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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
Lab Co-op	Labour and Co-operative Party
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

Tuesday 5 November 2019

2.30 pm

Prayers—read by the Lord Bishop of Peterborough.

Introduction: Lord Choudrey

2.38 pm

Zameer Mohammed Choudrey, CBE, having been created Baron Choudrey, of Hampstead in the London Borough of Barnet, was introduced and took the oath, supported by Baroness Evans of Bowes Park and Lord Marland, and signed an undertaking to abide by the Code of Conduct.

Introduction: Baroness Ritchie of Downpatrick

2.44 pm

Margaret Mary Ritchie, having been created Baroness Ritchie of Downpatrick, of Downpatrick in the County of Down, was introduced and made the solemn affirmation, supported by Baroness Smith of Basildon and Lord Murphy of Torfaen, and signed an undertaking to abide by the Code of Conduct.

Message from the Queen

2.48 pm

The Lord Chamberlain (Earl Peel): My Lords, I have the honour to present to your Lordships a message from Her Majesty the Queen, signed by her own hand. The message is as follows:

“I have received with great satisfaction the dutiful and loyal expression of your thanks for the Speech with which I opened the present Session of Parliament”.

Health and Social Care: Malnutrition Question

2.49 pm

Asked by Lord Aberdare

To ask Her Majesty's Government what assessment they have made of the prevalence and impact of malnutrition among people in health and social care settings; and what steps they are taking to prevent it.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, malnutrition is a common clinical health problem affecting all ages and all health and care settings. The Government are committed to better screening for malnutrition and improved food standards in hospitals. Hospitals and care homes must screen people for malnutrition on admission and meet high standards of nutrition care. We have announced a root and branch review of hospital food to ensure that patients receive the right nutrition and hydration.

Lord Aberdare (CB): My Lords, I thank the noble Baroness for that response. Even here in the UK, malnutrition is shockingly underrecognised and undertreated. Some 3 million people live with malnutrition, including one in 10 older people. One in six patients admitted to hospital, and about 40% of those entering care homes, are malnourished or at risk. Disease-related malnutrition is estimated to cost over £20 billion a year. What steps will the Government take to improve identification and treatment of malnutrition, not just by promoting screening in care homes and GP surgeries, which I very much welcome, but also by improving the training of GPs and other health professionals on this issue?

Baroness Blackwood of North Oxford: The noble Lord is absolutely right that this is an issue which is on the rise. The causes are complex and can be clinical, social or economic, but we are committed to improving this situation. That is why we have brought in the hospital food review, to ensure the safety of the food available for patients, visitors and staff, but also to look at how we can provide the highest level of care possible for patients, which includes the quality and nutritional value of the food served to them. The review will also look at the best possible methods of screening and training staff.

Baroness Thornton (Lab): My Lords, in a rich country such as ours, it is shameful that anyone does not have enough to eat. Yet over £3 billion is spent on managing malnutrition and its effects. NHS trusts already have a duty to ensure that they meet patients' nutritional and hydration needs. However, the Campaign for Better Hospital Food has said that, despite the introduction of food standards, at least half of all hospitals are not complying and the current Government are failing to encourage progress. Labour has committed to mandatory nutritional standards being regulated. I invite the Minister to join us in supporting this sensible policy.

Baroness Blackwood of North Oxford: The noble Baroness is absolutely right that it is critical that people have good and healthy food in hospitals. That is exactly why there are very strict food standards in hospitals and health and care settings which are already enforced by the CQC. It is also why we appointed the former head of the Hospital Caterers Association, Philip Shelley, to look at what more could be done to improve the situation with the hospital foods review, to look at the safety of food available to patients, visitors and staff, improve nutrition and make available healthier choices, and ensure that we can improve the expertise of caterers, suppliers, staff and those who work in hospitals, to ensure that we raise standards and reduce the incidence of malnutrition across the system.

Baroness Janke (LD): My Lords, in the light of the very real pressures on care services in communities, could the Minister say what steps the Government are taking to ensure that the elderly and vulnerable living in their own homes are not suffering from malnutrition due to poverty and neglect?

