Vol. 792
No. 162

Friday
29 June 2018

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

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

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House of Lords

Friday 29 June 2018

10 am

Prayers—read by the Lord Bishop of Peterborough.

Registration of Marriage Bill [HL]

Committee

10.06 am

Clause 1: Power for Secretary of State to make regulations about marriage registration

Amendment 1

Moved by ***The Lord Bishop of St Albans***

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

"(1) The Secretary of State may, by regulations, amend the Marriage Act 1949 to provide for a system whereby details relating to marriages in England and Wales are recorded in documents used as part of the procedure for marriage, and entered into and held in a central register which is accessible in electronic form."

The Lord Bishop of St Albans: My Lords, I want to move Amendment 1 and speak to the other amendments in my name in the group. Their purpose is to limit the scope of delegated powers to amend legislation conferred by the Bill. I am most grateful to the noble Lord, Lord Blencathra, and the committee for its considered response to the provisions in the Bill.

The Bill's purpose is straightforward and clear: to enable the system for registering marriages to be flexible enough to include the names of each of the couple's parents, while taking the opportunity to introduce a secure and reliable digital system of registration. The amendments, which are a direct response to the committee's observations, put into sharper focus the changes in law that are needed for that specific purpose. In fact, the essence of the Bill is that its scope is restricted. It relates only to the registration of marriage, not any aspect of the solemnisation of marriage—that is, the who and when and how and where of marriage ceremonies.

I want to explain the proposed changes in more detail. I have worked closely with Home Office officials to consider the amendments that could be made to the Bill to limit the delegated powers it currently contains. The amendments are quite technical, but I assure noble Lords that they do not affect the policy intent behind the Bill in any way. I thank the Minister for making illustrative regulations available in the Library to demonstrate how the Marriage Act 1949 will be amended.

Clause 1 currently confers a broad power on the Secretary of State,

"to amend, repeal … any provision made by or under any Act of Parliament".

That power is wider than is needed to bring in the required changes. Any changes to primary legislation will now be limited to amending the Marriage Act 1949. The regulations would change the current procedures in Part III, "Marriage under Superintendent Registrar's Certificate", to provide that a marriage can be solemnised on the authority of a single schedule for the couple instead of two authorities, one for each person, as is currently the case.

The regulations would also provide for a member of the clergy to issue the equivalent of a marriage document for marriages that have been preceded by ecclesiastical preliminaries, such as the calling of banns or the granting of a common licence. Once a marriage ceremony has taken place, the signed marriage schedule or document will be returned to the local registry office for entry in the electronic register and a certificate will be issued.

A sunset clause will also be included in Clause 4, which places a time limit on the Secretary of State's use of their power to amend primary legislation to a period of three years, beginning on the day when the regulations are first made.

I assure noble Lords that the regulations that amend the Marriage Act to introduce a schedule system would be subject to the affirmative resolution procedure and will require the approval of both Houses of Parliament. I hope that this will assure the House that it will continue to oversee any changes made to primary legislation.

The committee raised concerns that the power for the Registrar-General to make regulations in Clause 2 may entail delegation on matters that are currently provided for in the Marriage Act. That was never the intention, so it is proposed to limit the scope of the powers to making regulations under Section 74(1) of the Marriage Act.

The provisions in the Marriage Act which refer to the Church of England are construed as referring also to the Church in Wales unless otherwise required, in accordance with Section 78(2). However, it is proposed to amend Clause 2(1)(f), which relates to the keeping of records of all marriages solemnised in the Church of England to include reference to the Church in Wales. This will enable the Registrar-General to make different provisions for the keeping of records, if required, in the Church of England and the Church in Wales.

The powers in Clause 2 would be used to enable the Registrar-General to make regulations to prescribe the content of the marriage schedule or document and for how long they should be kept. They would make provisions to correct or reissue a marriage schedule or document prior to the marriage taking place if any information, such as the couple's occupations, has changed since a notice of marriage was given or after ecclesiastical preliminaries.

The regulations also make provision for the keeping and maintenance of existing paper marriage registers and how the entries should be corrected. These regulations made by the Registrar-General are procedural and intended only to supplement the relevant provisions in the Act.

We have included a consequential amendment in the Bill in Clause 3 to repeal the Marriage of British Subjects (Facilities) Acts 1915 and 1916. These provisions are rarely used and would no longer work with the introduction of a schedule system.

I hope that the amendments I propose to make to the Bill provide noble Lords on the Committee with reassurance regarding use of the delegated powers in

[The Lord Bishop of St Albans]
the Bill. We very much value the scrutiny that the House provides through the legislative process. I beg to move.

The Lord Speaker (Lord Fowler): My Lords, I should inform the Committee that, if this amendment is agreed to, I am unable to call Amendment 2 by reason of pre-emption.

Lord Cormack (Con): My Lords, I congratulate the right reverend Prelate on being so specific and particular. In fact, he has been exemplary in the way he has sought to limit delegated powers. He has given a lesson to us all, on which he should be most warmly congratulated.

Baroness Hamwee (LD): My Lords, I am afraid I was unable to speak at Second Reading. My noble friend Lady Scott of Needham Market is unable to be here. She takes a keen interest in matters genealogical and in registration. I am glad to have had the opportunity of the prompt to look at this. I congratulate the right reverend Prelate, as others have done.

The point I will raise is not to carp, but because I do not want to find that there has been a problem later on. I evidence that by saying that, when I came into this House I was asked, as we all are, by various directories to provide biographical details and I was asked for my father's details, I said, "You can publish my father's details if you publish my mother's as well. It's both or neither".

10.15 am

I shall speak to Amendment 13, which brings the Clause 2 powers under Section 74(1) of the Marriage Act. I had some email correspondence yesterday with the General Register Office. I am very grateful to the official there. I will read the short paragraphs that constrain the power in Section 74. It allows for regulations,

"prescribing the duties of … authorised persons under this Act … prescribing anything which by this Act is required to be prescribed".

It was not obvious to me that, within that prescription, one can bring in the provisions of Clause 2, as distinct from inserting as new paragraphs the paragraphs that are listed in Clause 2. I understand that that is what is envisaged and that the GRO takes the view—I am reading from an email from it—that the powers in Section 74,

"could be used to prescribe matters quite broadly",

and that this would be sufficient.

I felt that, since this is the opportunity to raise issues—I am sorry that the right reverend Prelate might not have had notice through the various email contacts that I was going to raise this—it would be wrong of me just to ignore it at this stage. As I say, it is not to carp; it is intended to anticipate a possible problem, and I am probably wrong about it.

Lord Rosser (Lab): I will be brief. We supported the Bill at Second Reading, since when we have had the opportunity, as we all have, to read the report of the Delegated Powers and Regulatory Reform Committee, which has been quite forthright in the views it has expressed about the Bill's wording as it stands. The committee pointed out that Clause 1 conferred very broad powers on the Secretary of State to make regulations about marriage registration. Indeed, Clause 1(2) includes a power to amend or repeal any provision made in any Act of Parliament. The committee expressed concern that the broad power was far wider than required to meet the policy aims of the Bill. It also had reservations, which the right reverend Prelate has already addressed, relating to Clause 2.

The amendments that have been brought forward are intended to address the quite justifiable concerns raised by the Delegated Powers and Regulatory Reform Committee. I assume that they achieve that objective. I noticed that the right reverend Prelate said that he has worked with officials at the Home Office. I do not know whether that means that he has worked with officials from the Home Office over not only these amendments but the original wording of the Bill, because I am curious as to why the Bill was drawn up in such wide-ranging terms, as far as the use of delegated powers is concerned, in the first place when presumably it could have been drawn up in the terms that these amendments seek to change the wording of the Bill. Would I not be right in saying that it would have been far more satisfactory if the Bill had been drawn up in the terms of the amendments we are now dealing with in the first place?

Lord Blunkett (Lab): My Lords, I shall not hold up the Committee. As a Methodist, and having sat through Second Reading and heard the right reverend Prelate this morning, I just wanted to say how grateful I am for a masterclass in how the Church of England operates.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I thank the right reverend Prelate the Bishop of St Albans for his continued support in bringing forward changes to the way in which marriages are registered. Under present legislation, the marriage register entry provides space for the name of the father of each of the couple to be recorded but not that of the mother, and that has been the case since 1837.

This situation is outdated and it is widely accepted that changes are required to address this inequality. There has been growing pressure both from within Parliament and from the public for reform. For example, an online petition attracted in excess of 70,000 signatures. However, it should be noted that when deciding how the marriage entry should be updated we will need to ensure that we allow for all the different family circumstances in society today—for example, same-sex parents.

The most efficient and economical way to introduce these changes is to reform the way in which marriages are registered in England and Wales by moving to a "schedule"- based system similar to that in place for marriages and civil partnerships in Scotland and Northern Ireland and for civil partnerships in England and Wales.

The basis of a schedule system is that the couple sign a marriage schedule instead of the marriage register book. Couples will still be able to have that all-important traditional photo taken after the ceremony with their witnesses, but instead of signing the marriage register they will sign the marriage schedule with their witnesses. The schedule will contain all the information to be entered into the electronic marriage register maintained by the Registrar-General.

Those marrying in the Church of England or Church in Wales will still be able to marry by ecclesiastical preliminaries—for example, the publishing of banns or the issue of a common licence. Where ecclesiastical preliminaries are used, the member of the clergy will issue a "marriage document" similar to the schedule issued by the superintendent registrar, which will be returned to—

Lord Cormack: Why cannot we use the traditional word, "register"? Why do we have to go in for "schedule"?

Baroness Williams of Trafford: I think that it is because we are dealing here with the legality rather than the tradition. I understand my noble friend's point, but I would hope that such a small but important matter did not derail this important Bill. I am not for a moment suggesting that that is my noble friend's intention; I understand his point.

Moving from a paper-based system to registration in an electronic register will facilitate the updating of the marriage entry to include both parents of each of the couple without having to replace all register books and it would introduce savings of £33.8 million over 10 years. The changes which the right reverend Prelate seeks are not controversial and have received a lot of cross-party support, hence the support in the Chamber today.

As the Bill contains delegated powers. I advised at Second Reading that the Home Office would produce and publish illustrative regulations prior to Committee to demonstrate to noble Lords how the powers in Clause 1 would be used. I can confirm that the draft regulations were made available in the Library of the House on 17 April.

I must emphasise that the regulations are an early draft and further drafting is required. We would welcome any comments from noble Lords on the content. It is our aim to be transparent during the process of amending the Marriage Act 1949 as we move towards the introduction of the schedule system.

We will continue to work with all key stakeholders, including the Church of England, in developing the policy. I will make further drafts of the regulations available in the Library in due course. I assure noble Lords that the changes to the Marriage Act will be made using the affirmative resolution procedure, ensuring they are debated in both Houses of Parliament and providing parliamentary oversight.

My noble friend Lord Blencathra expressed concern at Second Reading about the use of delegated powers in the Bill. To address those concerns, I can confirm that Home Office officials have been working with the right reverend Prelate to make technical amendments to Clauses 1 and 2 to limit the use of delegated powers to introduce these changes and to provide noble Lords with some reassurance as to how the powers are intended to be used.

The scope of the enabling language in Clause 1 will be narrowed to reflect the policy intent of the Bill to replace the current paper-based system with an electronic schedule-based system. Amendments required to primary legislation will be limited to the Marriage Act 1949. The broad power in Clause 1(2), which gives the Secretary of State the power to amend, repeal or revoke provisions in other Acts of Parliament, will be removed. As the right reverend Prelate has already explained, it is also proposed to include a sunset clause in the Bill limiting the power for the Secretary of State to make regulations which amend primary legislation to a period of three years beginning on the day on which the regulations are first made.

Concern has been raised that the powers in Clause 2 may delegate matters currently provided for in primary legislation. Amendments to Clause 2 will limit the scope to making regulations under Section 74(1) of the Marriage Act. I reassure the noble Baroness, Lady Hamwee, and the House that these regulations are intended only to supplement the current provisions in the Act.

I know that noble Lords recognise the importance of taking these changes forward to modernise the process of registering marriages, and I hope that the amendments made to the Bill will provide some reassurance to them of the value we place on parliamentary scrutiny throughout the legislative process.

I want finally to answer a question posed by the noble Lord, Lord Rosser. When the Bill was drafted, the policy was not so advanced and the powers in the Bill provided flexibility. We have been working closely with Home Office officials to develop policy further, which has allowed us to make these changes.

The Lord Bishop of St Albans: I am grateful to the Minister for her summary and for responding to the two points made by the noble Baroness, Lady Hamwee, and the noble Lord, Lord Rosser. More importantly, I should point out that part of the problem in the early stages, where I have been grateful to have advice from all sorts of people, is my sheer personal ineptitude in understanding what I might have been proposing. Somebody in my position without legal training does not always understand the breadth of what is offered. I am sorry about that. We have been grateful for the clarity with which the committee pointed out some of the implications. That is why we worked hard to try to get through this very simple legislation.

There is clamour from all over the place for this very simple, focused change, particularly from young women, who are horrified and astonished that it has not happened already. What caught me by surprise was a number of genealogists writing to me to point out that we are out of step with many countries and that, over the decades, this change will make a huge difference to people's ability to understand their background. I hope that we can fully support it.

Amendment 1 agreed.

Amendment 2 not moved.

