ultimately, the vote was in favour of allowing research on embryos. The Bill started, as I said, in the House of Lords, and I was extremely glad the vote went that way, and with a fairly substantial majority.

However, the Bill of course had to go through the House of Commons—again with a free vote, naturally—and I had to hold my breath as to what might happen when the Bill arrived there. There was a strong lobby against any kind of embryonic research; indeed, I know some people who are still of that point of view. Anyway, it went to the House of Commons and the thing that frightened me very much was that it was agreed by parliamentary counsel that the scope of the Bill allowed debate on abortion. With free votes around, noble Lords can understand my anticipation that matters might have become extremely difficult. The debates turned out much better in their result than I had feared. I did not really know what the attitude in the Commons would be, but I was afraid that they might diverge from that of the House of Lords. Fortunately, on both matters, these votes produced the same result. Therefore, I do not come to this Bill without experience of trying to deal with this matter.

On another aspect of this matter, I had the honour of originally nominating as a judge the noble and learned Baroness, Lady Hale, as she now is. I regard the point of view which I advocated as fully vindicated by what has happened. It has to be said that the Supreme Court interpreted the law that had been laid down by statute. That is the job of the courts, not to make new law where there is a clear statutory law binding the situation. Its judgment is a clear and emphatic interpretation of the law as it has been.

The difficulty for me—I make it clear that it is a difficulty—is the nature of the objection that most people who have conscientious objection have to the activity of abortion. I contacted one of the authorities that have been in touch with us on the Bill and I have the impression that the number of practitioners who have conscientious objection is not huge. There is not too much in the way of statistics to back up one view or the other, but that is the impression I have in trying to understand what the position is. I do not want to take up too much time looking at the other areas where this Bill deals with conscientious objection, but in relation to abortion the conscientious objection is that the abortion operation destroys a human life. If you really believe that and if that is your conscientious objection, it is difficult to be involved in anything which promotes that. You do not want to kill people. That is the sort of point that the noble Lord, Lord Alton, made at Second Reading, to which my noble and learned friend—he is certainly my noble and learned friend—Lord Brown of Eaton-under-Heywood referred. However, that is the difficulty I have: recognising what the real conscientious objection is and giving effect to it.

I understand the arguments. The noble Lord, Lord Cashman, stated very precisely and correctly what freedom of religion and freedom of conscience in this

[Lord Mackay of Clashfern]
country are. They include respect for the rights and freedoms of others. Therefore, it is difficult to see how this measure can be introduced in the ordinary administration of the National Health Service. If that is your conscientious objection, it extends beyond having a hands-on interest in the matter. I understand completely that if it extends beyond that, it will have an effect on the administration of the National Health Service.

How do you recognise the real objection, not somebody else's formulation of it, but the people who have this objection? I think I am right in saying that that is basically what they believe. It is very difficult to see why they should be involved in anything that promotes what they object to. I have thought hard about this issue. The words that are used to expand it are difficult and some of them are stretching. I wonder whether the amendment proposed by the noble Lord, Lord Winston, in that connection might deal with that matter. If you have a very broad objection on the basis that I have said, it may be difficult to fit you into the system. There is a balance in this. If the people making the relevant appointments know what your objection is, they can take account of it in determining whether you are suitable to be fitted into the system to do a particular job. There will be jobs that are very close to the killing that they think is happening, and those that are more remote from it. It is difficult to draw that line exactly.

That is why a solution may be Amendment 25, in the name of the noble Lord, Lord Winston, which would mean that when you are seeking a job you would tell people what your conscientious objection is and what it extends to. An objection to that is that it discriminates against people who have a conscientious objection, and I can quite understand that too. But on the other hand, it seems that some way of limiting the interference with the administration is required to be found. That is what this Committee may be able to do. I have thought myself about what amendment I might put down, but I fear that I am not wise enough to have thought exactly about how you would frame it. Therefore I was comforted by the way the noble Lord, Lord Winston, would do it, finding out when you make an appointment whether the person with this kind of objection can be fitted into that appointment. I have not so far thought of anything better than that, and I will be glad in due course to hear what the noble Lord, Lord Winston, has to say about that. I have had considerable experience of his skills in this area from my history of involvement in this matter.

It is for us to do our best to try to accommodate the real conscientious objection that exists here consistently with proper administration for the health service. That has been well expressed by the noble Lord, Lord Cashman, who I think wants to say something.

Lord Cashman: I wanted to develop the noble and learned Lord's theme of recognising the objection then allowing someone else in the chain—in the pool of services—to take that on. However, Clause 1(2) says that:

"For the purposes of subsection (1) … 'participating in an activity' includes any supervision, delegation, planning or supporting of staff",

so that would prohibit the very approach the noble and learned Lord has outlined. In addition, not that I belong to any religious group at all, but Buddhists approach these issues with the concept of right belief, right livelihood.

Baroness Thornton: My Lords, to add to that, in the debate at Second Reading, the noble and learned Lord suggested that there need to be amendments to the Bill, but the movers of the Bill have not brought forward any of those amendments to allow us to have that discussion.

Lord Mackay of Clashfern: I was looking for help in this area from people who know better than me about administration, because I have never participated in the administration of the National Health Service, and I am thankful that I was able to find some other employment. The noble Lord, Lord Winston, has proposed an amendment which—subject to the objections I mentioned, that you would discriminate against people with a conscientious objection—is a way of fitting this into the administration. For example, they may think that the only way you can deal with this is to have the person at a certain grade, but one of the things about conscience is that you must be prepared to make sacrifices to secure your conscientious objection. I do not say for a minute that I want to justify any discrimination on the ground of conscience, but this is not discrimination. It is trying to fit the system to accommodate, so far as possible, the real objection people have. It is not just an objection to being hands-on; they are thinking about killing human life. I think all of us would think, if that idea were correct, that that was a very dangerous operation to have regard to.

Baroness Thornton: I take exception to that idea. There are people in this Chamber who do not agree with that definition of killing human life at that stage of an embryo's growth.

1.45 pm

Lord Mackay of Clashfern: I am not saying that this is right; I am trying to describe what I believe to be the conscientious objection. I am not saying that it is proper. I have not applied for the health service, unfortunately, so I do not need to say what the extent of my conscientious objection would be, but there is no doubt in my mind that that is the nature of the conscientious objection, although people may have slightly different views about how far it extends. That is why the suggestion of the noble Lord, Lord Winston—I acknowledge his wisdom—is the best way forward, subject of course to making sure that it was used not in a discriminatory way but in trying to accommodate the full extent of the objection within the framework of the administration of the health service.

Lord Alton of Liverpool: Does the noble and learned Lord accept, though, that the narrow case of Mary Doogan and the midwives in Scotland—she had after

all been involved in more than 5,000 live births, bringing children into the world—illustrates what could never have been in the minds of legislators in 1967, as one can see in the *Hansard* of that period, and how much things have changed in the intervening years? That is not just about changes in attitude and culture; to pick up the point that the noble Baroness just made to the noble and learned Lord, there are those among us who believe that life begins at conception and that the science is right, and therefore that the law is right in saying that, for instance, as he referred to earlier, only for the first 14 days can experiments take place on the human embryo. That must be 14 days after something, and the law states that explicitly. That is not an unreasonable position, although I accept that these are contested positions. How therefore do we find, in a society where we respect difference, that there can be contested positions without discrimination falling on those who carry out those contests?

Lord Mackay of Clashfern: That is why probably the best solution that I have seen so far is to try to accommodate a contract on which you enter such conscientious objections as you have. I can see that that may limit the opportunities within the health service that a person with a conscientious objection has, but then that may be part of what you have to do.