Baroness Blackwood of North Oxford: The noble Baroness is right to raise the important issue of malnutrition in the community. We have put together

a malnutrition task force, which has published a series of guides of expert advice on prevention and early identification of malnutrition in later life. These guides draw together principles of good practice and offer a framework for making sure that the situation which the noble Baroness has identified does not arise. We have also published a guide for care homes on integrating good nutrition into daily practice. This includes screening, initiating nutritional care plans and considering fortifying food and using oral nutritional supplements when appropriate.

Baroness Masham of Ilton (CB): My Lords, does the Minister realise that there is a huge problem of pressure ulcers due to bad nutrition? It costs the country millions, if not billions, of pounds. Could she do something about this? It is very difficult to encourage people who do not want to eat to do so.

Baroness Blackwood of North Oxford: The noble Baroness is absolutely right to identify some of the very significant health consequences of malnutrition. This is one of the reasons why it has been taken on board as a top priority by not only NHS England but the care system from top to bottom. The start is to have the right screening and to gather the right data so that we can identify where this needs to be improved. She is right that it needs to be integrated into nursing practice so that we not only prevent malnutrition in the first place but, where it does occur, provide the right support to put it right and the right care where there are health consequences for individuals due to clinical, social or economic problems.

Lord Hunt of Kings Heath (Lab): My Lords, I must confess to the House that I am president of the Hospital Caterers Association. Would the noble Baroness agree that there is no shortage of good advice on dealing with malnutrition and good food in the health service; nor is there a shortage of good catering professionals? The issue is trust boards that will not invest sufficiently in this area. Will she start to instruct the NHS to get serious about this if we are going to deal with this big problem?

Baroness Blackwood of North Oxford: The noble Lord is quite right that this is about leadership not only at board level but from the very top. It has been instructive that not only the Secretary of State but the chief executive of NHS England, Simon Stevens, have made it one of their priorities to ensure that the quality of food and food safety standards throughout the hospital and care systems should be improved. This is one of the key ways that we will drive out malnutrition from our health and care sector.

Baroness Browning (Con): Could my noble friend please take a look at the frail elderly living alone at home who are not necessarily regularly seen by doctors because they do not present with symptoms? Very often, the older people get the more difficult it is, as the body starts to age, for them to absorb nutrients, even when they are eating a mixed diet. Could she take a look at that particular group, in the way that we look at people who have regular check-ups with a GP for heart problems and diabetes, to ensure that they are

not just deteriorating? It is not until they deteriorate to the point where they become ill and symptomatic that people start to notice that there is a problem.

Baroness Blackwood of North Oxford: My noble friend is absolutely right. Evidence is on the rise that malnutrition is worse among older age groups and is both a cause and consequence of ill health. We must make sure that we are identifying and intervening as early as possible to make sure we are not leading to some of the challenges raised by the noble Baroness. That is why the malnutrition universal screening tool has been developed by the Malnutrition Advisory Group to assist those in nursing and in general practice to intervene as early as possible to prevent some of the challenges that she has identified.

Housebuilding: Accidents in the Home

Question

2.57 pm

Asked by **Lord Jordan**

To ask Her Majesty's Government what guidance they have given to the housebuilding sector in order to reduce the number of accidents within the home.

Lord Jordan (Lab): In begging leave to ask the Question standing in my name on the Order Paper, I declare an interest as vice-president of RoSPA.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government (Viscount Younger of Leckie) (Con): My Lords, the Government are committed to ensuring that all homes are safe and that people feel safe in their homes. We have banned combustible cladding on tall residential buildings and are embarking on a process to systematically review the approved documents to the building regulations on a range of safety measures in response to Dame Judith Hackitt's review. Moreover, we introduced building safety legislation in the Queen's Speech to provide a tougher new regulatory framework.

Lord Jordan: I thank the Minister for his reply. Some 11.5 million adults over 65 live in the UK. The NHS says that around one in three will have at least one fall every year, and about half of those will have more frequent falls. Falls continue to be a leading cause of accident-related A&E attendances and overnight hospital admissions. With their goal to build 300,000 houses a year, will the Government advise and encourage house builders to adopt the recommendations of RoSPA's proposed safer by design framework? This embraces not only elements from the British Standard 5395 code of practice for the design of stairs and steps but other significant fall prevention measures that cost so little to implement at the design stage.