Amendments 3 to 11

Moved by ***The Lord Bishop of St Albans***

3: Clause 1, page 1, line 7, leave out ", amend the Marriage Act 1949"

4: Clause 1, page 1, line 8, leave out "to"

5: Clause 1, page 1, line 13, leave out first "to"

6: Clause 1, page 1, line 17, leave out first "to"

7: Clause 1, page 1, line 19, leave out first "to"

8: Clause 1, page 1, line 21, leave out first "to"

9: Clause 1, page 1, line 22, after "Wales" insert ", which is accessible in electronic form"

10: Clause 1, page 1, line 23, leave out first "to"

11: Clause 1, page 1, line 26, leave out paragraph (g) and insert—

"(g) remove existing provision in relation to the registration of marriages which is not to form part of the system provided for under this section."

Amendments 3 to 11 agreed.

Amendment 12

Moved by ***Lord Faulkner of Worcester***

12: Clause 1, page 1, line 26, at end insert—

"( ) Regulations under this section must make equivalent provision for the registration of same sex marriages and marriages between a man and a woman."

Lord Faulkner of Worcester (Lab): My Lords, I have no wish to prolong the Committee's debate this morning, as there are two important Private Members' Bills to follow. I was not able to attend Second Reading on 26 January, but I have carefully read the report in *Hansard*. I was prompted to table this amendment because I believed it would be helpful to obtain confirmation of the point made then by my noble friend Lady Gale, whom I am pleased to see in her place, speaking from the Opposition Front Bench. Supporting the Bill—as of course I do today—she said,

"we should have both parents' names on the marriage certificates. Since we now have civil partnerships and same-sex marriages, one day some children of those couples will no doubt get married".—[*Official Report*, 26/1/18; col. 1245.]

It is precisely to obtain clarification that the inclusion of both parents' names on their marriage certificates will apply equally to the children of same-sex marriages that I have tabled this amendment.

10.30 am

The right reverend Prelate the Bishop of St Albans, whom I commend for bringing the Bill before the House with such style and such humility, will be relieved that I am not seeking this morning to change the attitude of the Church of England towards same-sex marriages, except gently to point out that the Marriage (Same Sex Couples) Act 2013 has been an unqualified success, brought immense happiness to thousands of couples, and helped counter the decline in the number of marriages. What a pity that in 2015 the Office for National Statistics reported that, out of 15,000 marriages between same-sex couples, there were only 44 religious ceremonies, accounting for 0.7% of all marriages of same-sex couples. I must make the point that I hope it will not be too long before the Church of England feels able to follow the lead set by the Anglican churches in Scotland, the United States, Canada and other countries in permitting same-sex couples to marry in church. However, that is a debate for another day.

Meanwhile, I seek clarification that in future, following the passing of the Bill, the children of same-sex marriages will be able to include the names of both their parents. I beg to move.

Lord Cashman (Lab): My Lords, I shall speak very briefly in favour of this amendment and the eloquent way it was introduced into your Lordships' House. The principle of equality must surely be embraced by us all, particularly in the words of my noble friend Lord Faulkner of Worcester. Including people within families, including children within families, and the registration thereof, is something upon which I hope all of us will agree.

Baroness Morris of Bolton (Con): My Lords, I supported the Bill at Second Reading. We had a good debate, but it was made quite clear that for the Bill to have the best chance of reaching the statute book, it had to leave your Lordships' House unamended—apart from the technical amendments of the right reverend Prelate the Bishop of St Albans. I have great sympathy with what the noble Lord, Lord Faulkner of Worcester, said and I am very glad that he does not seek to press this, because I think it would be very wrong if we were to lose the best opportunity to right the long-established wrong that the Bill addresses by seeking to address another, equally important matter. I hope that my noble friend the Minister will be able to give the noble Lord the reassurance that he seeks and that therefore there will be no need to amend this important and long overdue Bill.

Lord Rosser: I shall just add, in light of what the noble Baroness, Lady Morris of Bolton, has just said, that my noble friend Lord Faulkner of Worcester is seeking assurances on this point, as I understand it, and I sincerely hope that those assurances can be given.

Baroness Williams of Trafford: My Lords, I hope that I can now give those assurances. I am very grateful to the noble Lord, because he distinguished very much between the argument for another day, which is about same-sex marriages in churches, and the very important point of children of same-sex parents on the register: it is not called the register, of course, but we will probably continue to call it the register.

As the noble Lord pointed out, the Marriage (Same Sex Couples) Act 2013 made provision for couples of the same sex to enter into a marriage. However, under Sections 3 and 4 of the Act, the provisions to solemnise marriages of same-sex couples do not apply to marriages taking place in the Church of England. As with all other religious ceremonies, there is no compulsion on an individual to solemnise a marriage where the reason is that it concerns the marriage of a same-sex couple.

The provisions in the Bill do not seek to make any changes to marriage preliminaries, or to how or where marriages can be solemnised; it simply seeks to change how marriages are registered, moving from a paper-based system of registration to an electronic register. The electronic system of registering marriages will apply to all marriages, irrespective of whether the couple are of the opposite sex or of the same sex.

I have just received a note containing the answer to the point made by my noble friend about the move to a schedule system not creating differences between the registration process for opposite-sex and same-sex couples. To clarify, by the names of the parents it will say "Mother/Father/Parent" for both parents. That will apply to children of opposite-sex couples, same-sex couples and whatever we have to come.

The Lord Bishop of St Albans: My Lords, I am grateful to the noble Baroness for clarifying those matters. It only remains for me to say, in response to the noble Lords, Lord Faulkner of Worcester and Lord Cashman, that of course the wider debate about the nature of marriage is going on right across society, but particularly in the Church of England and in other churches. That will continue. That, of course, is not the focus of the Bill today; that will come back at other points, there will be all sorts of discussions in the General Synod and so on, and they will continue. I am grateful to the noble Lords for stating their view on that, but this is particularly about registration and therefore I hope that we can give this the green light and the go-ahead to speed through.

Lord Faulkner of Worcester: My Lords, I am very grateful to all noble Lords who have spoken and for the words of the right reverend Prelate. I am particularly grateful to my noble friend Lord Cashman. The words of the Minister are fine with me: I accept that that is the answer to the question that was posed by my noble friend Lady Gale and I am therefore content to seek leave to withdraw the amendment.

Amendment 12 withdrawn.

Clause 1, as amended, agreed.

Clause 2: Power for Registrar General to make regulations

Amendments 13 to 15

Moved by ***The Lord Bishop of St Albans***

13: Clause 2, page 2, line 11, after "regulations" insert "under section 74(1) of the Marriage Act 1949"

14: Clause 2, page 2, line 27, after "England" insert "or the Church in Wales"

15: Clause 2, page 2, line 36, leave out subsection (3)

Amendments 13 to 15 agreed.

Clause 2, as amended, agreed.

Clause 3: Consequential provision

Amendment 16

Moved by ***The Lord Bishop of St Albans***

16: Clause 3, page 2, line 42, leave out from "regulations" to end of line 43 and insert—

"(a) amend the Marriage of British Subjects (Facilities) Acts 1915 and 1916 so that they no longer apply in England and Wales;

(b) make other provision in consequence of regulations under section 1 ."

Amendment 16 agreed.

Clause 3, as amended, agreed.

Clause 4: Supplementary provision about regulations

Amendment 17

Moved by ***The Lord Bishop of St Albans***

17: Clause 4, page 3, line 14, at end insert—

"( ) No regulations may be made under section 1 or 3 after a period of three years beginning with the day on which regulations under either of those sections are first made."

Amendment 17 agreed.

Clause 4, as amended, agreed.

Clauses 5 and 6 agreed.

House resumed.

Bill reported with amendments.

Assaults on Emergency Workers (Offences) Bill

Second Reading

10.39 am

Moved by ***Baroness Donaghy***

That the Bill be now read a second time.

Baroness Donaghy (Lab): My Lords, It is my privilege to move the Second Reading of the Assaults on Emergency Workers (Offences) Bill. The Bill had a successful passage through the Commons and I pay tribute to all those MPs who participated in the debates. In particular, I thank Chris Bryant MP, who sponsored the Bill, and Holly Lynch MP, who had previously tried to put through a 10-minute rule Bill on the same subject. They have done a considerable amount of work and it has been subject to considerable scrutiny in the Commons.

The Bill would create a new aggravated offence of assaulting an emergency worker. Noble Lords will not be surprised to hear that as a former president of the TUC and chair of ACAS, I think that no worker should be attacked in the course of their duties. Any increase in violence and sexual assault against staff is unacceptable. However, emergency workers—police, firefighters, doctors, nurses and paramedics, prison officers or people assisting these professions in the execution of their duties—put themselves on the line to protect the public. Members in both Houses spend a considerable amount of time praising the bravery of emergency services in some of the most appalling tragedies. This is our chance to help protect the protectors and help stem the tide of the alarming increases in assaults on emergency workers.

[Baroness Donaghy]

The Labour Party made a manifesto commitment in 2017 to make it an aggravated criminal offence to attack NHS staff. The Bill will help fulfil this objective. I am also grateful to the Government for allowing time for this debate and for making clear their support for the Bill. On a personal level, I was president of NALGO, one of the forerunners of UNISON, which has recently published a report on assaults in the health service.

Turning to the contents of the Bill, Clause 1 would create a new triable offence of assault or battery committed against an emergency worker either,

"acting in the exercise of functions as such a worker",

or where they were not at work but,

"carrying out functions which, if done in work time, would have been in the exercise of functions as an emergency worker".

The offence would be punishable by up to six months and/or a fine in a magistrates' court and up to 12 months in a Crown Court. I will say a little more about sentencing later.

Clause 2 would create a statutory aggravating factor which would increase the seriousness of the offence, including certain offences under the Offences against the Person Act 1861; an offence committed under Section 3 of the Sexual Offences Act 2003; certain common-law offences, including manslaughter and kidnapping; and ancillary offences relating to the ones already mentioned.

Clause 3 defines an emergency worker and Clause 4 relates to general matters, including that the Bill extends to England and Wales. I am grateful to the Welsh Assembly for bringing forward the legislative consent Motion in a timely manner.

I should make clear what the Bill is not about. It is not intended to cover the impact of public expenditure cuts or the accuracy of current statistics and the need to take steps to ensure their accuracy. It is not about overall sentencing policy in the courts. It is not intended to take away any responsibilities from employers for ensuring the safety of their employees and the need for adequate training to deal with the challenging circumstances in which emergency workers undertake their duties. It is also not my intention to comment on recent ministerial statements on sentencing. However, in Clause 1, there is a reference to magistrates being able to sentence up to six months and up to 12 months when Section 154(1) of the Criminal Justice Act 2003 comes into force. If noble Lords note the age of this Act, it becomes clear that three, if not four, Governments have been and gone without this section being enacted. So my question to the Minister is: bearing in mind that this would make a considerable difference to the Bill, will this section be enacted by the present Administration?

The Bill is supported by all the trade unions representing emergency workers. I thank them for their briefings and for the presence of members of the Police Federation in the Gallery today. Research by the *Health Service Journal* and UNISON has found an absolute increase of 9.7% in violent attacks on NHS hospital staff between 2015-16 and 2016-17. Some 75% of trusts responded to a request for information and the total number of physical assaults on NHS staff was 56,435. An RCN report revealed 70,555 assaults on healthcare workers in 2015-16. Home Office figures report 24,000 assaults on police officers across all forces, whereas Police Federation statistics point to an assault every four minutes. There are at least 20 assaults a day on prison staff. In West Yorkshire alone there were 95 attacks on operational fire crews last year—a 50% increase compared to the previous year. These figures will not be completely accurate but one thing we can be sure of is that they underestimate the true figures.

As if the thousands of attacks, and the fact that they are on the increase, are not horrifying enough, there is also a serious problem of underreporting. Some emergency workers do not believe anything will be done about an attack and, even if they do report an incident, the chances are that the perpetrator will receive a suspended sentence. This leads to a lack of faith in the criminal justice system to deliver proportionate sentencing and to cynicism against the employer. I saw a parallel in the construction industry when I conducted a report into construction fatalities. There is serious underreporting of comparatively minor injuries, leading to insufficient preparation against major injuries and fatalities. Reading about the experiences of some emergency workers is harrowing and in many cases the experience has led to post-traumatic stress and life-changing symptoms. Because of the sheer number, I do not wish to pick out individual cases, except to thank a paramedic, Sarah Kelly, who was sexually assaulted in an ambulance and had the courage to report the issue and be willing to take part in public campaigns.

In conclusion, I am from a generation which struggles to accept how the people who are looking after us should be under such concerted attack. We must act. I really hope that the Bill will be on the statute book by the end of the year. I look forward to the debate and to the Minister's reply. I beg to move.

10.48 am

Baroness Jolly (LD): My Lords, I am happy to support the Bill and thank the noble Baroness, Lady Donaghy, for adopting it for its passage through this House. I thank the Minister for giving me some time to clear up any areas of confusion or concern I might have had. I think this will be my shortest Second Reading speech ever. The Bill is almost perfectly formed. I shall concentrate on NHS workers but of course the principles apply to all emergency workers. As the noble Baroness, Lady Donaghy, said, all workers should feel safe in their work environment.

Over 10 years ago, I was a chair of a primary care trust and I would visit various health settings. I was continually horrified at some of the treatment meted out to ambulance and A&E teams, and to staff on wards. There are many areas within the NHS where staff are vulnerable: lone workers visiting patients with mental illness in crisis; minor injuries unit staff working late at night; and out-of-hours GPs visiting patients in an emergency. As employers, NHS trusts have improved quite a lot in their attitude. Violence should never be seen as part of what goes with the job. Those who are violent towards emergency workers must be punished and the Bill goes some considerable way towards achieving that.