Lord Alton of Liverpool: Does the noble and learned Lord therefore think it is a good situation for us to be in that, for instance, people who have religious views or who are atheists and are opposed to taking the life of an unborn child in the womb are by and large pretty well excluded now from gynaecology and obstetrics? The noble Lord, Lord Winston, says from a sedentary position that that is not true. If he can give an example to me of, for instance, people who hold deeply committed Christian evangelical views or who are committed Roman Catholics or, for instance, Orthodox Jews who would support, for instance, the taking of life up to birth, as the law now allows since 1990 in the case of Down's syndrome, I would be surprised, but I would be interested to hear those names.

Lord Winston: I would like to correct that impression, if I may. I hope it might be useful if I might still be able to speak in due course about the amendments that I tabled, but not at this stage.

I cite as an example my own unit, and this situation was not because I was the head of it. There were a number of people with very orthodox religious views from three or four different faiths, including Jews and Catholics, some of whom were involved with in vitro fertilisation at different levels. We could accommodate those because we had the staff to do so. I am not convinced that, in the field of obstetrics and gynaecology, the health service has been inimical to people who are orthodox Catholics.

Lord Brennan (Lab): The present Bill seeks to introduce a restatement of the law concerning conscientious objection. As far as I am aware, there has been no specific Bill in Parliament with a title such as this, even though it is restricted to medical practice. Conscientious objection springs from conscience—the moral sense of right and wrong—and it is a principle of human rights recognised in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the European Convention on Human Rights and the European Charter of Fundamental Rights. For 70-odd years, we have regarded this as a basic human right, not an excepted privilege from the norm.

The question for the Committee is whether it is appropriate in principle to treat conscientious objection in a narrow test or in a wider test. The Bill advocates a wider test than that which has gone before. However, because it does so and because what went before has been said to be a narrow test, the Committee has to decide what the present principles should be in terms of tests. We are here not to vindicate the judgment of the Supreme Court but to exercise legislative judgment about what is fair and reasonable in applying human rights in our society.

Doogan was specifically about the relationship between Sections 1 and 4 of the Abortion Act 1967. Was the conscientious objection provision in Section 4 consistent in its scope with what was envisaged in Section 1? This Bill puts that aside. It effectively replaces Section 4 of the Abortion Act and, if necessary, on Report that section can be repealed by an amendment to this Bill. So we are not rehearsing history here; we are establishing what is right for the future.

In the judgment of the noble and learned Baroness, Lady Hale, agreed to by the other judges, Doogan expressly declined to look in detail at the Human Rights Act. It was a decision based on the co-extensiveness of parts of the statute. It does not dictate what this House should or should not do.

What should we do? First, Article 9 of the Human Rights Act, which is now part of our legislative framework, applies to our deliberations. Article 9 expressly enacts a freedom of belief, religion and conscience. It is not a sideline addition; it figures in all these declarations. What is meant by conscience?

Lord Brown of Eaton-under-Heywood: Does the noble Lord, whom I would be happy to call my noble friend, agree that in the case of Doogan the court looked at the Article 9 point? It dealt with that. Alas, I have given my copy of the law report to Hansard, but I am sure that he is aware of the decision and accepts that the court looked at Article 9.

Lord Brennan: I read the Doogan judgment with equal care to my noble and learned friend Lord Brown, but the fact is that here we are considering a test which was not considered in Doogan. It is different wording and a different context of statue. The point that I was making a moment ago was that Article 9 creates a right to exercise conscience.

Article 9.2—I invite your Lordships to listen carefully—says that that right prevails unless it is,

"necessary in a democratic society",

to introduce limitations for specific reasons, one of which is the protection of the rights of others. I heard nothing in the Second Reading debate to evidence the

[LORD BRENNAN]
fact that it is "necessary" to limit this test for conscientious objection. We are dealing with evidence, not policy opinion.

Let us compare the House of Lords exercising its legislative function with the Supreme Court. It specifically declined to decide between wider and narrower tests on the basis of societal interest and the supposed threat of one side or the other, because, it said, it would be speculation. The amendments, in effect, invite us to speculate that, without them, the rights of others would suffer to such an extent that we would have to change the law. That is a very tough hurdle to overcome. If there is no evidence before the House of Lords, and in the debate so far there has not been—

Baroness Thornton (Lab): I thank my noble friend for giving way. At Second Reading, the noble Baroness, Lady O'Loan, mentioned evidence several times but did not actually tell us what that evidence was. So I am unclear as to what the evidence is that is being prayed in aid of in this private Member's Bill. In fact, my noble friend has just made a statement about the restriction of rights, but the amendments are about retaining the situation as it is at the moment, which guarantees certain rights and provides a balance.

Lord Brennan: I respect my noble friend's opinion. The point I am making is that we are not here talking about a balance between different rights. We are talking about the restriction of one set of rights in favour of another because it is "necessary". But how is it necessary to reject this legislation in favour of the past test?

Let me turn for a moment to the question of responsibility. When I used the phrase "the moral sense of what is right and wrong", it bespeaks the exercise of responsibility through conscience. The narrow test that is proposed—hands-on against hands-off—does not appear to be conscience based but proximity based. Where is it reasonable to draw the line and upon what principle do we draw it? If it is proximity, where does the moral sense of conscience fall away? Does it fall away because you are lower down the supply chain in the treatment? Let us compare medical abortion to a surgical abortion. Is the pharmacist who draws up the drugs outside the responsibility list? Is the person who brings the drug from him or her to the treatment room to give to the patient in or out of the system? Is it only the person who gives the drug to the patient? Many abortions are of that kind—abortifacient. The surgical abortion, which you understandably think of first, is a different exercise. This Bill covers both.

I appreciate from the speeches that have gone before that I am putting forward a different proposition from that which was feted by anyone at Second Reading. To pass this Bill we have to obey the Human Rights Act. To obey the Human Rights Act, we have to think objectively on the basis of adequate material. Without it, the right of conscience should not be prescribed by law as we would be required to do under the Human Rights Act. Moral responsibility rarely comes before us to consider. It is all a question of balancing our view against the conscience-holder's view. It is what is right in our legislative regime.

I regret that I was not able to attend Second Reading. I admire the scope of the speeches that were made, particularly that of the noble and learned Lord, Lord Mackay of Clashfern, whose commitment to reason and reasonableness are of great value to this House, particularly on moral issues. He was right when he said that we should not make the staff involved in this kind of process do that which is contrary to their conscience and belief.

2 pm

The Lord Bishop of Peterborough: My Lords, I also spoke at Second Reading. I spoke then in fairly general terms about conscience and the importance of conscience. I may be expected now to speak from a specifically religious point of view, but I do not want to do that; I want to speak more broadly again about conscience and human rights, but specifically in the areas of these amendments. I am very grateful for what I have just heard from the noble Lord, Lord Brennan, who I believe puts some of the conscience questions very clearly and helpfully and in a new way for this House to hear. That eloquence is appreciated.

I specifically want to question Amendments 1 and 20. I would not want to question all the amendments that are here, but Amendments 1 and 20 bother me in various ways. Amendment 1 bothers me because this phrase "hands on" is very difficult to grasp hold of. I know that it was part of Doogan. It is there, and we have to take account of it in a serious way. But what does it exactly mean? I will use as an example Amendment 20, which talks about supervision. Supervision can be more or less hands on. It works in different ways. If you are supervising a relatively junior member of staff or someone inexperienced in a particular procedure, supervision may be very active and very proximate. It would be quite hands on—showing somebody how to do something and how to do it well and properly. That sort of supervision surely cannot be excluded. If we allow the conscience opt-out for hands-on reasons, "hands on" is very hard to define.