Viscount Younger of Leckie: We welcome the work of RoSPA and take note of its design standard, *Safer by Design: A Framework to Reduce Serious Accidental Injury in New-Build Homes*, which I have here and have read. We are developing a programme to review the building regulations guidance and will carefully consider any relevant recommendations from RoSPA.

However, the noble Lord makes a more important point: the figures are pretty awful. We have a figure of 255,000 fall-related emergency hospital admissions per year for older people, and the annual cost to the UK of hip fractures is estimated to be around £2 billion, so this is an important matter.

Baroness Thomas of Winchester (LD): My Lords, accidents in the home are bound to increase with the rapidly ageing population. Does the Minister agree that if homes today are not built to accessible and adaptable standards, it could be very difficult even to fit grab rails in the bathroom, for example?

Viscount Younger of Leckie: The noble Baroness is right. That is why we are reviewing all the schedules, particularly in her case Part M of Schedule 1 to the *Building Regulations 2010*, which sets requirements for access and use of old buildings. We are looking very carefully at this, because it is extremely important, when people move into their homes and then become disabled, that there is that adaptability.

Baroness Campbell of Surbiton (CB): My Lords, is the Minister aware that removing some of the biggest hazards in the home would save the NHS almost £335 million per year, according to research done by the Building Research Establishment? This could be achieved if the Government incentivised the building sector to build category 2 homes to accessible and adaptable standards. What are the Government doing to ensure that this is achieved sooner rather than later, to ease the burden on the NHS and allow disabled people to live independently in the community?

Viscount Younger of Leckie: We are looking closely at category 2, to see whether we can raise the minimum standards from category 1 to category 2. Also, the national planning policy, which we have updated, sets out that local authority plans should meet the current and future housing needs of a wide range of people, including older and disabled people.

Baroness Rawlings (Con): My Lords, the Minister is absolutely right: safety is of paramount importance. Can he explain why plug sockets, which are not allowed in bathrooms because of the humidity, are allowed in kitchens?

Viscount Younger of Leckie: My wife would say that I am no electrician. However—and perhaps I can see whether the noble Lord, Lord Jordan, is nodding or shaking his head—my understanding is that in bathrooms you have a greater build-up of condensation, and a greater likelihood of water splash or even flooding. Therefore, it is essential that you do not have plugs in bathrooms, whereas in kitchens, you do not have quite the same hazards.

Lord Tomlinson (Lab): My Lords, what apology can the Minister make on behalf of Her Majesty's Government for the promise that was made to build 200,000 low-cost homes for sale, a promise that was echoed in David Cameron's manifesto? Is it not a fact that as of today, not one of those 200,000 homes has been built? Can he tell us how much of the £200 million

that was set aside has been spent? I can help him by suggesting that it is £187 million for not building a single home. Can he tell us when they are going to honour their promises?

Viscount Younger of Leckie: As the noble Lord will know, we are already building a lot of homes. This has emerged from an NAO report, and it will be for the Public Accounts Committee to take evidence on that report in the normal way. The Government are delivering on a package of interventions to support people to achieve their aspirations and own a home of their own. Since 2010, over half a million households have been helped into home ownership through government schemes. This includes more than 220,000 households benefiting from Help to Buy equity loans and our £9 million investment in the affordable homes programme.

Digital Competition Question

3.05 pm

Asked by *Lord Clement-Jones*

To ask Her Majesty's Government what assessment they have made of the recommendations of the report of the Digital Competition Expert Panel, *Unlocking Digital Competition*, published on 13 March.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, the Government welcome wholeheartedly the Digital Competition Expert Panel's report. We have accepted the panel's bold set of pro-competition recommendations to open up digital markets, including a new digital markets unit to protect consumers and competition, and to encourage innovation. We are carefully considering the panel's thoughtful report and look forward to providing a response in due course.

Lord Clement-Jones (LD): My Lords, it is clear that big tech platforms are gaining enormous market power, particularly in data and digital advertising. Is it not now vital that we recognise the importance of giving the Competition and Markets Authority the new powers that it needs to treat datasets as an asset over which there must be competition, and certain UK technology companies as strategically important when it comes to takeovers? Why have this Government not already set up the digital markets unit urgently, as Furman recommended, to do the necessary assessments?