The Bill gives emergency workers a right: the right to carry out their job without fear of being assaulted. I hope that as a result of it, and generally anyway, employers will see it as a responsibility to support their employees, particularly when they have been assaulted. They should also not condone such treatment by their own staff towards a member of the public, unless it is a last resort. This applies particularly to police services and mental health services. I am sure your Lordships could find other examples. An assaulted worker should be able to count on the support of their employer in bringing the charge and, where necessary, they should expect counselling to help them deal with any trauma.

Yesterday I had a useful briefing from the London Ambulance Service trust, which put all this into context and evidenced some of the points I am making. In London last year, a total of 534 physical assaults on ambulance staff were recorded—an increase on the previous year of 21.6%. It does not take us very long to work out that if this grows at the same rate, by 2020 there will be 1,000 physical assaults recorded annually against ambulance staff. This is just not acceptable. On average, one staff member is assaulted daily and staff working in the control room regularly experience verbal abuse while taking emergency calls. The trust offers training and support to its staff. All front-line staff receive training in how to report an assault and what to do in potentially confrontational situations. They are offered counselling and support following an assault. Each individual is different and the level of support required varies, according to need. MIND also runs a Blue Light Programme, which provides mental health support for emergency services workers. The London Ambulance Service uses that, too. It is also the only ambulance service in England to issue stab vests to all front-line staff. Although I applaud that, I am really sad that ambulance workers feel the need to wear a stab vest in their daily work.

It is also important to remember that the Bill should apply to settings where someone is carrying out their duty as an NHS employee but not in an NHS setting. This could be in a prison or a care home. I would be grateful if the Minister clarified whether the Bill also applies to volunteers, whether in the regular services, the police service or the voluntary sector, such as St John Ambulance, the coastguard service or the RNLI.

This Private Member's Bill has also highlighted that violence is often the result of excess usage of drugs or alcohol. The Institute of Alcohol Studies report on alcohol's impact on emergency services highlighted the proportion of front-line personnel who have been injured while dealing with a drunk member of the public: 76% of police, 50% of ambulance workers, 43% of A&E consultants and 10% of fire officers. This is just unacceptable. The Bill addresses this issue and, once enacted, I am sure that it will be dealt with. Many have tried to address the issue of alcohol and drugs but it is outside the scope of the Bill. I note that the usage of alcohol and drugs should never be seen as an excuse for somebody behaving in a violent way.

This is a well-crafted Bill, which should achieve what it is designed to do. I do not propose to lay any amendments in Committee and I wish it a speedy passage.

10.55 am

Lord Bach (Lab): My Lords, I declare my interest as the elected police and crime commissioner for Leicestershire and Rutland, and it is in that role that I unreservedly support the Bill and hope that it reaches the statute book as soon as possible. I congratulate my noble friend Lady Donaghy on agreeing to take the Bill through your Lordships' House and on her opening speech this morning, and like her, I congratulate Holly Lynch and Chris Bryant on taking the Bill through the other place.

As a police and crime commissioner, I know how lucky Leicestershire police are in having such an excellent Police Federation branch, led by its chair, Tiff Lynch, and its secretary, Matt Robinson, both of whom were recently re-elected without contest to their important posts. It is a pleasure working with the Fed, even on the rather sadder and more disgraceful issues, such as the widow of a police officer who was killed in the line of duty not being allowed her pension. I was particularly delighted when I was approached to support the Bill, a long time ago now, before it was introduced in the other place.

Why do I support the Bill? Basically, because it just sounds, is and seems right. One reason is that every Monday morning when I meet the chief constable and his chief officer team, I hear about the assaults committed on police officers, on specials and on PCSOs over the course of the weekend. I also know that I do not hear of every assault or even a majority of them. I hear about very few, for a number of reasons. One is that police officers do not always report what has happened to them, for the best of reasons, but I think they should. One of my hopes for the Bill is that it will act as an incentive for police officers to report more because, as I am sure the House will agree, it is always entirely unacceptable for police officers to be assaulted when they are doing their lawful duty and protecting all the rest of us.

The published national figures are clearly wrong and absurdly low. To give credit, that has been admitted. The reality is, I think, frighteningly large not just for the police but for emergency services generally. It is perhaps worth repeating from the very helpful document that the authorities in this House have prepared for the Bill that the Police Federation has suggested that a much,

"higher number of assaults were committed against officers",

during 2016-17 and that:

"According to the Federation, data from its latest welfare survey suggest that there were 'more than two million unarmed physical assaults on [police] officers over twelve months'",

and nearly a further 303,000 assaults using a deadly weapon during that period. My strong belief is that while it is impossible for there to be absolutely accurate figures, the position is probably a good deal worse than we want to believe.

As a police and crime commissioner, I see how every day the police work with the other emergency services, be it the fire service, the ambulance service, the Prison Service or, of course, the health service in all its aspects. As emergency workers, they are individually and together a crucial part of what makes our society civilised. Just imagine a day without them. Every one

[LORD BACH]
of them is vulnerable every day to physical assault and sometimes to sexual assault as well. The message in this Bill—the most important thing about it, for me—is that society must protect those who protect society. I see this Bill as something of a wake-up call. As a society we have perhaps become just a little too tolerant of behaviour which is actually intolerable. Some seem to think that emergency workers, wherever they are, somehow sign up to being assaulted when they take their job. The message of this Bill is loud and clear: no, they do not. It seems to me that a cultural shift is needed, and this Bill points the way.

11.01 am

Lord Brown of Eaton-under-Heywood (CB): My Lords, in common, I have no doubt, with all noble Lords, I have a great regard for our emergency workers and a great regret that they appear to be ever more frequently subjected to assaults and other violent offences. I also share with many others the greatest admiration for the noble Baroness, Lady Donaghy, who is sponsoring this Bill in your Lordships' House.

Popular, no doubt, as this Bill is, and as well-nigh certain, I suspect, it is to pass, I fear that I cannot support it. Let me at once make clear that my central objection is not with its core objective—plainly, the discouragement of these deplorable offences by more severe punishment of those who commit them—and still less with its detailed drafting. Rather, it is with the inevitable consequence of all Bills of this kind, which is, in short, prison sentence inflation—that upward spiral leading inexorably to the ratcheting-up of sentences across the board, and thus an ever-increasing prison population, with all the several dire consequences that follow from that, all of which were the subject of a very full debate on prison overcrowding in your Lordships' House which I had the privilege of securing and opening.

Of course I understand the public's and, in turn, Parliament's instinctive reaction to any and all spates of fresh or increased offending and fresh areas of concern about criminal behaviour: "Lock 'em up, throw away the key, or at the very least raise the statutory maximum for the offence". Thus it was that in 2014, the maximum sentence under the Dangerous Dogs Act was increased from two years to 14 years; in 2015, minimum custodial sentences were introduced for carrying knives; and last year, the maximum sentence for stalking and harassment offences was doubled from five years to 10 years, and in aggravated cases from seven to 14 years. More recently still, the maximum sentence for causing death by dangerous driving was increased from 14 years to life. In 2005, under the Criminal Justice Act 2003, IPP sentences were notoriously introduced, increasing the number of indeterminate sentence prisoners by 5,000 in the first three years. Of course, under Schedule 21 to that 2003 Act the minimum terms to be served by mandatory life prisoners were increased, and have twice since been raised still higher, so that they have risen steadily from an average of 12.5 years in 2003 to more than 21 years now. The Sentencing Council is, of course, loyally responsive to all these demonstrations of Parliament's will, so as a result, guideline sentences have been progressively longer so as to maintain some sort of coherence across the entire spectrum of criminal offending. So it will be consequent on this Bill.

I repeat that I too would love to reduce the number of assaults on our emergency workers, but as the Government—the Ministry of Justice and its Minister—originally said in response to the public petition for this Bill before government surrendered to the popular call for increased sentences, all these offences are already criminalised, and, indeed, they are treated more seriously, as aggravated offences, when committed against public sector workers, so that in fact merely increasing the maximum sentences will not realistically provide additional protection.

There are, for example, some 7,000 assaults annually in our prisons against prison staff—I think there are about 40,000 assaults including assaults against other prisoners. That, realistically, is not the result of there being insufficient penalties available. Rather, it is the consequence of prison overcrowding, a problem that this Bill can only further exacerbate. On Wednesday this week, the *Times* recorded the Ministry of Justice's new building programme and its plan for the prison population to rise within the next few years by about 10,000 to some 93,000. Mr Rory Stewart, the Prisons Minister, expressly envisages public demands for ever-longer and "more brutal" sentences, with increasing focus on victims. He said:

> "We can see this already in people coming forward all the time with more legislation".

This is just such a Bill, and for my part, I regret it.

11.07 am

Lord Wasserman (Con): My Lords, I do not intend to detain the House very long on this glorious Friday morning, but this past week I have been inundated by emails and other messages from police and crime commissioners around the country urging me to show up in the Chamber this morning to support this Bill, and I am delighted to do so. I begin by thanking the noble Baroness, Lady Donaghy, for agreeing to steer this short but very significant Bill through your Lordships' House.

As I say, I have had a large number of messages from police and crime commissioners telling me how strongly they support this Bill, and how important they believe it to be. I am not saying that PCCs are happy with the Bill. Indeed, most of them have gone out of their way to make the point that they are not happy with it because they do not believe that it goes far enough in protecting emergency workers from assault while in the process of carrying out their duties. According to one PCC, the provisions in this Bill,

> "are still derisory but better than nothing".

I think it is fair to say that that reflects the tone of most of the messages I have received.

I must confess that I had not quite realised the extent of the problem until I began preparing for this debate. I was stunned to learn from representatives of the Police Federation that, as has already been mentioned, there were some 2.4 million assaults on police officers in the last 12 months. As other noble Lords have already made abundantly clear, the problem is by no

means confined to police officers and those, such as police community support officers, who work alongside them. Firefighters, prison officers, doctors, paramedics, nurses and others who assist these professionals in dealing with emergencies are regularly subject to assault as they go about their business of serving us.

For noble Lords who want examples of the kinds of assaults which the Bill is aimed to tackle, I suggest that they resort to Twitter under the hashtag "protecttheprotector". They will find countless examples of what we are talking about this morning. There can be no doubt that there is a serious problem out there which needs addressing, and the Bill is aimed to do so. For this reason, I strongly support it and welcome the Government's support for it.

I must admit that two aspects of the Bill cause me some unease. The first relates to the whole idea of using prison to solve social problems of this kind, as the previous speaker mentioned. As the noble Baroness, Lady Donaghy, pointed out in her excellent article on the Bill in the 25 June edition of the *House* magazine, many of those who engage in assaulting emergency workers in the course of carrying out their duties are either drunk or under the influence of drugs.

I am not convinced that putting such people in prison for six or even 12 months would do them—or the rest of us—any good. I have always thought that prison should be a last resort and that we should think first of other forms of punishment, such as community sentences. In this context, I was delighted to read in yesterday's *Times* another reference to Rory Stewart, the Minister for Prison Operations and Reform, who apparently shares this view. According to the report, he goes even further than I and believes that short sentences should be scrapped.

"The best way of protecting the public",

he is quoted as saying,

"is to significantly reduce, if not eliminate, the under 12-month prison population, because people on community sentences are less likely to reoffend than people put in prison".

However, I recognise that this is very much a minority view in the emergency services community, and do not intend to say any more about it this morning.

Another aspect of the Bill upsets me which I believe is much more important. It has already been touched on by the noble Baroness, Lady Jolly. That is what the introduction of the Bill tells us about our society. What kind of community do we live in where those who serve us, those who put their very lives on the line each day in order that we, our loved ones and fellow citizens can be safe and sound, are subject to assaults of the most unpleasant, degrading, painful and even life-changing kind while they are in the very act of helping their fellow men and women? How sad that it should be thought necessary to resort to the statute book and, even more significantly, to prison sentences, to deal with such antisocial behaviour. What a terrible reflection this is on the fundamental, underlying values of our society.

This is not the time or place to discuss why we find ourselves in this situation, but it raises a number of issues which require urgent consideration if we are to reverse present trends and build a civilised community for our children and grandchildren. The Jewish tradition, in which I was raised, is very clear about service to the community. The rabbis taught that acts of kindness to others are as important as every other law in the Bible. Yet the fact is that in Britain in 2018, we are having to amend our statute book to strengthen the sanctions available to the courts, including longer prison sentences, to punish individuals who have assaulted emergency workers who are in the very act of helping them, such as putting out fires in their homes or transporting them to hospital in an ambulance for urgent medical treatment. It is therefore with much sadness and no joy that I strongly support giving the Bill a Second Reading.

11.14 am

Lord Browne of Ladyton (Lab): My Lords, it is a privilege to follow the noble Lord, Lord Wasserman. I agree with many of his observations and will try not to repeat the points that have already been made in the debate. I congratulate my noble friend Lady Donaghy on introducing the Bill and pay tribute to her for the clarity with which she has explained the legislation and set out the arguments for it, not just in her speech today but otherwise in briefings and articles. I also record my thanks and congratulations to Holly Lynch and Chris Bryant, the more so because the Bill appears destined to make it to the statute book, which is no mean feat for a Private Member's Bill—particularly as, in its original form, it faced the opposition of the Government. It is good to see a Bill get another chance, and I support it and wish it speedy passage. However, like others, I have reservations about the efficacy of what we are doing, and I intend to draw on that for the points I want to make.