If we mean literally touching the patient, that would exclude quite a number of things. If we touch the drip that will adjust the rate at which drugs flow, is that hands on? Yes, it almost certainly is. But step back a little bit: if you are passing something to the clinician, is that hands on or not? It gets a little harder to define at every remove from the immediate practitioner. "Hands on" is a difficult phrase to use, and to put it into law in this way would worry me. I would like to have a clear way of defining who the practitioners are—the practitioners in a medical sense.

Lord Brown of Eaton-under-Heywood: I thank the right reverend Prelate for giving way. I have never intervened to interrupt somebody from that Bench before, but I just wanted to point out that "hands on" is explored and explained in very full detail. It means 13 different tasks; it is applied and very clearly spelled out. If we amend the Bill to use this phrase, everybody will then look at Doogan—there is about a page of text—and know exactly where they are. I do not know whether the right reverend Prelate had realised that.

The Lord Bishop of Peterborough: My Lords, I have read Doogan and I am aware of what the noble and learned Lord, Lord Brown, is saying. That is not part of what is being specifically proposed in this Bill. It is one way in which the Bill could be read and interpreted, but once a Bill has been brought forward and becomes law, there are different ways of trying to interpret it which will create another legal minefield.

Baroness Thornton: I am grateful to the right reverend Prelate for giving way. When each piece of legislation was passed by Parliament—in 1967, 1989 and more recently—from that flowed a huge amount of discussion, in which the noble and learned Lord, Lord Mackay, and many other Members of this House were involved, about its application. This is not a new matter, and we know that that is what happens. A huge amount of consideration has been given to looking at how these particular pieces of legislation, such as the conscience clause in the Abortion Act 1967, should operate, including involving the royal colleges and all the other relevant parties.

The Lord Bishop of Peterborough: I am aware of what the noble Baroness is saying. I am using the example of supervision because it shows some of the complications in the phrase "hands on". It is clear that supervision can mean a whole variety of different things—more remote or more proximate, so it is a difficult issue. I would strongly oppose Amendment 20 because in practice the word "supervision", in practice, can mean helping the practitioner to do the job. It can mean ensuring that the job is done. It can mean without being strictly hands on but enabling the person to do something. That clearly will go against conscience in the way that the noble Lord, Lord Brennan, and others have made clear. The definition is difficult because "supervision" can mean different things. For me it is a matter of great concern about what is before us.

Lord McColl of Dulwich (Con): My Lords, the thing that all the amendments in this group hold in common is the belief that conscientious objection should be provided only in relation to hands-on activity; that is, of actually performing the abortion. They suggest that other facilitating activities on which the performance of an abortion depend should not be included within the scope of the conscientious objection.

If we are serious about conscientious objection, this simply does not make sense. If we recognise that different people have different views about the morality of abortion and that while some of us regard abortion as perfectly moral and acceptable, others find it difficult to distinguish it morally from the taking of life of someone who has been born, we have to accept that the moral difficulty lies not just in the act of the abortion but also in the act of facilitating it, as has been mentioned. It seems to me that when we are clear that something is wrong, we are also clear that facilitating that thing, whatever it may be, is also wrong. We understand that if anyone who facilitates becomes complicit in the act in question, a moral responsibility is thus engaged. In this context, these amendments simply do not make sense.

If we were to accept the logic on which they rest, we would have to expunge from our law any recognition that someone who helps to facilitate an illegal act has any kind of culpability. Culpability should rest only with the person who does the act. Mindful of these considerations, it is difficult to see these amendments as anything other than an attempt to undermine and weaken conscientious objection. If someone genuinely believes that an act is wrong, the provision of a legal assurance that they do not have to do the act but only facilitate it makes the profession in question no longer open to them. It is as if they have been required to actually carry out the act itself. Anyone in this situation with a sense of integrity and wholeness that requires consistency across their moral life would have to leave the profession in that context.

I have friends who, when they went up for a consultant post in obstetrics, were asked the question, "Are you prepared to take your share of abortions?" If they said yes they were considered for the appointment. If, on the other hand, they said, "Yes, I am quite prepared to take my share of the abortions within the Act of 1967", they were not considered for the appointment and they had to emigrate. I have many friends who had to do that.

Lord Winston: The Committee deserves clarity on that statement, if the noble Lord, Lord McColl, does not mind. I have huge respect for the amazing work that the noble Lord has done in surgery over very many years, but I have been in obstetric and gynaecological practice as a consultant for quite a long time and I have been on many interview bodies looking at staff who will be working in obstetrics and gynaecology. Sadly, I was not here for Second Reading, but I read the noble Lord's Second Reading speech where he made that point very clearly. I do not recognise that happening in the services in which I have worked. In fact, that discrimination is exceptionally uncommon. I am very surprised that he said he found that a number of people have needed to go overseas. That seems rather an unusual situation. I would like some clarity on that. It is an important point because it affects the amendment I have tabled for later in the discussion.

Lord McColl of Dulwich: I thank the noble Lord for his intervention. I am not saying that it happens now; I am saying what I found in my experience. They were my friends, and I can give the noble Lord their names and addresses. They were extremely good obstetricians practising in Australasia.

It seems to me an important part of the British liberal constitutional tradition that we place a lot of emphasis on freedom. This freedom has many aspects, but central to it is the opportunity to work in one's chosen profession without being required to act in a way that violates one's own identity. Ours is not a constitutional tradition in which we use the law to compel people to decide between acting against their deepest moral convictions and losing their livelihood. The hounding of people out of their jobs on this basis

[LORD MCCOLL OF DULWICH]
is deeply illiberal. Although our constitutional tradition is closely associated with liberty, there are moments in our history when we have failed in this regard. I fear that historians looking back on this set of amendments in a hundred years' time might recoil from them and wonder how on earth we came so close to stepping away from our historic British commitment to liberty.

I am of course aware that beneath these amendments rests what some would purport to be a respectable argument. It goes something like this: women have a right to have an abortion. People who conscientiously object effectively have the temerity to suggest that their rights as a service provider are more important than the rights of the service user. In this context, we need to rein in our conscientious objection so that it applies only to the doing of the act, not to facilitating it. This logic is deeply flawed for two reasons. First, workers have rights and consumers have rights too.

Lord Brown of Eaton-under-Heywood: Does the noble Lord accept that the Doogan case correctly decided and accurately states the law as it has been for the last 50 years under the 1967 Act and that these amendments do no more and no less than state the position as it is now authoritatively decided by the Supreme Court in Doogan?

Lord McColl of Dulwich: Yes, I accept that entirely, but we do not necessarily have to abide by that decision. If people feel strongly that it was the wrong decision, they have the right to come to Parliament to produce legislation and try to get it through to change that. That is the right of Parliament. Parliament decides, not the courts. The courts have to interpret what Parliament has said. Sometimes Parliament rushes legislation through so quickly that there are loopholes and problems that need to be corrected. It is not the job of the courts to produce the law.

2.15 pm

Baroness Tonge (Non-Afl): Will the noble Lord define what he means by "facilitate"? The amendment refers to someone "participating in a hands-on capacity"—that is the person who is actually going to do the abortion. The secretary who makes the appointment facilitates the abortion.

Lord McColl of Dulwich: Facilitate means a great number of different things, but the 1967 Act did provide—

Baroness Tonge: My point is that if a secretary in a hospital or a clerk who was involved in this service had a conscientious objection to abortion, would he or she see it as facilitating the abortion? Is that what the noble Lord is referring to? Because it applies to everybody.