Baroness Bloomfield of Hinton Waldrist: Until we decide where we are going to base the digital markets unit, we need to look at its functions in the round. The report of the noble Lord, Lord Tyrie, as well as the digital markets panel, will feed into the process that we are looking at. The noble Lord is quite right to raise datasets as a concern. The ownership of such things is a formidable barrier to entry, so loosening an incumbent's grip on data and forcing companies to hand over personal data to competitors, at the request of a consumer, would indeed boost competition and consumer choice.

Lord Stevenson of Balmacara (Lab): I welcome the noble Baroness to her first Question Time and congratulate her on her smooth answers so far. The report to which she refers points out the advantages of a digital markets unit. But it also points out the difficulties in the overlap of responsibilities between it, the CMA and Ofcom, as well as the possibility of links across to the Information Commissioner's Office. This is a sort of spaghetti of different titles and groups. Has she any answer to how that will pan out?

Baroness Bloomfield of Hinton Waldrist: I cannot answer on the results of our discussion at this stage because they are ongoing. There are a number of options for how the digital markets unit could be taken forward, including whether it should be in an existing institution, such as Ofcom or the CMA, or located separately. We believe, however, that form and location should follow function. The follow-up work by Professor Furman, the noble Lord, Lord Tyrie, and the Government will address these issues.

Baroness Neville-Rolfe (Con): My Lords, my main concern is that, rather than being given new powers without the proper scrutiny that we all like to see, the competition authorities should exercise the powers that they already have to stop takeovers by the digital giants of plucky and talented digital innovators, working across borders where necessary—for example, in the case of the recent Fitbit move. When I was at Tesco—I declare an interest—we could barely buy a single supermarket without an investigation. Does my noble friend agree that we should now use competition law to encourage scale-up, not the takeover of our vital digital businesses?

Baroness Bloomfield of Hinton Waldrist: I understand my noble friend's concern. We should indeed be encouraging our emerging digital businesses to grow independently. But as the noble Lord, Lord Tyrie, observed in his report, the CMA has an analogue system of competition and consumer law in a digital age. The digital panel recognised that its powers needed to be adapted to cope with the complex mergers in this sector, and we welcome the CMA's review of its merger assessment guidelines for these digital markets.

Lord Fox (LD): My Lords, the report is right to highlight the importance of allowing consumers to move and control their data as key to stopping these data monopolies locking data in. But the report also points out how slow current competition practices are; we see evidence of this slowness in the response. When will the Government sort out the mess that the noble Lord, Lord Stevenson, set out over who is to be responsible for making these important things happen?

Baroness Bloomfield of Hinton Waldrist: In the normal course of events, the Government would have promised a White Paper in January and that would still be our aim. All these institutions are working together to provide an answer to those questions.

Baroness Couttie (Con): My Lords, when are the Government planning to follow up on the Green Paper published last April, *Modernising Consumer Markets*?

Baroness Bloomfield of Hinton Waldrist: The Government are committed to ensuring that markets work for all consumers. Since the Green Paper, we have consulted on enabling consumers to simply and securely share their data with third parties. We have confirmed our commitment to giving regulators the tools they need to address the harm caused by the loyalty penalty and worked with the UK Regulators Network to ensure that better support is available to vulnerable consumers, including piloting projects on data sharing and setting minimum standards for their treatment across sectors. Work has also been undertaken to follow up on the Green Paper. As I said, we would, in the normal course of events, expect to bring forward proposals for consumer reform early next year.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, has the Minister seen the reports that people who used to work for Conservative Prime Ministers and the Conservative Party have set up false sites on Facebook and other social media, under false names, and attacked the Labour Party? When will that kind of manipulation, falsehood and lying by Conservatives be stopped and outlawed?

Baroness Bloomfield of Hinton Waldrist: I do not recognise those reports; I have not read them myself. However, the Government are committed to increasing transparency in digital campaigning to maintain a fair and proportionate democratic process. To this end, the Government announced, on 5 May this year, that they will implement an imprints regime for digital election material. The defending democracy programme, which we have already set up in the Cabinet Office, also works across government departments to strengthen the integrity of our electoral system.

Lord Hunt of Kings Heath (Lab): My Lords, if the Government are so committed to transparency, why have they not released the report of the Intelligence and Security Committee looking at the potential influence of Russian interference in our electoral system?