It is more than 20 years since I practised law in Scotland. For the vast majority of that time, I served a community that was a microcosm of Scotland, and then went on to represent those same people as their Member of Parliament, so I knew the community well and knew the emerging trends in behaviour. During my time in the law, I confess that, like many others who work in the justice system, I was a stern critic of the tendency of politicians to seek solutions for emerging or increasing social problems by isolating particular trends in behaviour and legislating for a specific offence. Practitioners were universally of the view that this behaviour was already sufficiently covered by the provisions of the criminal law, and the problem lay with protecting people, enforcement or the increasing failure of sentencing to have a deterrent effect on people's behaviour. Actually, they were reinforcing impunity by doing what they were in the community that I knew very well. We need to be concerned about that.

The former position, as explained by the noble and learned Lord, Lord Brown of Eaton-under-Heywood, is exactly where the Government were originally: that there was already sufficient provision in law. Of course, by the same token, the Government held the responsibility for ensuring that that law was properly enforced or having the intended deterrent effect. They have changed their collective mind, for whatever reason, and I, too, have been persuaded, despite my reservations, that a

[Lord Browne of Ladyton]
special offence is appropriate in this case, although I recognise that it can become a problem if you are persuaded by each individual case rather than addressing the issue that lies at the heart of the matter.

I read the *Official Report* of the Bill's passage through the other place. I am also cognisant of our role as the secondary Chamber in this environment, and there appears to be unanimity in the other place that the legislation is part of the answer to the problem. What impressed me most was the argument made by my noble friend Lady Donaghy about the special nature of the work that we are asking these people to do. In her recent article in the *House* magazine, she rightly highlighted that while all cases of assault are to be abhorred and are difficult for the victim, emergency service workers are in the particular position where, in many cases, they cannot remove themselves from the situation. Not only can they not remove themselves from the physical scene, they often cannot remove themselves from the presence of and must be as near as possible to the perpetrator, because the perpetrator often requires continuing emergency attention. That puts people who do this work in a very particular situation and at particular risk.

I will be pleased to see the Bill becoming law, but we should not mislead ourselves that this is the job done. We have all received briefings from various places, and I am grateful for all of them, but I received an interesting briefing yesterday from the London Ambulance Service. I was struck by one point in all these briefings. As my noble friend Lady Donaghy said, there is undoubtedly an alarming increase. The statistics that the noble Lord, Lord Wasserman, gave us of assaults on police officers were extremely alarming. This means that every police officer on the streets of our communities could expect to be assaulted every fortnight, by my calculation. These are extremely alarming statistics.

I agree with my noble friend Lord Bach that it is impossible to have what you would call accurate statistics about this. But what is not impossible is to have reliable statistics, and I was struck as I read all these statistics by the degree to which they were always qualified about their reliability. In the absence of those data, there is a problem for us in what we are trying to do here. Does not our duty of care to those public servants whom we expose to this risk include at least the obligation, in this day and age, when people are handling data in very imaginative ways for all sorts of things, to provide some methodology for collecting data about risk and incident that is reliable? That would allow us to appreciate not just the generic but the specific scale of the problem, and to understand the trends. That is where our business lies—in changing trends—and it is important to have data that allow us to know, over the course of time, whether what we do here is just symbolic, or whether it actually makes a difference.

That leads me to a couple of points that I want to make, drawing on experience otherwise on these islands. We have the Scottish experience with this particular legislation, over a decade of it. I am obliged and grateful to the Law Society of Scotland, which I encouraged to have a look at this legislation and which produced very quickly, with minimal resources, this helpful briefing, which we all received. I am grateful to it for a number of things. I got it yesterday, so I have not had a chance to go into it in detail, but it is a distillation of some information over a decade of experience of a piece of legislation like this, in a jurisdiction which proportionately should reflect one to 10, and usually does.

The Emergency Workers (Scotland) Act 2005 contains similar legislative provisions, was passed in 2005 and amended in 2008. Scotland has over a decade of laws like these. So what does it tell us? Table 1 on page 7 of the briefing has figures that demonstrate the rate of prosecution, although it does not demonstrate the rate of conviction—but it indicates to me that, after 10 years or more of this legislation, there have been approximately 250 to 300 concluded prosecutions in Scotland per year. So it does not seem to me to have made a significant impact on what must be the scale of the incidence of this sort of behaviour. I shall not do anything more than draw your Lordships' attention to that, but it deserves some other study. I shall try between now and other stages of this Bill, if it proceeds from here, to have a look at what those other data reveal—because there are data from other places—and maybe draw some conclusions from that.

My final point is also drawn from the Scottish experience—and I make this short point to my noble friend and the Government. I acknowledge the positive revision that was made to the original version of this Bill in the other place, where additional workers were added. Scotland came back to this in 2008 and added mental health workers, social workers and, interestingly, members of Her Majesty's Coastguard. So unless this Bill applies as an Act to members of Her Majesty's Coastguard, we will be in the interesting situation whereby, for a UK service, if you serve in Scotland and are under that jurisdiction you have protection, but if you serve elsewhere, you will not have protection. That may be something that needs to be addressed.

11.23 am

Baroness Watkins of Tavistock (CB): My Lords, I thank the noble Baroness, Lady Donaghy, for sponsoring this Bill, and am pleased to contribute to the debate today, taking the welfare of our public service staff seriously.

I understand that in Committee the definition of emergency worker has been extended from its original remit to include all NHS workers and support staff and to prisoner custody officers. The Royal College of Nursing highlights that nursing is an occupational group with a high risk of experiencing work-related violence, which can occur across a variety of settings: emergency departments, prisons, mental health units and the community. The literature tells us that there are 200 attacks on NHS staff daily, and 23 assaults on prison officers every day. However, in reality, as others have said, the figures are likely to be far in excess of those reported.

Others have rightly highlighted the role of alcohol in violence against NHS staff, particularly in the other place, and against paramedics and accident and emergency staff. I would like to expand the discussion to consider drugs—in particular, synthetic cannabinoids, commonly

called Spice or Mamba. Following the Psychoactive Substances Act, which outlawed so-called legal highs, the numbers of people using Spice throughout the UK appear to have dropped. However, this is not the case in prisons, where the problem continues to intensify and has been described in media reports as endemic.

Many nurses, doctors and other healthcare professionals provide input into prisons, which are increasingly becoming challenging environments in which to work. One psychiatrist I have spoken to, who has worked in both prisons and mental health hospitals, told me of the devastating effects Spice intoxication can have on those who consume it. Many prisoners use Spice for the first time on entering prison. She described a number of cases in which young men who had consumed Spice behaved bizarrely, including throwing themselves on to the netting, assaulted staff and even committed self-harm. Some young men developed psychotic symptoms related to Spice—that is to say, experiencing hallucinations and having paranoid beliefs. These can last for weeks at a time. The physical effects can be frightening; seizures, collapses and vomiting are all common emergency situations that clinical staff are asked to respond to in prison. Staff who are the first responders—often prison officers, nurses and GPs—have been the victim of serious assaults, which often do not lead to prosecution. Staff are also breathing in toxic fumes, and there are numerous examples in the media highlighting staff themselves becoming unwell due to secondary inhalation of smoke.

The Royal College of Nursing highlighted its concerns just last month by writing to Michael Spurr, the chief executive officer of HM Prison and Probation Service, calling on prison bosses to do more to protect nurses and other health workers, whose health is put at risk each day from both direct and indirect effects of the drug. In April, nursing staff were pulled out of Holme House prison due to the risks posed by Spice inhalation. Spice is comparatively cheap in the prison system and is available as a chemical that can be sprayed on to letters and pictures sent via the post. There are still difficulties in detecting it without specially trained sniffer dogs, and standard drug testing does not necessarily pick up all strains.

A holistic approach is needed. In addition to legislating for penalties for those who assault emergency workers, which this Bill sets out, focus also needs to be on recovery-oriented and integrated substance misuse services to young people and prisoners, coupled with support on release. It is vital that criminal sanctions go hand in hand with violence prevention. There must be robust systems for screening and violence reduction. It should be incorporated into training and development; staff should be equipped with the skills and confidence to de-escalate situations where violence may occur and know how to break away if an incident regrettably happens and they need to protect themselves.

What happens after a violent event to staff in terms of reporting incidents of violence and the support given to victims of violence in these situations? As others have mentioned, assaults are underreported, and there are many reasons for this. Research has indicated that there are many barriers to reporting, including high workload and little time, frequent occurrence of violent events, and ethical conflicts about reporting a patient.

Worryingly, there is also evidence that staff are concerned about a blame culture in which they will be seen as provoking the violence and an endemic view that violence is "just part of the job". Employers' responsibility to support employees in such circumstances cannot be overemphasised. I am fully supportive of the Bill, but also ask whether a better long-term solution would be to have mental health services accessible to many of the perpetrators much more quickly. We should recognise that we do not even hold waiting lists for most mental health problems.

This Bill is about respect for emergency workers and this is highly commendable. However, I want to emphasise that, in a climate where the UK is calling out for health professionals and we are struggling to recruit and retain staff, there needs to be adequate training and robust support for NHS staff and other emergency workers when an incident occurs. Do the Government plan to introduce a duty on the employer to assist employees who are going to give evidence in court against their assailants, which is often a time of anxiety for victims? Why are they so often left on their own, with only union support? I am also concerned that, should an assault occur, assailants should be held responsible for their actions and not be able to lay blame on service inadequacies by saying that they were not appropriately dealt with and thus not accountable for their actions. Will the Government re-emphasise to the Department of Health that there is a duty on employers to ensure that staff have the relevant CPD to prevent aggression; to provide safe environments for those who they care for; and to provide support for staff when violence occurs, having first taken every possible preventative measure?

11.32 am

Lord Harris of Haringey (Lab): My Lords, I too echo the thanks of the House to my noble friend Lady Donaghy for bringing forward this Bill and to my honourable friends Chris Bryant and Holly Lynch for their work on these measures in the House of Commons. I remind the House of my interests as co-chair of the All-Party Parliamentary Group on Policing and Security; my chairmanship of the National Crime Agency's Independent Reference Group; and my past close association with the Metropolitan Police service. Some 20 years ago, I was also a non-executive director of the London Ambulance Service.

This is a timely and important Bill. With, perhaps, one exception, it has had general support around the House. It is not another example of grade inflation in court sentences; it recognises that a gap in the law exists. That is what we want to see addressed. I recently looked at some citations of those who have been nominated for the police bravery awards which will be given out in a couple of weeks' time. I will pick out two of them at random, because they spell out what we expect from our police officers. The first is about Sergeant Richard Pettican of South Yorkshire Police:

"As he tried to apprehend a car theft suspect, he was repeatedly punched in the head. He fell to the ground and tried to grab the man, but a scuffle ensued and he was assaulted again. The man

[Lord Harris of Haringey]

took the officer's handcuffs and used them as a knuckle duster to repeatedly hit Sgt Pettican's head while he tried to get up to detain the thug. Other officers arrived but not before Sgt Pettican had been repeatedly hit by the offender. Sgt Pettican received several deep cuts and bumps to his head and body which were swollen, with the cuts needing staples to close them".

Another is Police Constable David Bull of Derbyshire Police. He spotted a man who was wanted for murder in a secluded alleyway, and gave chase:

"Once caught, the man struggled violently—

—perhaps not surprisingly—

"and threw PC Bull's radio to stop him requesting help. PC Bull was then assaulted, causing him to fall to the floor injuring his wrist and knee … PC Bull was determined to keep hold of the suspect. He realised that his only chance of getting help would be to pull the man into a garden and hope he could be heard. He managed this and fortunately someone came to his aid … recovering PC Bull's radio so he could raise assistance".

The significant point is that:

"Despite his many injuries PC Bull returned for duty the following day, bandaged and bruised".

Those are just two examples of exceptional police officers doing what we expect them to do: tackling violent criminals and trying to arrest them, doing what we expect them to do; running towards danger, and doing what we expect them to do.

Those were obviously higher-risk situations, but I am concerned that assaults against emergency workers are almost routine. Statistics from the Metropolitan Police show that last year there were some 2,000 physical injuries as a result of assault. That is about five per 1,000 police officers. Over 40 of those injuries were sufficiently significant to be reported to the Health and Safety Executive. The statistic which sums up why this legislation fills the gap between the more serious assaults and others which might not otherwise come before the courts is the 232 incidents last year when officers were spat at. These are, of course, only the incidents where the officers reported being spat at and it is recorded, rather than it being seen, alas, as all too routine.

I am not convinced that this is a new phenomenon, nor one that is necessarily rising. I was recently shown what purports to be—I am assured it is authentic—an 1829 recruitment leaflet for the Metropolitan Police, which states:

"You must be aged 23 to 40 years of age … You will be paid 17 shillings per week …Your working hours will be eight, ten or twelve hour shifts, seven days a week. No rest days are allowed and only one week holiday per annum, unpaid".

While I understand the pressure that police officers are under today, it is not quite of that order, although in some instances I am aware of extraordinary sacrifices. I was also interested in this statement:

"Every encouragement will be given to grow beards, as shaving is regarded as unhealthy. However, beards must not exceed two inches in length".

Apart from the age restriction, I might have qualified. The leaflet also says:

"Uniform will be worn at all times to prevent accusations of spying on the public whilst in ordinary clothes".

The sentence which struck my eye in the context of this debate was:

"You must expect a hostile reception from all sections of the public and be prepared to be assaulted, stoned or stabbed in the course of your duties".