Lord McColl of Dulwich: If she has a conscientious objection to it, then she should not be obliged to do it, because the 1967 Act specifically said that people did not need to do it. Acts of Parliament should not force people into doing things against their conscience—that is not the function of Parliament.

Lord Alton of Liverpool: The noble Lord makes a very good point. Indeed, a case was referred to earlier in Committee concerning Barbara Janaway, who was exactly what the noble Baroness, Lady Tonge, described, a medical secretary. She said she would not, "set the ball in motion", as a result of which she lost her job and the courts upheld that she should not be able to continue in that post. The debates in 1967 in the House of Commons did not consider cases such as that, because it was not envisaged that that might be a problem. That is surely why the noble Lord is right in saying that although the Supreme Court may rule in a particular way and say that that is where the law now stands, it is the job of Parliament to say that perhaps the law now needs to be changed.

Baroness Thornton: Or not.

Lord Alton of Liverpool: Or not.

Lord McColl of Dulwich: Thank you—that is very helpful.

Somebody did suggest that there was not a great number of people with a conscientious objection. The NHS employs 1,200,000 people. Surely they can find enough people who would not be offended to be asked to do abortions. Has anyone thought about that? No. Surely it is possible for the NHS, with such a large workforce.

Lord Cashman: Again, I come back to the provisions in Clause 1(2). The noble Lord says that there are enough people within the National Health Service—for quite a few months I was a porter at the old Westminster Hospital—but his argument, I believe, goes that there will be other people who could do it. For that to happen, you need to delegate and pass it on, but according to Clause 1(2),

"'participating in an activity' includes … delegation … or supporting of staff in respect of that activity".

Lord McColl of Dulwich: There are 1,200,000 employees in the NHS. Surely there are people who can do the delegation, so there would not be a problem.

Lord Cashman: My Lords, perhaps I have not made myself clear. There would be no duty on the person who did not want to be engaged in the process to delegate it onward to somebody else, according to the provisions of Clause 1(2).

Lord McColl of Dulwich: That is exactly right but, as I keep saying, there are hordes of people around—1,200,000 people—so you can surely find somebody who can delegate it. The noble Lord keeps pointing to the Bill, but surely there are so many people around in the clinic that somebody can do the delegation and make the arrangement.

Lord Alton of Liverpool: My Lords, I am sure that the noble Lord is right in his interpretation of the Bill. It lays no duty on any other person to carry out that delegation and he is correct that there would be other

people working in the service who would doubtless carry on as they do now. One abortion takes place every three minutes in this country, which is 20 every hour, 600 every working day and more than 200,000 every year. There have been more than 8 million abortions since 1967. Clearly, there is no shortage of people willing to participate in such procedures, but this Bill is about those who are unwilling to participate in them.

Lord Cashman: Before the noble Lord, Lord McColl, replies, at the moment there is a duty to refer, but that duty would be overruled by Clause 1(2).

Baroness O'Loan: My Lords, delegation and referral are not the same thing and what is provided for in the Bill is a right to conscientiously object to delegation. I beg the pardon of the noble Lord, Lord McColl—I should not have interrupted.

Lord McColl of Dulwich: I am delighted to be interrupted. A debate is about toing and froing, and there is not enough of that.

If we use the law to impose an approach that is intolerant of conscience, forcing some people out of the medical profession and, effectively, dissuading others from joining it—that is an important point—many people will suffer as a result. We are already short in recruiting new doctors and these amendments are the last thing that we need. In the medical profession, the greater our overall capacity, the greater the capacity to provide abortions and, as we are trying to say, there are plenty of people without conscientious objections.

On the suggestion that we should adopt the amendments because they reflect what the noble and learned Baroness, Lady Hale, suggested in the Doogan judgment, we have mentioned, first, that we do not have to be constrained by her judgment; we are at liberty to come back and change the law, if it is the will of Parliament. Secondly, in the noble and learned Baroness's judgment, she recognised that there are two potential ways of interpreting the intention of Parliament with respect to conscientious objection: a broad way and a narrow way. She said that,

"a broad meaning might cover things done in connection with that treatment after it had begun, such as assigning staff to work with the patient, supervising and supporting such staff, and keeping a managerial eye on all the patients in the ward, including any undergoing a termination. A narrow meaning would restrict it to 'actually taking part', that is actually performing the tasks involved in the course of treatment".

She concluded that,

"the narrow meaning is more likely to have been in the contemplation of Parliament when the Act was passed".

We are trying to change the law so that it is quite clear that that is not so, and we have every right so to do.

This Bill is timely and it is a liberal measure that should get the support that it needs. By contrast, the amendments are deeply mistaken, for three reasons. First, they will hurt the service providers by imposing an ugly uniformity that will result in many more cases of people such as Mary Doogan losing their job. Does the noble Lord, Lord Steel, whose Bill it was in 1967, agree that the decision in Glasgow to sack Mary Doogan because of her conscientious objection to being involved in an abortion was the right decision? She was a wonderful midwife and had done more than 5,000 deliveries. She was a very valuable member of the team. Does the noble Lord think that was the right decision?

Baroness Tonge: My Lords, I was unable to speak at Second Reading and I apologise for that—I was at a family funeral, as it happens—but I feel strongly about this issue. I qualified in 1964. I was a medical student and a junior hospital doctor in the days before the Abortion Act of the noble Lord, Lord Steel. I remember well the gynae wards and the women who had had unsafe, septic abortions. Some of them died. In the early 1970s, I was working in Birmingham in general practice and family planning, when the professor of obstetrics and gynaecology refused to have anything to do with the new Abortion Act. The noble Lord, Lord Winston, might know more about management in those days than I do but, because the professor was in charge of what his department provided, he absolutely forbade abortion to take place in that department. Perhaps the noble Lord remembers him.

Lord Winston: As the noble Baroness has mentioned my name, perhaps I might add that there was a case of a president of the Royal College of Obstetricians and Gynaecologists who was absolutely opposed to abortion, so this is not unknown in the profession.

Baroness Tonge: The point that I wanted to make is that, as a consequence, in whichever way we now plan, purchase and provide services for patients, if someone in management—the chief executive—is against abortion, could that mean that they would conscientiously object and refuse to have abortion as part of the service in that area? It is extremely complicated.

If in this country abortion is legal, under the parameters set by the Act, then it should be implemented equally for all women in this country. It should not be at the whim of individual practitioners, whether they be doctors, managers or secretaries—whoever is going to affect the service delivery to the women of this country if they are allowed to conscientiously object. If they do so, they should not join the service in the first place. No one is obliging them to. There are plenty of jobs around that do not involve abortion, so why do they not do them?

I have a bit of experience. At one time, I was head of women's services for a health authority in London, during which I was in charge of family planning and liaising with GPs—and, in fact, of setting up an abortion service because the hospital doctors were finding it difficult to cope. We franchised it out to the BPAS, as I think it was at the time. That was one of the first times that that had happened. It was very well and efficiently run but when I think of the number of people involved in setting up that service, both when it was in the health service and when we franchised it out, if everyone involved had had the ability to conscientiously object, that would have completely upset the service. I do not know how we would have got it going.

[Baroness Tonge]

To extend it a little more, if you have a certain number of people exercising a conscientious objection in one field, that may put extra strain on people in other fields who are not normally employed in that service to fill in and to do that job for them. You would be setting up a situation that could disrupt all the services in a hospital, not just the obstetric and gynae services.