Baroness Bloomfield of Hinton Waldrist: The noble Lord is straying slightly away from the original Question, but the Prime Minister is considering the report and will report in due course.

Health: Tick-borne Encephalitis Question

3.11 pm

Asked by **Lord Greaves**

To ask Her Majesty's Government what assessment they have made of the appearance in England of a tick-borne encephalitis virus, and what plans they have to include advice about such a virus alongside that given on the tick-borne Borreliosis bacteria and associated Lyme disease.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, the risk from tick-borne encephalitis virus is assessed as very low for the general public and low for those visiting, living and working in

areas where infected ticks have been found. Lyme disease is the most common tick-borne infection in the United Kingdom. Tick awareness campaigns are planned for early 2020, ahead of the seasonal increase in tick activity in the UK, and will include information on tick-borne encephalitis and Lyme disease.

Lord Greaves (LD): My Lords, the history of Lyme disease, a bacterial infection called Borreliosis, has been riddled over many years with mistakes of understanding, recognition, testing, diagnosis and treatment. Tick-borne encephalitis—a viral infection—has now reached the UK for the first time, having been steadily spreading westwards across Europe for several years. What are the Government doing to make sure that the mistakes that have been made—and are still being made—on Lyme disease are not made on TBE, and in particular that new instances of TBE are not mistaken for Lyme?

Baroness Blackwood of North Oxford: The noble Lord is right to raise this issue. We have been making sure that action is taken quickly. Tick bite avoidance is a key message in this area and is the same for TBEV as for Lyme disease. PHE has worked with local authorities and key stakeholders in the relevant areas, informing them about TBE and the tick toolkit documents and guidance, so that they can remind the public, their staff and visitors to be tick aware. Specific awareness campaigns will come forward in spring 2020. The material for these will include information on Lyme disease and TBE. In addition, there will be research programmes on TBE, to ensure that we in the UK are as aware as we can be about it. To be clear, there has been only one probable case of TBE infection diagnosed—a European visitor bitten by a tick in the UK. At the moment, this is a very low risk to anyone in the UK and a low risk to those in the areas.

Lord Trees (CB): My Lords, I do not want to be alarmist but the discovery of tick-borne encephalitis virus in the UK is worrying. The tick vectors of this viral infection are widespread throughout the UK and are maintained on a variety of animal hosts, including wild deer, which are now extremely common in lowland as well as upland areas. The number of clinical cases in Europe has been steadily increasing and, while it is true that something like two-thirds of cases are non-clinical, as many as up to 10% of those affected may suffer severe neurological sequelae, especially children and—noble Lords may like to know—the elderly. I ask the noble Lord: will the Government reintroduce the mandatory tick treatment of pets imported into the UK under the pet travel scheme? Is the noble Lord satisfied that we are doing all we can in the UK, in terms of research and preventive actions with regard to biosecurity, to safeguard animal and human health in this era of climate change and globalisation?

Baroness Blackwood of North Oxford: I thank the noble Lord for that question, although I generally identify as a noble Baroness. We are continuing surveillance studies for TBEV in ticks and wildlife, and we plan to monitor its prevalence, distribution, maintenance and spread in the UK to ensure oversight of the situation. We have based our understanding of the risk assessment

on recent experience in the Netherlands, where TBEV was recently identified. The estimated risk there of Lyme disease from a tick bite is 1:50, while the estimated risk of TBEV from a tick bite is 1:500,000. As regards us doing enough work, we have a national contingency plan written to deal with vector-borne diseases and understanding the effect of climate change, which gives us a sense of the challenges that we face.

Baroness McIntosh of Pickering (Con): My Lords, will my noble friend recognise the work of the national Encephalitis Society, which is based in Malton in North Yorkshire, of which I have the honour to be a vice-president? Will she update the House on what work has been undertaken to help doctors identify the difference between meningitis and encephalitis so that the swiftest possible treatment can be given? My husband was one of those who suffered encephalitis in his 20s; many are less fortunate and do not make the recovery that he made.

Baroness Blackwood of North Oxford: The noble Baroness is absolutely right, and I am happy to recognise the organisation that she mentioned. In the first place, the tick toolkit and the work of PHE is in place to raise awareness, and work goes into providing advice to professionals so that early diagnosis is possible.