We do not have the statistical evidence, so I am not sure whether this is a rising trend, a stable one or anything else. What has changed is, first, that we are more aware of what happens because it is slightly better recorded now than in was in 1829. Secondly, society's attitudes to what is acceptable have begun to shift. The people who we rely on to provide care and support and to deal with emergencies are precisely the ones who we should have the highest duty of care towards. That is what the Bill is all about.

I can understand, if you like, the attitude that someone who is drunk and aggressive may have towards a police officer who is trying to spoil their fun. I am not condoning it or saying that is a reason, but you can at least understand it. What I find really surprising are the statistics that I have seen from the London Ambulance Service about the level of assaults on ambulance workers. There are about 3,000 front-line ambulance crews in London, but the level of assaults in the last year—2017-18—was 477. That is about one in six ambulance crew members being assaulted. Of those, 82 were spat at—that is one in 30. I look around your Lordships' Chamber and there are more than 30 noble Lords in the Chamber this morning—not bad, incidentally, for a Friday morning. That is the ratio that people in ambulance crews—who are going to save lives, taking people to hospital—seem routinely to have to expect. I think that is very serious. We should not condone the fact that, of the 477 incidents recorded, 313 involved intoxication of the assailant from alcohol and/or drugs. The interesting figure is not so much the 313 who were intoxicated, but all the others who still thought it was appropriate to spit at the ambulance crews.

I think of those paramedics who arrived on London Bridge four minutes after the first emergency call, before the terrorists were shot dead by the police—who also arrived with remarkable speed and accuracy. I think about them putting their lives at risk for the safety of the public and then, in their normal duties, facing these sorts of things. That is why this Bill is important. We should value our emergency services and recognise that it is they who run towards danger. They do so on our behalf and we should express our appreciation for them.

11.42 am

Lord Paddick (LD): My Lords, I, too, would like to thank the noble Baroness, Lady Donaghy, for sponsoring this Bill and to say how good it is to follow the noble Lord, Lord Harris of Haringey. As he alluded to, he has been very closely associated with policing and the other emergency services for decades, and we should place considerable weight on the evidence that he has presented to us. I of course should declare an interest: I was a police officer for over 30 years. To take up the theme that the noble Lord started on whether things have changed, I would say that some things have changed and some things, sadly, are very similar to those that I experienced when I joined the Metropolitan Police in the mid-1970s—I tell people I joined when I was seven, but that is not quite true.

In the mid-1970s, the best piece of protective equipment that we as police officers had was between our ears: you could usually talk your way out of most problems. That is not the case today. I remember that there was a dance hall on the Holloway Road and, every Friday and Saturday night, at about 1 am, when the dance hall closed, some of the people who were inside came out and inevitably started fighting on the pavement. Tempers that had been boiling up inside spilled out on to the street. We would sit in our panda car and wait for the inevitable to happen, then get out of the car, shout "Police!", and everybody would stop. We would go up to the ringleaders, arrest them, and they would come very quietly with us back to the police station for fighting in the street. Nowadays, those combatants are far more likely to turn on the officers than they are to come quietly, as happened in my day.

There is a real issue, not just with the level of sentencing but the attitude of the Crown Prosecution Service and the courts towards assaults. Even when I was still in the police service, some years ago now, there were often very clear, by definition of the law, assaults occasioning actual bodily harm—"Section 47s"—or even very clear grievous bodily harm or wounding offences, which the Crown Prosecution Service downgraded to Section 47s or to common assaults. Courts presented with the lower offence would sentence appropriately. So this tolerance of violence in society is also a tolerance of violence even in the Crown Prosecution Service and the courts, and in my opinion it should not be there. It is not part of the job—as it may have been at the formation of the Metropolitan Police Service—to expect emergency workers to be assaulted as part of carrying out their duties.

Police officers in particular place themselves in harm's way while the rest of us are able to stand aside. As the noble Lord, Lord Harris of Haringey, said, spitting in the face of police officers and other emergency workers is a particularly disgusting and increasingly prevalent type of assault that needs to be tackled through this sort of legislation, bearing in mind that there is usually no injury, as such, caused by that behaviour. Of course, over the years there has been an erosion of respect for authority generally and a lack of respect—or a falling away of respect—for those in uniform. But it is time for us as politicians to stand up for our uniformed services, our emergency services. Running down the police service, for example, may be politically expedient, but it has an impact in terms of the respect that members of the public have for the police service. We have seen some of that in the change in the volume of assaults taking place.

In April 1981, on my day off, on a Saturday, I went into Brixton, collected 10 random officers from across London and six plastic shields and went into the Brixton riots. A number of cars and buildings had been set alight and the fire brigade obviously had been called in to extinguish them because, in some cases, life was at risk. Some of the people engaged in those riots turned on the firefighters and started stoning and throwing petrol bombs at them. Our job was to go in and clear the streets to enable the fire brigade to do its job. So, again, these sorts of attacks on other emergency service workers are not a new thing, but they are increasingly prevalent.

Only on Wednesday this week, an ambulance crew was called to a 13 year-old girl in cardiac arrest in Eastleigh, Hampshire. It was a false call and an ambush. The ambulance crew was attacked with bricks, chairs and bottles by the attackers who had lain in wait. What sort of society are we in that diverts a life-saving ambulance crew simply to ambush and attack it? That is why we need this legislation. As the noble Lord, Lord Bach, said, a cultural shift is needed away from tolerance of violence in society—and, in my opinion, in the CPS and the courts.

I have some sympathy with the noble and learned Lord, Lord Brown of Eaton-under-Heywood. We have to get away from continuing sentence inflation. If my noble friend on these Benches who leads on justice were here, he would agree largely with what the noble and learned Lord said. But prison is an entirely appropriate place for violent people who pose a threat to society—and those who assault emergency workers pose such a threat, not just because they are evidently violent but because, in assaulting those people charged with preventing violence or tending to victims, they are adding to society's culture of violence, and that is unacceptable. I agree with the noble and learned Lord that increases in maximum sentences do not necessarily result in the courts increasing sentences. However, as I have repeatedly said, the CPS and the courts need to be in no doubt how seriously legislators take these issues, and they must take them seriously as well.

I have to take issue with the noble Lord, Lord Wasserman, who said that most of the assaults on emergency workers are committed by people who are either drunk or under the influence of drugs. I was a police inspector and had a very young and experienced constable with me, and we were called to a woman who had been very badly beaten up by her male partner to the extent that we had to call an ambulance. We decided to call for assistance before approaching him—but unfortunately, he approached us. There was a violent struggle and we ended up on the floor, the probationer holding the man's legs while I was trying to pin his arms down on the floor, and he was so strong that he was pushing me up to try to escape from us. That was a deliberate assault on police that was not to do with drugs or drink. He was a violent individual. In those cases—our injuries were only minor—we need this sort of sentencing power for the courts to punish those individuals for that sort of attack.

The noble Baroness, Lady Watkins of Tavistock, talked about the new psychoactive substance Spice. I will say only that the irony is that Spice was designed as a legal replacement for the illegal drug cannabis, yet it is far more dangerous and creates far more psychosis than the drug it was designed to replace. Despite the Psychoactive Substances Act, possession of Spice except in prison is still legal, yet the less harmful substance, cannabis, is not. Our drugs laws are in a mess.

The Police Federation—I am grateful to it for meeting me yesterday—tells me that in a recent case, an officer from Essex Police was assaulted while making an arrest, and the assailant broke the officer's arm. He was charged with resisting arrest and was fined £20. In what way is that a deterrent?

[LORD PADDICK]

We on these Benches see these as exceptional circumstances. As the noble Lord, Lord Browne of Ladyton, said, emergency workers cannot remove themselves from violent situations. They cannot walk away or turn the other cheek. If a police officer does not arrest someone for spitting in their face, the next time there is a confrontation that person is likely to punch an officer in the face, and the time after that stab them in the ribs. We support the Bill.

11.53 am

Lord Kennedy of Southwark (Lab Co-op): My Lords, I put on record how much I support the Bill and thank my noble friend Lady Donaghy for sponsoring it as it begins its passage through the House of Lords. I apologise to the House and in particular to my noble friend Lady Donaghy for being a minute late and so arriving after the start of her contribution. I can say to the House that I now know how the noble Lord, Lord Bates, felt—although, whether it will please the House or not, I am not planning a Dispatch Box resignation today. I also thank my friend in the other place, Chris Bryant MP, who introduced the Bill last year with cross-party support.

This is a small, four-clause Bill that would introduce a new offence of common assault or battery against an emergency worker. This would be triable summarily in the magistrates' court or on indictment in the Crown Court, leading to maximum prison terms on conviction in the magistrates' court of six months and in the Crown Court of 12 months, and/or a fine in either court. It is of course regrettable that we have to even consider bringing such legislation forward. I very much agree with the noble Baroness, Lady Jolly, and the noble Lord, Lord Wasserman, that this is a sad reflection of the society we live in today.

Later in my speech I will refer to cases where emergency services workers, police officers, firefighters and other professionals have been spat on, kicked, punched and sexually assaulted when carrying out the duty of their chosen profession and keeping the public safe. It is disgusting, disgraceful, and totally out of order, and it is right that Parliament acts to update our legislation and deliver what I think the overwhelming majority of the British public want: to see the people in the various professions I have outlined protected from the abuse and assault that they risk every day they walk out wearing a uniform to do their job.

As I have mentioned previously, Clause 1 sets out the new offence. It is welcome that this clause also provides that if the worker is not at work but is carrying out functions which, if done in work time, would have been in the exercise of their role as an emergency worker, they will still have that protection.

Clause 2 creates a statutory aggravating factor that increases the seriousness of the offence on sentencing, which is welcome, as is Clause 6(6), which makes it clear that the courts would not be prevented from treating the fact that an offence has been committed against an emergency worker as an aggravating factor in relation to other offences. It is disappointing that the offence of spitting, which is disgusting, is not at present an aggravating factor. Perhaps the noble Baroness, Lady Vere, can refer to that when she responds. My noble friend Lord Harris also referred to that issue.

Clause 3 sets out what is meant by an emergency worker. The obvious ones are of course police officers, firefighters and NHS workers, but I was pleased to see that the Bill also details other workers who carry out equally important functions, such as prison officers and prison custody officers, who are at great risk of assault on a daily basis. So the scope and meaning of emergency worker has been cast wide, which is to be welcomed, as is the fact that Clause 3(2) makes it clear that it is immaterial whether the employment is paid or unpaid, so special constables, volunteer firefighters, and St John Ambulance and RNLI volunteers would also be afforded the same protection without any question whatever.

I was also pleased to read in Clause 4 that the Bill will come into force two months after becoming law, rather than a Minister being required to bring it or any part of it into force. There is the issue of Section 154(1) of the Criminal Justice Act 2003, which my noble friend Lady Donaghy referred to, which gives the power to magistrates to hand down a prison sentence of up to 12 months but has never been commenced, as it can only come into force by order of the Secretary of State as set out in Section 336(3) of that Act. The Labour Government, who brought the Act into effect, never enacted the provision, nor did the coalition Government, and to date the Conservative Government have not chosen to enact it. So all parties that have been in government in recent years have had the opportunity to bring this part of the Act into force but have decided not to do so. There may be good reason for that, as the section may be viewed as too broad. That could have a disproportionate effect on the prison population, which is already at record numbers, and in turn that does not always lead to good outcomes, as rehabilitation is the key and we want to see the rate of offending brought down. Where shown to be working well, community punishments, payback and work programmes have their right and proper place in the criminal justice system. I therefore very much see the point the noble and learned Lord, Lord Brown of Eaton-under-Heywood, made in his contribution.

Having said that, this is a special case, for the reasons outlined by many noble Lords in their contributions today. The Bill is very specific, focusing on a specific group of workers, who do some difficult and challenging jobs, and who need our support. These jobs need to be done to protect the public, save lives and to keep us all safe, and these workers need protecting so that if they are assaulted, the perpetrator on conviction is very likely to be sent to prison. Therefore, in responding to the debate, can the noble Baroness, Lady Vere of Norbiton, state the Government's position on enacting Section 154(1) of the Criminal Justice Act, which would give magistrates the power to send a person to prison for up to 12 months?

In preparing for this speech today, I have received some excellent briefings from UNISON, the London Fire Brigade, the London Ambulance Service, the Police Federation and others, and I thank them all very much for that. Today, we have heard examples of

appalling assaults. The London Ambulance Service listed 534 assaults on ambulance crews in 2016-17, with a least one member of its staff assaulted every single day, and that is on top of the verbal abuse that staff in emergency control rooms take while dealing with emergency calls. I was shocked to learn that the London Ambulance Service issues stab-proof vests to all front-line staff. That is a terrible indictment of where we have got to and shows the lack of respect for people carrying out an important function—dealing with people who are in distress and injured, sometimes very seriously.

Looking more widely at NHS staff, according to available NHS trust data, there were 56,435 assaults in 2016-17. When extrapolated to cover the NHS in England, that suggests just over 200 reported physical assaults every day, and that is just reported assaults. Unison, the trade union that has thousands of members working in the NHS, has a number of case studies which highlight the abuse its members have received. One of the most tragic was psychiatric nurse John, who, having been subjected to assaults at work, developed PTSD. He ended up himself being sectioned at a local mental hospital and, while there, he took his own life. The subsequent inquest into his death found that the assaults he had suffered during his occupation had played a material part in his decision to take his own life. That is truly tragic.

I was also dismayed to learn of the attacks on firefighters. I have been told of an incident in Yorkshire where fireworks were thrown into the cab of a fire engine when it arrived to attend to a fire on bonfire night. Fireworks are explosives and you have to be a complete idiot to throw them at anyone. There is no excuse for such behaviour.