Finally, I say to the people who oppose abortion that I fully understand their reasons. I understand the religious beliefs behind it in some cases. However, whether a country provides safe abortion or not, the same number of abortions take place because, if a woman cannot access abortion, like the women in Birmingham in the early 1970s, they will go to illegal practitioners, they will endanger their life and often they will die. When people oppose abortion, they are actually providing a route for some women to lose their lives. That is a terrible thing to have to say, but it is true.

2.30 pm

Baroness O'Loan: The noble Baroness seems to be suggesting that we are attempting in some way to restrict access to the three areas of healthcare services. That is absolutely not the case. The Bill provides that and acknowledges the current responsibilities of the Government to provide a National Health Service with the services that Parliament has agreed should be provided. I want to make that clear because I am not sure the noble Baroness understands it.

Baroness Thornton: The Bill does not do that. That is what this scrutiny is about. It really does not. If the noble Baroness really wants to make progress, she needs to bring forward amendments which clarify that. She has not done so, so these amendments are about probing that and, in particular, this issue. Rather than exhorting us to say what the Bill does not do, the noble Baroness needs to examine it and take on board its unintended consequences. That is what this House exists to illustrate.

Baroness O'Loan: That is exactly what we are doing. This is a very useful debate.

Baroness Tonge: I was not implying that the noble Baroness was trying to destroy the Abortion Act completely. I entirely accept that, but what she is doing could lead to the service being very badly distressed and may have the same effect in the end.

Baroness Flather (CB): My Lords, I have been trying to stand up for some minutes. First, I pay tribute to the noble Lord, Lord Steel, who introduced the Abortion Act. There are very few times when something like that has gone through Parliament. The Earl of Arran took the Sexual Offences Act, which protected gay consenting adults, through this House. They were great milestones that looked to the future. I fear that this Bill is looking backwards. I do not like the idea of anything looking backwards. I will say more about not providing help for terminally ill or dying patients. We talked about human rights. I believe it is a woman's human right to be able to access abortion. As the noble Baroness, Lady Tonge, said, abortions take place anyway and women die. That is the difference. We do not want women to die, but if a woman cannot bring up a child or does not want a child, it is better that she can access abortion.

Baroness Meacher (CB): My Lords, I was not planning to intervene in this group, but the entire debate has focused on abortion. Amendment 1 also applies to the withdrawal of life-sustaining treatment at the end of life. That is a totally different situation from abortion. These people are finding life unbearable, they are finding their treatment intolerable, they are facing the fact that they are dying, and they want something to happen. They want to be able to have their life-sustaining treatment withdrawn. Of course under current law someone with a conscientious objection who might be expected to help with that process has an absolute right not to do so. The great concern of those of us concerned about the end of life rather than the very beginning of it is that a lot of people towards the end of life find themselves in hospices, and we hope more of them will do so over time.

If you extend conscientious objection to supervisors, managers and so on, hospices do not have armies of staff. The noble Lord, Lord McColl, made the point that there are 1 million-plus people in the NHS, so surely there are people who can undertake abortions. Yes, but if you are an elderly, very sick person in a hospice and the manager of that hospice, the supervisor or someone else has a conscientious objection, you are likely to find yourself unable to exercise your absolute right to have your life-sustaining treatment withdrawn. That right cannot be fulfilled. The GMC makes very clear in its guidance that no one should be able to exercise a conscientious objection unless they ensure that someone else will take over that role, but that is likely to be impossible.

Baroness Finlay of Llandaff (CB): Does my noble friend Lady Meacher recognise that hospices do not provide life-sustaining treatment? It is the very ability of patients not to continue with whatever their life-sustaining treatment was—whether chemotherapy, artificial nutrition and hydration or ventilation—that is in question. In those units, symptom control is managed when patients refuse consent to continue. To treat a patient who has had life-sustaining treatment and says, "I do not want any more", would be assault in law. That refusal of consent must be respected and, in the process, you have a duty of care. That duty of care is to provide all other care and comfort measures during the process as they die of their disease. That is a natural process, and hospices are about accepting death. You will not find people in hospices being ventilated against their wishes. There may be some people on non-invasive ventilation because they want to continue with it while having other care. We must be clear that the Bill will not jeopardise hospices. I will speak on the Bill in a moment, but would like to put that on record.

Baroness Meacher: I understand that in many hospices the emphasis is, as my noble friend said, on symptom control—in other words perpetuating, keeping things going—rather than enabling, encouraging and helping somebody to take their life in a dignified way.

Baroness Finlay of Llandaff: I am sorry, but I have to intervene again. I should have declared my interest as palliative care lead for Wales, as vice-president of Hospice UK and of Marie Curie, and as having set up a lot of hospices. Symptom control is not life-prolonging treatment; it is about keeping people comfortable during the time they are dying of their disease. It may run in parallel with other treatments and it may be provided when other treatments are withdrawn, but it certainly does not prolong life per se. There is evidence that if you leave people in pain, it is a powerful drive to respiration. When you make people comfortable and relieve their pain, they can let go of life and die, but it is not the morphine that has killed them, it is the disease. Symptom control does not force people to stay alive.

Lord Winston: My Lords, sometimes groupings in our debates make things difficult for people who are trying to table amendments, and I have been trying hard to be relevant to the amendments but at several points in the debate over the past hour and three-quarters, reference has been made to things in the amendments which I tried to table.

I want to say one thing at the start. There are two things that I find very difficult in this House. First, there is the issue of sometimes filibusters occurring during debate—and I am very pleased that there has not been a filibuster this afternoon although, sadly, there was this morning. It is very unfortunate. I am well aware that we have just seen Old Father Time come into the Chamber; he has not actually got a scythe yet, but I suspect that he is about to cut us short at the appointed time.

That is one thing. The other issue is the question of declaration of interest. It is very difficult, but I make it clear that in these ethical and moral debates, of which this House is justifiably very proud, we do not always declare where we might actually have a conflict of interest. For example, I make it very clear that I am declaring a conflict of interest as an orthodox Jew who will have certain limitations on how I would do termination of pregnancy. But I respect absolutely the autonomy of the patient in front of me, and one amendment that I have put down later on would argue that in fact you have a duty to ensure the autonomy of that patient, as your autonomy, is equally respected, and to find some solution. In practice, that means consulting colleagues and trying to work that out.

I have a regard for the noble Baroness, Lady O'Loan, and her Bill, but I think that we should be prepared to explain where we are coming from during these debates, and so often we do not. I remember some time a few years ago on assisted dying that I spoke passionately against a particular amendment which would have allowed some assisted dying. At the end of that debate, after I had spoken, people on my Benches said, "Why aren't you coming through and voting with us?". I said that I had said what I had to say but that I felt, as an orthodox Jew who would not assist an assisted dying, that I did not think that I could go through the voting Lobby. That sounds to me the appropriate way.

Having said all that, I do not want to hold up this debate—but I fear that we are getting very close to the end. I want to make a few points on points that have been raised so far. My Amendment 2 would allow the recognition that, most of the time, in spite of what the noble Lord, Lord McColl of Dulwich, said, it is not the medical practitioners in my experience who have a conscientious objection but a whole range of other people—the operating department assistants and the porters, for example. Again and again, I have seen porters in hospitals where I have worked who have felt that they would not want to wheel a trolley into the room where a patient is going to have a termination of pregnancy. Sometimes one has been able to accommodate that. However, as we all know, the NHS is under massive strain with resources, and that becomes difficult.

I believe absolutely, and in all conscience, that the amendments that I have tabled would make this Bill workable; I think that that is possible. There is a way through this. The noble and learned Lord, Lord Mackay of Clashfern, kindly referred to one of the amendments that I tabled, Amendment 25. One point of that amendment is that it shows that the Bill covers not just obstetrics, gynaecology and termination of life but pretty well every medical area that we have specialities in, where we really have to reflect on these issues of conscience. That has been spelled out in that amendment—although it is an open question as to whether it is well written or not—to make it very clear that this affects the health service to a very great extent, and this is an issue for this Bill.

At the moment, I think that the only other fellow of the Royal College of Obstetricians in the Chamber is the noble and learned Lord, Lord Mackay. In the debate in 1989, his speech introducing the Human Fertilisation and Embryology Bill was the most amazing speech. In 20 minutes, he did what nobody has been able to do in the journal *Nature*, in my profession. It was a brilliant exposition of where we are, and I am hoping that I might persuade him, as one of the two fellows in this Chamber, to set up in private practice when this is over, doing in vitro fertilisation.

The difficulty has become the definition of what conscientious objection involves, as my noble friend Lord Brennan, said, and that is something that we should look at. We cannot simply have the narrow view of a few professionals who would be affected by this measure. It has to cover the whole service, as it does, for example, with in vitro fertilisation.

2.45 pm

As the Bill stands, it would conflict with many orthodox Catholics. It would make them feel concerned, and potentially exclude them from this treatment. There are many Catholic clinics, in the Republic of Ireland for example, where in vitro fertilisation is undertaken using much narrower constraints. They do not use embryo research, limit the number of embryos to the uterus and do not store spare embryos. So there are ways round pretty well all aspects of the Bill which

[Lord Winston]
would make it workable and not discriminate. I believe absolutely that it would be available in the health service.

I do not intend to go on for a long time, because that is not appropriate. The amendments are there. I think we are shortly going to run out of time, sadly, and the noble Lord, Lord Alton, will want to say something. We do not always agree on matters of this kind, but I am eager to hear what he is going to say.

We come back, finally, to crucial issues of medical practice. We have dealt with "first do no harm", to which the noble Lord, Lord Turnberg, referred, but the basis here is respect for autonomy which comes from respect for human life. If we are religious and are made in God's image then respect for autonomy is part of that. That means that we must tell the truth; we try not to confuse a patient; we make sure that they hear what we are saying. We do not look at our watch and say; "I cannot see you now because I am too busy", and so on.

However, our autonomy, as practitioners in the National Health Service, can be threatened as well. If we are going to make any sense of this, we have to do exactly what the right reverend Prelate the Bishop of Peterborough said. We have to look at some of the wording like "hands on", which is a big problem. We have to be clear that, hands on or not, the autonomy of the individuals working in the service is included. That remains a big problem, but I do not believe that any of these things are insoluble.

Lord Alton of Liverpool: My Lords, in his remarks just now the noble Lord invited me to contribute at this point in the Committee's proceedings. I spoke at Second Reading and I do not intend to repeat what I said then. The noble Lord, Lord Steel, will not be surprised that I oppose his amendment. Nevertheless, over the nearly 50 years that we have known one another, I have always been grateful for the respect he has shown to an alternative view to the one he puts now and has put in the past. I was particularly grateful to him when this became a matter of policy in my former party. The noble Lord, Lord Steel, also resisted it becoming party policy because, as he said, it would polarise attitudes and mean that some people could no longer follow some issues of conscience because of party diktat.

Some 51 years ago, when I was at school, I wrote to the then leader of the noble Lord's party, the late Jo Grimond, asking whether the Abortion Bill, which the noble Lord had placed before the House of Commons, was a matter of party policy or conscience. I was given the forthright reply: there are different views about this and it is a matter of conscience. It was never a problem for me, as the only new member of the parliamentary Liberal Party in 1979, to serve under the noble Lord, Lord Steel, and, indeed, to be his Chief Whip. Reasonable accommodation—how we accommodate one another—which I mentioned in my earlier intervention, is at the heart of what this debate should be about. The noble Lord, Lord Winston, made some telling and helpful points in his contribution. The noble Lord, Lord Steel, said: "This isn't the way to go about this", but he would agree that, 50 years later, many things have come to pass that were never anticipated during the debates in 1967. A proper review—perhaps outside the proceedings of this Chamber—of the legislation, its implications and the ways we can protect people such as Mary Doogan is long overdue.

She spoke in your Lordships' House and her case goes right to the heart of today's debate. She is, as the noble Lord, Lord McColl, said, an extraordinary woman who was involved in delivering over 5,000 babies and said in an interview:

> "It is not about religion. It's about conscience".

She went on:

> "It goes against everything we stand for … the women I cared for would never ever have known my views on abortion".

This is very important. Here is someone who has been driven out of her calling in life. She did not go into midwifery to carry out abortions; she went into midwifery to deliver babies. Although I understand the reasons why the noble and learned Baroness, Lady Hale, found as she did—my noble and learned friend Lord Brown of Eaton-under-Heywood was right to refer to the judgment earlier—it is up to this place, as the noble Lord, Lord Brennan, told us, to then deliberate and decide whether the law should be allowed to continue to stand in that way.

Consider for a moment the changes in the law since 1967 and how they impact on people who may have a profound conscientious objection to the law. One is, for instance, the extension of the Act in cases of disability right up to and even during birth, on the grounds of things such as club foot, hare lip and cleft palate, let alone Down's syndrome—90% of all babies with Down's syndrome are now aborted. If I were working as a medic and was told that I had either to participate in—to be hands-on—or to facilitate such things, I would rather lose my job than do that. This is where I disagree with the noble Baroness, Lady Tonge, who said that such people should not join the service. Who do we lose if we take such an attitude to people who, yes, have a different view from the noble Baroness but nevertheless make an extraordinary contribution to the health service?

Baroness Flather: This is a very interesting point. Should they leave the service or not? I had a very recent experience when my husband was taken ill; he was dying and was taken to hospital. We had to make a decision about whether to keep his breathing going. My sons and I were there discussing this matter and it was a very difficult time for us. The doctor in charge came and spoke to us and told us what the situation was. We decided it was not the right time to prolong his life. If the doctor had then said, "I'm sorry, I have to get someone else to do this necessary job. I can't do it because I object to it", that would have been terrible. You can say that he should have prepared for that in advance, but how can he prepare for everything in advance? You do not know when a dying person will come into hospital.

Lord Alton of Liverpool: The noble Baroness is of course right; you cannot ever say with any certainty what will happen and how long someone will live. My

noble friend Lady Finlay intervened on that point earlier and, at Second Reading, my noble friend Lady Richardson gave another good example, which I can come back to.

Baroness Flather: My noble friend Lady Finlay's example is perfectly correct but it is not the same as my example. My example is that my husband had got to a stage where he really did not know what was going on. My noble friend's example is of course totally different—and it is a very good thing that people have hospices to go to.

Lord Alton of Liverpool: We are agreed about that. The point I made at Second Reading when my noble friend Lady Richardson intervened on a similar point is that we do not need to go to heroic lengths—that is the phrase people often use—to keep alive someone who would otherwise be dying. I think we sometimes confuse these two things. Let me return, if I may, to the particular point about abortion.

Baroness Tonge: Very briefly, by way of personal explanation, I hope I did not imply that people should leave the service if they were required to perform an abortion. I was saying that there are many specialties to go into in medicine. My goodness, you can do anything in medicine, from management and pen-pushing right down to—well, I will not say "down to" because it would demean whoever I got down to. There are many branches of the medical profession; there is no need to go into obstetrics and gynaecology in the knowledge that you will have to do things totally against your conscience.