The London Fire Brigade provided me with information about an incident last year in which firefighters, on attending a blaze, came under attack from 20 youths throwing fireworks at them. One of the fireworks hit a firefighter on his shoulder. It then bounced off his shoulder and got inside his helmet. It exploded next to his ear and caused extensive damage to his ear and his hearing. As a result, that firefighter is still not yet back at work. Again, that is a terrible tragedy. The Bill seeks to provide further protections to all emergency service workers and it has my full support.

There is one group of emergency service workers whose more regular customers are not always pleased to see them, and that is of course the police, who uphold the laws that we pass in this House and the other place. In recent months I have spent time with the Metropolitan Police under the Police Force Parliamentary Scheme and it has proved to be an invaluable experience for me. The most challenging times were the three shifts I spent with the police in the Royal Borough of Greenwich. I was shocked at the abuse directed at the police on every single shift I was on. It was vile verbal abuse that no one should have to put up with, and it was often worse when directed at the women officers. It was abuse about their appearance and was truly horrid and disgusting.

As we have heard, the Home Office estimates that there were 24,000 assaults on police officers in England and Wales, but the data collected by the Police Federation suggests that there were more than 2 million unarmed physical assaults on officers over 12 months and a further 302,842 assaults using a deadly weapon over the same period. Those figures suggest that an assault against an officer happens every two minutes. The figures from the Home Office and the Police Federation are very different. I have not seen how either set of figures has been collected or what is considered to constitute an assault, for which they may be using completely different data. Of course, the Home Office figures are reported assaults but not all assaults are reported, which might explain some of the difference between the figures, as my noble friend Lord Bach mentioned.

The Bill proposes a maximum sentence of 12 months but of course, unless Section 154(1) of the Criminal Justice Act is commenced, the maximum sentence in magistrates' courts can be only six months. An early guilty plea would result in a third of the sentence being taken off, so the maximum sentence handed down by a magistrate would be four months. Of those four months, only two would actually be spent inside—that is, eight weeks—and the other two months would be served on licence.

Of course, if it is an either-way case and goes to a Crown Court, the sentence can be up to a year, but we must question the deterrent effect of the proposals as the Bill is currently drafted. Can the noble Baroness, in responding to the debate, address the issue of increasing the sentence for offences to 24 months as opposed to the 12 months currently in the Bill, and will she also agree to meet me and members of the Police Federation with officials from the Ministry of Justice to explore this? Even if the Government are not prepared to agree to a sentence of 24 months, what can be done with the sentencing guidelines and other directions that can be given to the courts on the appropriate way to treat these offences? I ask that particularly in respect of police officers but prison officers, too, I am sure, face similar challenges in their work.

I welcome the Bill but with the regret that in today's society we need to have such legislation on the statute book. However, that is a matter for another debate on another day. I look forward to the noble Baroness's reply on this important Bill and, in particular, her response to the points I have made about the police. I hope that she will agree to a meeting at a future date. Finally, I congratulate my noble friend Lady Donaghy on bringing forward this Bill and I wish it every success.

12.05 pm

Baroness Vere of Norbiton (Con): My Lords, I too thank the noble Baroness, Lady Donaghy, for introducing this Bill and all noble Lords for their contributions today. We must also thank Chris Bryant, and the tens of thousands who took part in his poll, for getting the Bill to where it is today. I hope that we can give it a fair wind through your Lordships' House as it heads towards the statute book.

In the past few months, we have marked a year since the tragic fire at Grenfell Tower and the terrorist attacks in Manchester and London, including the murder of Police Constable Keith Palmer outside this very building. These events are a sobering reminder of how much our emergency workers do to protect us.

[Baroness Vere of Norbiton]

However, their bravery and commitment is not demonstrated solely by such major incidents; each and every day emergency workers across the country show remarkable courage simply by carrying out their work, examples of which were set out very vividly by the noble Lords, Lord Harris and Lord Paddick. The noble Lord, Lord Bach, asked us to imagine a day without them. Indeed, just imagine.

I thank my noble friend Lord Wasserman for pointing me towards #ProtectTheProtector, which highlights just some of the cases of violence towards emergency workers—assaults that happen every day. Whether it is paramedics saving lives in A&E, police officers working to keep us safe, members of the fire service fighting some of the most daunting public disasters, or prison officers working out of sight of the public eye with some of society's most dangerous and troubled individuals, all our emergency workers deserve to have their significant contribution to public life recognised.

Although the very nature of the work done by our emergency staff frequently puts them in potentially dangerous situations, we should be clear that an attack on these workers while they are carrying out their critical work is a particularly heinous crime. We need to ensure that our laws and the penalties for breaking them adequately reflect this, and that is why the Government are supporting the Bill today.

For some time now, the Home Office and the Ministry of Justice have been working together to gather evidence about what is happening on the ground, looking at what more we can do to protect emergency workers. Most noble Lords have quoted statistics from a range of sources, so I shall not repeat them, but none of them should make us as a nation feel proud. Indeed, it is a terrible reflection on our society, as noted by my noble friend Lord Wasserman.

The noble Baroness, Lady Donaghy, and the noble Lords, Lord Bach and Lord Kennedy, mentioned that there might be a problem with under-reporting. We hope that by providing the targeted offence in this Bill, victims will be encouraged to report assaults. The Bill will, subject to your Lordships' agreement, have a real impact in responding to these attacks. We estimate that there will be approximately 15,000 prosecutions of the new offence per year. I should make it clear to noble Lords that these may not be new offences but offences that would otherwise have been tried under other existing laws. The Government could not be clearer: the prevalence of these assaults will not be tolerated. As the noble Baroness, Lady Jolly, mentioned, emergency workers should have the right to carry out their work without fear of assault. Those who are violent towards our emergency workers must be prosecuted and must receive an appropriate penalty. That is what this Bill seeks to do.

The Bill represents a truly cross-party effort. There have been several significant changes since its introduction last summer, and these have been the result of a great deal of collaboration between the Government and the honourable Member for Rhondda. It is testament to this non-partisan approach that the changes that have been made further strengthen the Bill. It has been my pleasure to meet many noble Lords ahead of today's debate, and I know that there is a desire to make rapid progress on this Bill. As I said, the Bill has evolved following extensive cross-party collaboration in the other place. I would therefore urge noble Lords to support the Bill as its stands so that our emergency workers can get the additional protections they are very clearly asking for.

I turn now to the Bill itself. The first clause creates a new form of assault where it is carried out against an emergency worker in the exercise of their functions. An offence committed in these circumstances will have, on indictment, a maximum penalty of 12 months' imprisonment, which is double the current maximum penalty for common assault. The Government believe that this increased penalty will allow the courts to sentence in a way that better reflects the circumstances of the assault and the victim.

There has been some discussion of spitting. I can confirm that spitting is indeed an assault and can be prosecuted as such.

The noble Lord, Lord Kennedy, raised concerns that sentences handed down by the magistrates' court may not in some circumstances be appropriate given current custom and practice. I would be very happy to meet him and the Police Federation to discuss what steps we can take to ensure that certain more serious offences are dealt with appropriately.

Some argue that this increased penalty of 12 months is still not sufficient. However, I must stress that the incidents we are talking about are those that would otherwise be charged as common assault. These are assaults which may not involve any injury and can amount to a push or a fear of injury. The maximum penalty must be proportionate to the nature of the assault. If the assault is more serious, it should properly be charged as either actual bodily harm or grievous bodily harm. These offences already have a maximum five-year penalty.

The second clause sets out the aggravating factor. For these more serious offences, which include actual bodily harm, grievous bodily harm, manslaughter and sexual assault, the Bill places a duty on the court to consider such an assault when committed against an emergency worker in the exercise of their functions as an aggravating factor in sentencing. This builds on the requirement in the sentencing guidelines and ensures that, for example, an assault causing actual bodily harm may be considered as more serious when committed against an emergency worker, and may therefore merit a more significant penalty. This provides a clear and unequivocal direction to the court to treat these offences more seriously. I should note, however, that the sentencing guidelines already enable judges to impose more significant sentences for those attacking public sector workers.

Clause 3 provides a definition of an emergency worker for the purposes of the Bill. I am pleased to be able to reassure the noble Baroness, Lady Jolly, that this definition makes no distinction between those who are paid and those who are unpaid. For example, volunteers such as St John Ambulance medics working to support the provision of NHS services are essentially acting as emergency workers and would be covered by the Bill, and volunteers for the RNLI or Mountain Rescue would be covered under the search-and-rescue

category. I reassure the noble Lord, Lord Browne, that the coastguard is also covered. In arriving at this definition, considerable thought has been given to ensuring that the Bill focuses on those workers who are at the front line of emergency response and whose day-to-day work routinely puts them in danger as they deal with challenging circumstances and with challenging people. I believe that the definition of emergency worker in the Bill as it currently stands is as it should be. It makes no distinction between being on duty and being off duty, as was pointed out by the noble Lord, Lord Kennedy: a firefighter who is off duty but finds himself or herself having to deal with a fire would indeed be covered.

What the Bill is not about is assaults against these workers in any circumstances—in other words, when a worker is not acting in the exercise of their functions as such a worker—however regrettable and reprehensible such attacks may be. These offences will continue to be dealt with under the law for assault as it currently stands, as for any other member of the law-abiding public.

I turn now to the specific points raised by noble Lords. The noble Baroness, Lady Donaghy, and the noble Lord, Lord Kennedy, mentioned the provisions to increase the maximum penalties handed down in magistrates' courts. I am sure noble Lords will agree that that is a complex issue and goes far beyond the potential new offences being discussed today. I assure noble Lords that the Government keep this issue under review, but we currently have no plans to commence the provisions in the Criminal Justice Act 2003.

The noble and learned Lord, Lord Brown of Eaton-under-Heywood, raised the important issue of prison overcrowding. It was my pleasure to respond for the Government to the debate on prison overcrowding, and the Government of course take this point on board. We must consider carefully the maximum penalties for various offences. However, that cannot mean stopping all penalty increases immediately, and I hope the noble and learned Lord will agree that in this case it is justified. On the other hand, the Government are looking across the piece at ways to reduce short-term prison sentences and increase judicial confidence in community sentences, with or without treatment orders. Custodial sentences should be a last resort. I reassure my noble friend Lord Wasserman that, in some cases under this Bill, community sentences will be appropriate. As was mentioned by the noble Baroness, Lady Watkins, treatment for drug addiction and mental health problems may also be necessary. I recognise also her comments about support for workers and access to mental health services. I will ensure that the Health Minister, my noble friend Lord O'Shaughnessy, is aware of her comments, and I will certainly write to her with more information.

On a final note—

Lord Browne of Ladyton: I am grateful to the Minister for allowing this intervention before she reaches her peroration. She suggested that the Government's estimate is that there will be 15,000 prosecutions under this Bill when it is enforced as an Act. Frankly, that flies in the face of the Scottish experience, where the figure is more than 80% less than that. I do not expect the Minister to share all the detail of this but will she undertake to publish the methodology by which this estimate has been reached so that it can be tested? How much of it will be displacement of what would otherwise have been prosecuted? That would give us some opportunity to estimate the worth of this approach.

Baroness Vere of Norbiton: I thank the noble Lord for his comment and I will certainly do what I can to unpick the figure of 15,000. My understanding is that much of it will be the displacement of existing assault offences under Section 39 of the Criminal Justice Act and assault on a police constable offences under Section 89 of the Police Act 1996.

On a final note, I would like to discuss one particular group of emergency workers who are included in this Bill: prison officers. In doing so, I would like to share my experience. Several months ago, I visited Her Majesty's Prison Brixton. I was very well looked after by a prison officer called John Melhuish. He showed me round the wing, introduced me to a group of prisoners who I chatted with, and generally made me feel very welcome and made sure that my visit went smoothly. I wrote to thank him for the visit and for the work that he does every day. Mr Melhuish wrote back to say thank you for the thank you, because prison officers do not get very many. It is therefore my great pleasure to say a public thank you to all of them today.

Prison officers are the unsung heroes of emergency workers. They operate out of sight but they should never be out of mind. They respond to some of life's most serious crises and emergencies involving some of society's most challenging people. As the noble Baroness, Lady Watkins, explained so vividly, they do so in a very challenging environment. The courage of prison officers in these situations is remarkable. As the noble Lord, Lord Browne, pointed out is true for emergency workers in general, prison officers cannot simply remove themselves from the scene. I would like to recognise this today and to state once again that we welcome the Bill on behalf of all the emergency services, including on behalf of prison officers. I again thank all those who have brought the Bill thus far. I commend the many staff associations that have been working hard to push these issues to the fore—the Police Federation, the Prison Officers' Association and many others.

I cannot agree with my noble friend Lord Wasserman that this Bill is derisory. It is reasonable and proportionate. The protection of our emergency workers affects us all. This sentiment has been reflected in the strength of the cross-party support and collaboration that has gone into the drafting of the Bill. It is this cross-party energy that has resulted in the Bill as it stands. As the noble Baroness, Lady Jolly, said, it is almost perfectly formed.

I urge Members of your Lordships' House to support the Bill in its current form so that we can swiftly deliver the legal changes that our front-line emergency workers deserve.

Lord Kennedy of Southwark: My Lords, when the Minister addressed the comments of my noble friend Lord Browne on covering RNLI workers on the coast, she assumed that that would cover such workers in Scotland. Clause 4(1) of the Bill states:

"This Act extends to England and Wales only".

Perhaps the Minister will write to me and clarify that.

Baroness Vere of Norbiton: I will write to the noble Lord and clarify my comments.

12.20 pm

Baroness Donaghy: My Lords, I thank all noble Lords who have taken part in this debate and take the opportunity to thank all our emergency services for the work that they do.

It is clear from the wide-ranging discussions that we could have separate debates in this Chamber on issues such as employers' duties of care, prevention and support, sentencing policy, prison population and alternatives to prison, the effectiveness of our legislation, where most of it lies on the table not enacted, mental health services and the state of our society in tolerating violence. However, the Bill is about a small, focused and specific part of the subject and it is a Bill as opposed to a general debate. I therefore deliberately focused on the issues in the Bill.

I am grateful to the Minister for her responses, including clarifying the issues raised by the noble Baroness, Lady Jolly, about volunteers. I understand and agree with some of the reservations expressed about whether the Bill is symbolic rather than making a difference; whether it will reinforce impunity; and whether in the scheme of all the other problems about prison sentencing it will make a difference. I understand those reservations.

However, sometimes the moment has to be grasped—not only in responding to public opinion but to the impetus in this House and the other House that we will not accept any more violence against emergency workers—and that time has come.

It is a responsibility of government to pursue a multitrack approach on all of the issues raised in the debate. The Bill is not an attempt to make that multitrack approach, nor is it its responsibility to do so, and I hope noble Lords will respect its limitations. I hope it is much more than symbolic and I ask the House to give the Bill a Second Reading.

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

Parental Bereavement (Leave and Pay) Bill

Second Reading

12.24 pm

Moved by ***Lord Knight of Weymouth***

That the Bill be now read a second time.

Lord Knight of Weymouth (Lab): My Lords, I thank Kevin Hollinrake MP for steering the Bill through its various stages in the other place. It is a good Bill, which addresses the significant hole in our legislation that means there is currently no specific legal entitlement to time off in the event that a person loses a child.

When I was no more than 12 years old, I was sat down on the sofa at home by my mum and dad. My mum held my hand and told me that Louise, a friend younger than me, had died. She and her brother Martin were away on a trip and the three girls had slept in a separate room at the end of the dorm. They had shared a room with a faulty boiler and all three died overnight of carbon monoxide poisoning. I spent part of the following summer on holiday with Martin and his mum and dad, Anne and Mike, on a caravan holiday. We had fun but I also witnessed first-hand the acute effects of the tragic loss of a child on parents. I also saw the burden they bore in supporting Martin through his grief. Through this Bill we have an opportunity to put a measure in place that will ease that suffering in the event a parent suffers the loss of a child in the future.

It is evident that most employers already go beyond what the Bill seeks to achieve—why would they not? How effective will a member of staff be when going through the turmoil of such a loss? Most friends and colleagues I have spoken to about today are shocked that a legal entitlement does not already exist to underpin what those good employers already do.

I have been campaigning on this issue for the past seven years. One Friday afternoon I was on set for the "as live" recording of the regional segment of the "Sunday Politics" programme. I was in the BBC Southampton studio and discussing the political stories of the week with a local MP. As always, there was a non-political guest; in this case her name was Lucy Herd. She sat on the sofa under the bright, hot lights and told her story. She was nervous and vulnerable but spoke clearly and strongly. She had just moved down south from living in the north-west. The previous August she had been at home in Cumbria, distracted and busy with her household chores; her two-year old, Jack, was playing around her feet, and the back door was open to let in some air. Moments later she looked up from the washing up through the kitchen window and saw Jack face down in the garden pond. She dropped everything and ran out but, despite all her efforts and those of the emergency services, Jack died. Lucy's husband was away working in Australia and she had to cope for the first day or so without him and with the support of her parents. Her husband hurried back but his employer gave him only three days' bereavement leave, including time for his son's funeral. Lucy's story demonstrated the lack of any entitlement to bereavement leave for parents in these unimaginable circumstances.

Like the majority of parents in such circumstances, by the time I met Lucy she was no longer with her husband. I kept in touch with her and her campaign, Jack's Rainbow. She petitioned Parliament and worked with my friend Tom Harris, then the MP for Glasgow Cathcart, on a 10-minute rule Bill. She captured many stories of parents being even more harshly treated by employers. I was particularly shocked that many were NHS workers. I could assume only that some managers were under such pressure to hit targets that they had lost touch with their own humanity.

It was clear that something had to be done, so when the Children and Families Bill went through Parliament in 2014, Lucy and I spotted an opportunity. I was able to tell then of examples of company policies specifying only two days' leave; of another with a similar policy that ended in the father committing suicide; and of the high number of marriages that end following a child bereavement. On that occasion we were not able to

persuade the coalition Government to allow a legal entitlement. However, we did manage to persuade the noble Viscount, Lord Younger of Leckie, to agree that ACAS would issue guidance to employers on the issue. I knew that this was progress, but I also knew that ultimately we would have to return to the issue. I was therefore delighted when Will Quince took up the issue in the last Session through a Private Member's Bill. This raised its profile in the Commons and resulted in a Conservative Party manifesto commitment, with Kevin Hollinrake MP now taking the Bill through Parliament with government support.

The Bill will introduce a baseline minimum for all employees who are parents and lose a child below the age of 18. The provision will allow for two weeks' leave for all employees who lose a child below the age of 18 or have a stillborn child. The latter provision is thanks to Will Quince's amendment in the other place, which improved the Bill significantly. This leave will be a day one entitlement, available to all employees irrespective of their length of service with their current employer. Those exercising the right to leave will have a legal protection against being subjected to any detriment for doing so, consistent with other family-related leave entitlements, such as paternity, maternity and adoption leave. It is worth your Lordships noting that the Bill is constructed to be in harmony with these other related entitlements, which is why it may appear overly complex in its construction at times.

Time off, however, is not enough if lack of money forces you back to work. Under the Bill, bereaved parents will be entitled to two weeks' parental bereavement pay provided that they meet the normal eligibility criteria, such as having 26 weeks of continuous service with the same employer the week before the date of the child's death and meeting an average earnings test. The Bill allows the rate of pay to be set in regulations so that it can be uprated regularly in the normal way. I understand it is the Government's intention that parental bereavement pay be paid at the statutory flat rate, which is currently £145.18 per week, or at 90% of the employee's average weekly earnings where that is lower. Again, this is consistent with other family-related statutory pay entitlements, such as paternity pay, shared parental pay and adoption and maternity pay after the first six weeks. Consistency with similar entitlements is important from the perspective of familiarity and understanding for both parents and employers—which I know Kevin Hollinrake MP was keen to achieve—and lowers the risk of having to make a claim for these rights in a tribunal.

Obviously, this is just a high-level overview of the Bill, which is to some extent an enabling framework. Some of the details of how the provision will work will be set out in secondary legislation. Your Lordships will no doubt have noticed that there are a number of delegated powers in the Bill. Noble Lords are often rightly concerned that we should be clear about the need for delegated powers and how they will be used. I am therefore delighted that the Delegated Powers and Regulatory Reform Committee's report simply said:

"There is nothing in this Bill which we would wish to draw to the attention of the House".

I take great comfort from this and hope that noble Lords do also.

As to how the powers will be used, I welcome the Government's recent consultation on several of the key questions that the Bill leaves to be settled in regulations: the definition of "the bereaved parent"; how to take the leave; the window within which to take the leave; and any notice and evidence requirements. I hope the Government may be able to respond to the consultation before the next stage of the Bill, setting out the policy direction they intend to take on these key points.

I am taking the limited attendance here on a Friday as a sign of consent with this Bill and its drafting. Plenty of your Lordships have come to me to express support from across the House, and I am grateful to the Minister and his officials for their help as it has been put together. I do not believe in perfection as a normal possibility, but I believe that the Bill is in a good place thanks to the work of those in the other place. I want the Bill to succeed, not least because I am sponsoring it in this place, but more so because we have an opportunity here today to make a real difference to the lives of those who will seek to rely on this entitlement in the future. Ever since hearing Lucy's story, I have been determined to show her that constructive engagement with politicians and the parliamentary process, although slow, can deliver. I hope that, with the support of your Lordships, we can deliver a piece of legislation that she, and other parents who have been through similar torment, can celebrate. I beg to move.

12.34 pm

Baroness Brinton (LD): My Lords, I endorse the comments made by the noble Lord, Lord Knight of Weymouth, and particularly thank Lucy Herd and the many other campaigners who have spent years trying to bring this legislation to and through Parliament. I also pay tribute in particular to Kevin Hollinrake and Will Quince for their determined work in another place. I know that many other MPs spoke during the passage of the Bill in the Commons who also outlined how important it was, many of them citing their personal experience. I also thank the National Bereavement Alliance, Together for Short Lives and Bliss for their briefings, which have been extremely helpful.

As with most people who have chosen to speak on this Bill, both here and in another place, I have personal experience of some of the issues. I had a series of miscarriages when I was young; my eldest son would have been 40 this year. After one of my subsequent miscarriages, not at 24 weeks but quite late on, I can remember the doctor patting me on the leg and saying, "There, there, dear, the best thing for you is to get up and go back to work tomorrow. Get over it quickly". I watched friends cross to the other side of the street because they knew that it was yet another miscarriage. I have talked to parents who have lost their children. They find the same thing.

Child bereavement is still something that most people find very difficult to talk about. When we look at how it affects employers, it can be even worse. There can be complete ignorance about the pain that parents go through in the last few days or even months of a

[Baroness Brinton]

child's long-term illness, or with the shock of a sudden death. Employers do not know how to react, so I am delighted with the ACAS guidance and the fact that the National Bereavement Alliance worked with ACAS to make sure that guidance is there.

The problem is that not all the employers who need to know about the guidance will know about it. Nearly 20 years ago, when I was a senior manager, I was aware of another case where the two year-old child of the employee of a young manager died of leukaemia after a very short illness, by cancer standards, of two or three months. This manager's boss came to see her the next day to say, "We have given this parent too much paid time off. She's got to take unpaid time off for the funeral". The young manager concerned said, "I'm not prepared for that", ended up having a flaming row and stood their ground. The parent was allowed paid time off. It is interesting to note that neither of the two managers is still working for that employer, whereas the bereaved parent still is.

That is part of the problem: many parents cannot explain fully the experience that they have been through. I know that your Lordships' House will know that I been working with Nascot Lawn, a centre for children with multiple difficulties, many of whose parents know that they will not achieve adulthood, that has just been closed by the NHS. I will quote briefly from the blog of Nikki, the mother of Lennon, who died last summer, writing in that immediate aftermath of the death. Although it was expected, it was a shock. She said:

"Lennon's bedroom remains more or less untouched. His fishbowl bed still has pride of place in the middle of the room. The medical trolley is still brimming with dressings and medical equipment. His freshly washed clothes on the dresser waiting to be put away in the drawers. All his medical emergency plans and equipment lists still fixed to the backs of doors.

I know I need to sort through all of Lennon's belongings and clothes.

But not yet, not just yet.

Keech Hospice have been amazing. Faye has been a godsend, my fairy godmother. I went to visit the hospice to collect all of Lennon's belongings and the memory items that the nurses had made … She took me to the Job Centre for some advice on money. She felt my pain when we left. Not only are the 10 and half years I spent caring for Lennon and working tirelessly as an unqualified",

high dependency nurse,

"to keep my child alive, was not recognised in the eyes of the Department of Work and Pensions, but … there is nothing anyone can do to help us financially until I feel able to return to work".

That is why, while the period of 56 days mentioned in the Bill is great, there will be times when we should look at extending it or making that period of time more flexible. This is particularly true in cases such as those referred to by the noble Lord, Lord Knight, where there has been a sudden death, and there may be an inquest or meetings with lawyers leading up to that. I hope that it will be possible to meet the Minister, and perhaps the Minister in another place dealing with the consultation, to discuss why we need to be so rigid and whether some flexibility can be built in.

I have one more point from Nikki. She wrote:

"I applied for job seekers allowance, wanting to buy myself a little extra time to grieve before returning to some form of work. Only to be told that because I hadn't 'worked' in 10 years I was ineligible. Despite the fact that in those 10 years, I had worked harder and for many more hours than the average person. The fact that I had saved the government and the NHS hundreds of thousands of pounds by providing my son with hourly complex medical care counts for nothing ... You are told to man up—move on. Get a job. Pay the bills. Provide for your remaining family".

It is clear that the benefit and support structure is lacking, especially for parent carers. One thing I hope will come out of the Government's consultation is guidance for jobcentres and the Department for Work and Pensions on the tribulations and difficulties that many parents with child bereavement face—both those who expect a death and those who face a sudden death—because it is an experience that very few people will go through.

The National Bereavement Alliance also talks about the chance to increase up to 25 the age at which parental pay and parental leave are available. I can understand why it makes that statement, but I wonder whether there is a simpler compromise. Where a child has an education and health care plan which takes them through to 25, usually because they have a long-term disability or medical condition, we know from the system that such people are more likely than others to become bereaved parents. Perhaps we might discuss whether we could extend it for those children who already have substantial care needs and support, many of whom, as we know, will not survive much beyond their 25th year.

There is also a request that the definition of a parent be looked at. I have some sympathy with this. I was a foster carer and then became a guardian to two children whose mother died. In various forms, as a guardian I had no legal status whatever. I had status with the family courts and with the school, but there were other situations where I did not. Definitions of parents are used in other legislation that could be used here. If you are a parent or a person with those caring responsibilities, as usually defined in the family court, it seems to me that you are the person who will be dealing with the death and its aftermath. Perhaps we could look at that further.