Lord Alton of Liverpool: 'I was very grateful that the gynaecologist who saw my own children into the world did not support abortion. That gave my wife and I great confidence in the lady who was our gynaecologist. I think there should be scope within the service for people to have alternative views. If the phrase "don't join the service" that the noble Baroness used were to apply, it would mean that people like that would not be able to join the service in the first place.

Another change that has taken place in these years is that it was never envisaged in 1967 that abortion would happen on a regular day-by-day basis on the scale on which it is taking place. In fact, the noble Lord, Lord Steel, often said that it would occur only in rare and exceptional circumstances. There are now examples of some people who have had eight abortions under the National Health Service. You have to ask the question the noble Baroness often asks: "Why is not more done earlier to find alternatives to this?" That too should be in the scope of an inquiry into the workings of the 1967 Act, and so too should be the issue of gender abortions. If I was working in the National Health Service and was told that I had to facilitate the ending of the life of a little girl merely because she was a little girl, I would say no. The 1967 Act surely does not allow for that, and yet we know that there have been such cases and that the authorities decided not to take any legal action. Indeed, there was a vote in another place on a Bill to outlaw such gender abortions. It was lost by 201 votes to 292, so this is not the realms of fantasy. Noble Lords have to ask themselves precisely what their red line would be in regard to questions such as this.

I conclude by giving two opinions from people who have thought about these things in great detail. One is from Professor Andrew Tettenborn, who said:

"The point matters a great deal. Many NHS hospitals now put abortion and other controversial procedures out to tender (a matter itself a cause for concern … and so organisation rather than participation is increasingly what will be demanded from … unwilling staff".

I also refer the Committee to the review of Dr Mary Neal, senior lecturer in law at Strathclyde University, who said:

"The core purpose of any conscience provision is to protect individuals from having to share in moral responsibility for something they consider to be seriously wrong. Since the current law leaves some of those who would share in responsibility unprotected, it fails to fulfil this core purpose".

So when the noble Lord, Lord Steel, said in 1967:

"The Bill imposes no obligation on anyone to participate in an operation",

I believe he was sincere. When he also said that the "conscience" clause,

"also gives nurses and hospital employees a clear right to opt out"—[*Official Report*, Commons, 13/7/1967; col. 1318.],

I believe that is what he intended. I do not believe he intended that people such as Mary Doogan should lose their job. That is why my noble friend's Bill is so important.

Baroness O'Loan: My Lords, I have listened with great care to the various speakers who have articulated their views on this group of amendments. It has been a very profound and interesting debate and I thank all contributors.

As I said at Second Reading, the Bill does not seek to limit access to abortion. It could never result in a patient who had expressed a wish not to be resuscitated in an advance decision being forcibly treated. It would not result in treatment, hydration or nutrition being withdrawn from someone who wanted to live. For the avoidance of doubt, it is only about enabling medical practitioners to withdraw from treatment which they perceive for moral or philosophical reasons, or for reasons of belief, to lead inevitably to death, whether of a living person or of an unborn child. It is not about doing things to patients; it is about some medical practitioners not having to do some things.

I want to allude for a moment to the various contributions on the subject of what the noble and learned Baroness, Lady Hale, said. I endorse what the noble Lord, Lord Alton, said—that Parliament could not have envisaged the way in which the abortion law would develop. The noble and learned Baroness, Lady Hale, chose the narrow meaning on the basis that it was more likely to have been in the contemplation of Parliament when the Act was passed. She acknowledged the existence of a broader interpretation. As the noble Lord, Lord McColl, very clearly said, we have the right, as a Parliament, to change things. I am suggesting that we need now to contemplate the situation in 2018, not the situation in 1967, so it is not about refusing

[Baroness O'Loan]
people access to treatment. There have been suggestions that it is about denying patient autonomy. A patient does not have and never has had the right to compel a particular practitioner to do a particular medical procedure. However, they have the right to a service and the right, if they want it, to a second opinion, and that must continue.

3 pm

Treasury statistics show that the NHS deals with over 243 million patients a year—1 million every 36 hours—which is an astonishing figure. It is a vast organisation, which undoubtedly has the capacity to provide reasonable accommodation for those of its medical practitioners who are conscientious objectors in these limited areas. The NHS, as the noble Lord, Lord McColl, again said, employs almost 1.2 million people. It is therefore possible to allow midwives and doctors who have conscientious objections to termination of a pregnancy to care for the 700,000 women who give birth in our hospitals in England and Wales every year, helping those for whom conception is difficult or seems impossible, as the noble Lord, Lord Winston, has done with such success over 70 years, and working in gynaecological departments, helping women who suffer from a huge range of gynaecological conditions, some of which are very disturbing and interfere with their ability to walk and move around freely, and so on.

We have a shortage of obstetricians, gynaecologists and midwives and, of course, nurses. Part of the reason for that is that people do not apply for jobs in these areas. I have heard this from many practitioners. The noble Baroness, Lady Thornton, suggested that I did not produce evidence. I suggest that she rereads my Second Reading speech, not least the reference to the inquiry that was conducted here in Parliament on conscientious objection to abortion and its consequence.

It has been suggested that in the context of management jobs, such as clinical leads, it is necessary to require that there be no right of conscientious objection because abortions must be scheduled, and so on. However, it is not quite as simple as that. I think we can agree that no one person, however brilliant they are, has absolute professional capacity in every area affected by their area of clinical responsibility. Solutions are possible—and exist, and are practised—to address any difficulties. So, for example, a clinical lead has deputies, and such a person might be the one to take responsibility for that area of activity, allowing the person who has a conscientious objection to abortion to withdraw, but to progress through their careers into management while providing a service in all the areas of, for example, obstetrics and gynaecology, to which I referred a minute ago, facilitating and enabling conception, care of pregnant mothers, delivery of those 700,000 births each year and the care of those suffering from gynaecological diseases and other conditions.

It would be most helpful if we could discuss further the amendments in this group to see whether we can agree how reasonable accommodation might be achieved or provided for and so improve the service available to patients while protecting practitioners. I think we can reach a situation, given the good will that has been expressed in this House, where we ensure that services will not become difficult to access because of it, and that services will still be there.

There are some 60,000 abortions in the NHS each year; the rest are conducted in private clinics, so that number is actually a small percentage of the totality of the work of practitioners in obstetrics and gynaecology, where we have those 700,000 births a year and all the other work I have referred to. The Bill does not take away the duty of the NHS to provide services. That duty will remain. All that will be required of the NHS is reasonable accommodation for a limited number of people, as of course is recognised and accepted by all the royal colleges. Some of the amendments in this group seek to remove from protection all the proximate forms of assistance or co-operation, such as supervision, planning and delegation, through which a medical practitioner may be implicated very closely in the activity to which they conscientiously object. But, as has been said, supervising, planning or delegating the doing of X means making sure that X is done and, most importantly, that X is done right. The aim of the Bill is precisely to protect conscientious objectors from coercion through this type of involvement in matters intrinsic to the taking of life or the withdrawal of life-sustaining treatment.

Having listened carefully, I believe that as a Parliament and as a country we can afford and manage to provide protection to those for whom conscience makes activity designed to end life untenable. Forcing people to act against their conscience, leaving them in a position in which they never know when they will have to do something to contribute to the ending of life, and accepting that hostility and exclusion are legitimate reactions to an avowed and profoundly held belief—for some a religious belief, for others a philosophical one—cannot be right. I have been told by Members of this House and many others of the ostracisation which can make life so very difficult for those who want to provide medical care to sustain and enable life, and to manage the dying of those who must die, with the greatest possible levels of palliative care. In a society that is proud of its historical contribution to the evolution of the fundamental British values of democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs, it is unacceptable if we do not have a proper, modern and appropriate law of conscientious objection.