Finally, I applaud the work that has been done with employers, but we look for a national campaign to ensure that small employers, who obviously have concerns about extra leave, understand both the rarity of these cases and the concerns of bereaved parents as they face coming back to work. The ACAS guide is a good start, and I am delighted that many bereaved parents have been working with ACAS and larger employers to get the message across.

The most important thing is that this Bill succeeds through this House and becomes legislation. I look forward to the result of the consultation and hope that the Minister feels that it will be possible to have a meeting to discuss some of these matters during the passage of the Bill.

12.43 pm

Lord Stevenson of Balmacara (Lab): My Lords, we live in an age where we tend to assume, wrongly, that medicine has all the answers and that we will no longer

be in situations where we will confront difficulties of bereavement and worse, yet, of course, every time that we think that, we are caught up by the sort of testimonies that we have heard today in this short debate and which bring it very much back into focus.

My own experience here is from my parents' generation. I am one of a family who lost the eldest child at a relatively young age, before adolescence, and what would have been my youngest sibling—a long-wished-for and wanted daughter—was stillborn. So I am aware both of the issue and of the impact it had on our family life as my brothers and I grew up. I think that I can say with some confidence that my mother never got over the two tragedies that affected her children. As the noble Baroness, Lady Brinton, made clear, the death of a child is beyond everyday life; it goes on and on and is never forgotten, and we can never underestimate its impact on those affected by it. Therefore, I support the Bill as a step forward.

This is a difficult area; it is not easy for the law to legislate in a way that will pick up all the various elements—I shall come back to some of the points made by the noble Baroness, Lady Brinton. However, we can recognise that the campaign that my noble friend Lord Knight of Weymouth and others over the last 10 or 15 years have tried to bring to Parliament is now gaining traction and has now got a way forward. Thanks to the work of Kevin Hollinrake MP, we have a real chance of getting a Bill that will give a basis and a framework by which bereavement can be dealt with in the very public space of employment in a way that will be sensitive and appropriate to the circumstances. Therefore, we support the Bill and hope very much that we can give it a fair wind and a speedy passage through your Lordships' House.

The Bill has attracted very few people here today, but like my noble friend Lord Knight I think that there is a measure of support for it. The issues have been raised, in part, over a number of years, including in the Children and Families Act, and in a number of other Bills that came from BEIS, and BIS before it, in recent years. On each occasion we have seen the issue move forward a little bit. We should also recognise campaigners such as Lucy Herd, who I was privileged to accompany when she came to see the Minister at the time of the passage of the Children and Families Act. She so very bravely, as my noble friend Lord Knight said, went through the things that happened to her in a way that was incredibly impressive. One wonders how people can dig so deep and do what they have to do in order to keep going and survive, and yet turn that tragedy—the death of a deeply loved son—into a campaign that has been really effective, keeping it in the front of people's minds and bringing it forward.

The Bill remedies a lacuna in our employment regulations. It is not a complete answer to all the problems involved, but it at least gives us a framework by which we can move forward. There is a lot of support for it; that has been demonstrated by the previous history but also by the way people have been addressing it in the other place. The important task here is to get on to the statute book as quickly as possible and then perhaps, as the noble Baroness, Lady Brinton, has said, we can begin to think about the way forward on some of the other issues. Like her, I think there are issues about who constitutes a bereaved parent. We live in a time when there are non-standard family models that are not covered by all the legislation that we are talking about and I think there is a case for looking at that, particularly the point about guardians.

Some who submitted evidence to us in the run-up to the Bill suggested that it would be useful to have a more flexible approach over timing, both in taking the leave and in how the pay is taken. Again, this may be something we can return to. I think there is a case for having a minimum of 26 weeks available for leave to be taken, because as my noble friend Lord Knight has said, that fits into the broad approach that has been taken under the Bill. However perhaps a longer period of time would better reflect the unexpected issues that may arise, including attendance at inquests or anything else that might be required.

On the definition of a child, another point raised earlier, there are very good reasons for sticking to 18 and I do not think we should depart from that at any stage. However, as the noble Baroness, Lady Brinton, and others mentioned, there are other ways in which the statute book defines those who are still in the care of some form of parental engagement. For those, the argument here is not about the absolute age but the extent to which the parents are engaged in supporting and providing for their children. If they are, then the loss by sudden death, or even a known-about death, will be just as devastating whether it is at 18, at 21 or even at 25.

My final issue is a wider one but I think it is one the Minister will be aware of. We have had discussion very recently about the difference between an employee and a worker. The Bill has to be framed around "an employee": all employees are workers but not all workers are employees. Are we going to think through the implications of the Bill, and others, in relation to the gig economy? It is not just the gig economy, but we will have to face up to this at some point. This is a good way into a number of issues raised by that and it will also have benefits for those who are not directly caught by that. As I have said, the key issue today is to get Bill as quickly as possible on to the statute book, but if the Minister is prepared to meet me, the noble Baroness, Lady Brinton, and my noble friend Lord Knight to pick up on these and other issues that might come up in some future programme of work, that would be helpful to us all.

12.49 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, may I respond to that last point by picking up a point made by the noble Lord, Lord Stevenson? He described the Bill as addressing just a lacuna and said that it was not the complete answer. If only the Bill could be a complete answer—if only any government Bill or Private Member's Bill could ever be a complete answer to whatever issue it addressed, that would be a great thing. This, however, is a small step to respond to the campaign mentioned by the noble Baroness, Lady Brinton, and the noble Lord, Lord Knight of Weymouth, which has been running for some time, led

[LORD HENLEY]
by Lucy Herd and other campaigners and taken up by colleagues of the noble Lord, Lord Knight, in the Commons. After the election it was taken up by my honourable friend Kevin Hollinrake as a Private Member's Bill and now, having proceeded through the Commons, it has been taken up by the noble Lord, Lord Knight of Weymouth, to whom I am very grateful. For once, there is government support and I hope we can proceed to the statute book in due course to meet the manifesto commitment that we made on the Bill. I do not think it is necessary for me to repeat that.

Obviously, it is right that I and possibly other Ministers—I cannot give any guarantee on that but I offer myself—should offer ourselves up between now and Committee for meetings with the noble Lord and the noble Baroness, Lady Brinton, if she is happy to come along, so that we can discuss it. I think that would be useful. The noble Lord, Lord Stevenson, might want to come as well. We want to make sure that we pass the Bill, which deals with what the noble Baroness described as, thankfully, a rarity. We have to go back only 150 years to remember a time when more than half of all funerals were those of small children. We are beyond that, dealing with a rarity, and we want to make sure that we get this right and get something on the statute book that will be useful.

There is always an element of fragility in the parliamentary process for any Private Member's Bill. So far we have got through another place and I hope that, given the consensus we have, we will be able to get it right here and address the lacuna in existing pay and leave rights that the noble Lord, Lord Stevenson, addressed. We are dealing with something—the death of a child—that should not be treated in the same way as we manage to treat the birth of a child; instinctively, that does not seem right to me. Obviously, the loss of anyone can be very difficult to deal with. Indeed, any bereavement can affect a number of the workforce but the loss of a child before they reach adulthood can be a far greater tragedy because it is against the natural order of things.

It is right that we should all support the Bill. I do not think the noble Lords, Lord Knight and Lord Stevenson, should worry about the relative emptiness of the Benches on all sides of the House. That is the nature of a hot Friday at the end of June. But we are dealing with an important point and we will get it right, I hope, in Committee. I hope we will not need to amend the Bill but at least that will be a moment when we can respond to the consultation referred to.

May I briefly set out the Government's position on the Bill? The noble Lord, Lord Knight, set out what the Bill does: it gives employees who have lost a child below the age of 18 the right to at least two weeks away from work as a day-one right. It is the Government's intention that parental bereavement pay will be paid at the statutory rate referred to, which is currently £145.18 per week, or at 90% of the employee's average weekly earnings where that is lower, subject to the 26-week qualifying period.

I make it clear again that that is the bare minimum which an employee should expect from their employer once this provision is put in place. Appropriate advice should be offered to employers so that they can act with compassion and consideration for their staff to offer a provision over and above the statutory minimum. We want this to be a catalyst for a change in the mindset and approach to bereavement. We want people to be able to speak in the workplace about their bereavement, including in the event that they suffer the bereavement of a child, and certainly not to be fearful of suffering a detriment in respect of that bereavement.

On the detail of the provisions, we noted that the lack of detail on some key aspects of the entitlement has been pressed in another place, and rightly so. I do not think this should be a cause of concern and I hope that the following reassurances will suffice on the issue. As the noble Lord mentioned and as the House will be aware, we launched a consultation in March to consider how best to deliver the detail of the provisions through regulations. That consultation has now closed and I am pleased to be able to tell the House that it received over 1,400 responses, mainly from individuals. We also received responses from key business groups and relevant charities. Those responses have been helpful in shaping the detail of the policy and making sure that the final product works for both employers and employees. That has obviously been our ambition from the start.

The Long Title of the Bill focuses on parents only. However, since the question of who counts as a parent is a complex one to answer, the consultation welcomed views on the different groups of people who have a parental relationship with the child and thus may be included. There was a strong sense among the responses to the consultation that entitlement to parental bereavement leave and pay should not rely solely upon biological parentage but should depend on the presence of a parental relationship, whether that is biological, legal or informal. I am grateful for the nods that I see from the noble Baroness, Lady Brinton, who asked for a degree of flexibility on that. The consultation also asked about flexibility on when the leave can be taken.

As drafted, the Bill provides for parents to take a minimum of two weeks' parental bereavement leave within a period of at least 56 days. The Government sought views on the optimum length of this window in which to take the leave, as well as how the leave and pay can be taken: for example, in a single block of two weeks or in separate one-week blocks, or even more flexibly still. Responses overwhelmingly supported the extension of the window beyond 56 days to provide flexibility to bereaved parents. A majority of respondents also wanted to see flexibility in the way that leave and pay can be taken. Many favoured being able to split the leave into separate weeks. In respect of both these issues, the consultation responses have shown us that this provision must cater for the unpredictable and very personal nature of grief.

Lastly, the Government asked for views on notice and evidence requirements. We asked whether it is reasonable for there to be a requirement to give notice; if so, what form that notice might take; and whether evidence requirements for parental bereavement leave and pay should mirror those in existing provisions. The majority of responses said that the Government

should seek to make these requirements as reasonable as possible and not place undue burdens on either the employee or the employer. The department is currently working on the Government's response to the consultation and we will publish that in due course. I reassure the House that it is my hope and intention to have the response to this consultation published before Committee stage on the Bill. I think that the date we have for Committee—I am sure the noble Lord will be aware of this—is sometime before we rise for the summer. In that document, we will set out our policy in respect of the key issues raised and considered in the consultation. Expediting publication in this way will, I hope, convey our continued commitment to this Bill and our desire to see it pass into law and will assist with noble Lords' consideration of the Bill's delegated powers.

This House frequently adds much value and challenge through asking the right questions about the need for delegated powers and their intended use—I have certainly been asked about that on a number of occasions on a great many Bills—so I am pleased to echo the noble Lord, Lord Knight, in quoting the 29th report from the Delegated Powers and Regulatory Reform Committee. I really like this:

"There is nothing in this Bill which we would wish to draw to the attention of the House".

That is not something I always hear on Bills with which I am involved. I hope it is ample reassurance for the House.

In support of the Bill, once the regulations are in place we will once again work with ACAS—I think that addresses some of the points the noble Baroness, Lady Brinton, made—to update its guidance to reflect this new provision because it is important to get to as many employers as possible to get the message over. It is almost as if the Bill would be unnecessary if employers acted in an appropriate manner. The guidance will be key for employers and employees in understanding the new provision and setting the tone for the approach to bereavement going forward, which I think we can all agree needs to change on certain issues. The approach now needs to reflect a more modern and understanding approach to bereavement and all the various issues which surround it. I thank the noble Lord, Lord Knight of Weymouth, and say that the Government fully support the Bill. I look forward to discussions and I hope that we can have them between now and Committee to make sure that we can have a productive and useful Committee stage that allows the Bill to go through in the manner that the noble Lord wishes.

1.01 pm

Lord Knight of Weymouth: My Lords, I thank noble Lords who have spoken. I am grateful for everyone's support. This has been a small but perfectly formed debate for Second Reading of the Bill. I particularly pay tribute to the noble Baroness, Lady Brinton, for sharing her story and those of other bereaved parents, such as Nikki. I have great sympathy with the points she made about the benefits system and carers, which are beyond this Bill, but the points were well made and I hope they are heard elsewhere. Like my noble friend Lord Stevenson, I think this Bill is, as I said in my opening speech, a framework to allow us to move forward. I was grateful for his comments about wanting to see it on the statute book as soon as possible. I have sympathy with the points both noble Lords made about the 58-day window, particularly in the context of inquests, a point made by the noble Baroness, Lady Brinton, and the concerns about the definition of parents. We look forward to the Government's response to the consultation so that we know how they will be treated in regulations. I am very grateful for the direction of travel indicated in the Minister's speech. I am grateful to him for his agreement to have a meeting with us to find a constructive and speedy way forward. I was particularly drawn to his sense of the imbalance in our treatment of the birth and the death of children. This measure can catalyse, to some extent, a much more healthy conversation at work about bereavement as part of moves as a society and a culture towards being more open about discussing bereavement issues.

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

House adjourned at 1.04 pm.