In concluding, I urge those who have tabled these amendments to talk to us so that we can discuss a way forward that would meet their concerns As tabled, these amendments would not enhance the situation of all those who are regulated by the organisations in Clause 1(2)—we will come back to that important part of the Bill—nor would they enhance the experience of patients. Patients would still be able to accept the same services. It is possible to provide autonomy for patients and protect the conscientious objection of medical practitioners. They are not mutually exclusive—a recognition, perhaps, of the human rights of which the noble Lord, Lord Brennan, so eloquently spoke.

Baroness Barker (LD): My Lords, time is against us. For me, that is deeply frustrating because I have listened with great care to a number of very important points

as well as a number of somewhat contentious allegations and assertions being made throughout the debate, each and every one of which should be subject to a great deal of scrutiny in your Lordships' House.

In the short time available to me, I wish simply to say this. The noble and learned Lord, Lord Mackay, as ever, gave one of the most interesting and thought-provoking speeches. He talked about the nature of conscientious objection, and I think that issue needs further examination. It is important to look not only at the nature of conscientious objection—some such objections are absolute, others are not—but at the context in which it is exercised. If there has been a fundamental flaw in this debate, it is that we have not debated those two things together. That has enabled claims to be made on either side that I believe are not fully justified.

From where I am sitting and from the briefings I have had, I would say that conscientious objection must seek to balance the rights of healthcare professionals to act within their own ethical principles with the rights of patients to access medical care. The noble Baroness, Lady O'Loan, was half-right when she said her Bill as drafted would not remove the necessity for the NHS to provide access to abortion care. No, it would not; it would simply frustrate it. In practice, that would mean the denial of service to a woman. The exercise of conscience is not without effect.

The noble and learned Lord, Lord Mackay, said he is relieved that he is not a medical professional. So am I, but I do pay great attention to those who are. In this case, notwithstanding the point rightly drawn to our attention by the noble Lord, Lord Winston—that there is not total agreement among members of the professional bodies—those bodies have considered this issue over the last 60 years. They were involved in the discussions before my noble friend came forward with his landmark legislation, and over time came to conclusions that their members in the NHS—all 1 million of them—have to accept. They are the people for whom this is not a theoretical debating point; it is the exercise of life-and-death judgment.

Medical ethics are not the preserve only of those who have conscientious objection. Healthcare professionals who provide these services do so for the good of their patients, and this Bill, as currently drafted, threatens that. Therefore, at this late stage, I have to say to the noble Baroness, Lady O'Loan, that I welcome her invitation to talk, although I do not hold out much prospect of agreement because I think that we come from fundamentally different places.

The House should think long and hard about the words of the noble Lord, Lord Turnberg, regarding what the Bill might mean. In doing so, it is incumbent on all of us to consider whether this is an improvement on the point that my noble friend Lord Steel reached 50 years ago in anticipation of the problems that we now seek to address. I support the amendment.

Baroness Thornton: I just want to add two words to that. The noble Baroness, Lady Barker, is completely correct. The noble and learned Lord, Lord Brown, and my noble friends Lord Turnberg and Lord Cashman have summarised the situation. I think that the noble Baroness, Lady Barker, is right: the Bill does not improve the position that the noble Lord, Lord Steel, came to all those years ago.

I say to the noble Baroness, Lady O'Loan, that assertion is not evidence. I read her speech at Second Reading in which she used the word "evidence" but did not give us any evidence. Assertion is not evidence. In this Chamber, when you want to make a case and prove it to noble Lords under the scrutiny system, the evidence has to be evidence and not assertion.

Lord Steel of Aikwood: My Lords, we are running out of time and the Committee will want to try to dispose of this amendment before we rise. I begin with a note of agreement with the noble Baroness, Lady O'Loan, which is that this debate has been of a very high order. There has been no waste of time and no filibustering, and it has been the House of Lords at its best.

The reason I began by quoting from the document produced by the Church of England in 1965 is that that was the basis on which the Church of England and subsequently the Church of Scotland, to which I belong, and indeed the Methodist Church endorsed the reforms of the abortion law. Their endorsement rested very much on the arguments produced in that report. However, I agree with what the noble Viscount, Lord Craigavon, said: we have to respect those who took a very different view.

It will not surprise noble Lords to know that, because of the 50th anniversary of the Abortion Act, I have lately been getting quite a lot of correspondence—half fan letters and half hate letters. If I may quote from one that came in on Wednesday, it will show the sort of thing that we ought to take into account:

> "For more than 46 years laws which lethally discriminate against new human life have brought about the senseless deaths of more than 8,000,000 unborn babies. Abortion is truly *the* holocaust of our time, but the one ignored by the mainstream media, and, it seems, just about everyone else too".

It is because I sympathised with and respect that view that I undertook, in discussion with the Catholic seminary, the introduction of the conscience clause. The problem I have with the Bill is that it is not clear where the line is to be drawn. For example, if you are appointed as the chief executive of a health board, everything underneath that health board is under your jurisdiction. What happens if you have a conscientious objection to abortions being carried out? That is the fundamental problem with the Bill: nowhere is a clear line drawn.

3.15 pm

The noble Lord, Lord McColl, asked me a straight question: is it right that the Glasgow health board should have sacked Mary Duggan? In fact, I understand that she was not sacked but withdrew her services, although that may be a distinction without a difference, because she objected to having to administer abortion cases. My answer is that I do not think she should have gone. However, the noble Lord, Lord Winston, has tabled a later amendment to which I am rather attracted, saying that where somebody cannot provide the services, they are under an obligation to refer to somebody else.

[Lord Steel of Aikwood]
That has always been understood to be the case, but it is nowhere stated in the law. The noble Lord's amendment would state that, and therefore I am somewhat sympathetic to it.

The noble Lord, Lord Alton, talked generously about the events of 50 years ago. He is right: the Abortion Act is 50 years old and it is out of date. When we were legislating then, the only methods of abortion were surgical of one kind or another. Now, we have the abortion pill, and the whole situation has changed. The noble Lord is right to say that there ought to be a general inquiry into the future of the law in this area. That is very important, because I have never taken the position that what was decided in 1967 should be everlasting and always right.

I believe that the noble and learned Baroness, Lady Hale, got it right, and I was most grateful to the noble and learned Lord, Lord Brown, for going into much more detail than I did on what she said. In fact, she was a bit foolhardy: she went on to list a whole series of examples of where a conscience clause should apply and where it should not. I have the list with me here and have read it. It was a pretty foolhardy thing to do but it was, I think, a helpful guide to the medical profession. This House is indeed entitled to overturn the Supreme Court, but I think it would be unwise to do so. That is why I have put forward Amendment 1.

I want to make one final point. The noble and learned Lord, Lord Mackay, and the noble Lord, Lord Winston, said that they are fellows of the Royal College of Obstetricians and Gynaecologists—and so am I.

Lord Winston: The noble Lord can join our private practice if he wishes.

Lord Steel of Aikwood: Perhaps we should get together outside of this House and work out a framework that is workable. I do not believe that this Bill does it. I was right to put forward this amendment. It has been a first-class debate, but I now beg leave to withdraw the amendment.

Amendment 1 withdrawn.

House resumed.

House adjourned at 3.18 pm.