Lord Winston (Lab): My Lords, one of the problems with Lyme disease is that the symptoms that it causes mimic a whole range of different viral infections, many of which are much more common. Does the Minister feel that the Government are doing enough to raise awareness of Lyme disease among general practitioners, and is she satisfied that the screening tests—I think that they cost around £60 a time—are sufficient?

Baroness Blackwood of North Oxford: The noble Lord is quite right, and he understands this a lot better than I do. NICE published guidelines for health professionals in 2018 in an effort to ensure prompt diagnosis of Lyme disease. Obviously if it is recognised promptly and treated with antibiotics, acute Lyme disease is usually resolved without further complications. I will take away the question about the cost of the test to consider whether that has been a barrier; we have no evidence about that at this time.

Baroness Jolly (LD): My Lords, raising awareness is critical, and many are completely unaware of the risk when they go out for a walk. What actions will the Government take to ensure that organisations such as national parks, national forests and the National Trust have a part to play?

Baroness Blackwood of North Oxford: We will run tick awareness campaigns in the spring. Material for these campaigns will include information about Lyme disease and TBE. They will be run in all areas identified as at risk as part of the surveillance campaign.

Baroness Masham of Ilton (CB): My Lords, how much research is the UK doing with other European countries, which may know much more about these conditions?

Baroness Blackwood of North Oxford: As part of our surveillance work and the work of PHE, there is constant contact between the UK and other public health bodies across Europe to understand not only the risks but the most effective interventions. Two specific studies are looking at evidence of past TBEV infection in people and to understand the best interventions among the general population.

Mental Disorder: Autism and Learning Disabilities

Private Notice Question

3.20 pm

Asked by Lord Touhig

To ask Her Majesty's Government, in the light of reports that people are being wrongly detained in secure hospitals units, whether they will review the Mental Health Act 1983 to amend the definition of mental disorder to exclude autism and learning disabilities.

Lord Touhig (Lab): My Lords, I beg leave to ask a Question of which I have given private notice and declare an interest as president of the National Autistic Society.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, we recognise the significance of this issue and its importance to stakeholders. The recent independent review of the Mental Health Act considered the definition of autism in the Act and recommended that the Government should keep it under review. We will respond to the review's recommendations via the forthcoming White Paper.

Lord Touhig: My Lords, since 2015, there has been a 24% increase in the number of autistic people sectioned, even if they have no mental illness, because the Mental Health Act defines autism as a mental disorder. Autism is not a mental disorder. Last weekend, the Health Secretary promised to detach autism and learning difficulties from mental health legislation. That is most welcome, as is the appointment of the noble Baroness, Lady Hollins, to chair an independent panel to oversee case reviews.

However, those reviews will be conducted over a 12-month period. I press the Minister for one more step. Will the Government set up an advice hotline for families who are in despair because they have no idea where to go for help or advice as their children—and they are children—face Christmas locked up and detained by a medieval practice that deprives them of the human rights?

Baroness Blackwood of North Oxford: I thank the noble Lord for raising this very important Question today. I should like to be clear that the Government are committed to ensuring that people with learning disabilities and autistic people have the best quality of life and live a full life in the community. A lot of the

work that has been done recently, including reviewing and replacing the autism strategy and doing case reviews of every individual who has a learning disability or autism and is in in-patient care, is designed to ensure that we deliver that. I shall take back to the department the noble Lord's specific point about a hotline for families and ask what can be done.

Baroness Thornton (Lab): My Lords, as my noble friend has rightly highlighted, neither autism nor learning difficulties are mental health conditions. These children should not be in wards which are likely to be noisy, bright and unpredictable. Noble Lords may have seen the report on Sky News about Jeremy, whose autistic daughter Bethany is being held in a mental health unit. He has been campaigning about her inhuman treatment for a long time—too long. He says of the proposed review: "There are 600 people whose care plan says that they should not be in hospital, and for half of them, their local authorities do not even know that". Those are the Government's own figures. We have had one review after another since Winterbourne View, nine years ago. I agree with Jeremy—we need action not reviews.

Worse, Matt Hancock, the Secretary of State, is apparently sitting on a report about Jeremy's daughter and said that it will be released before Parliament rises. Can the noble Baroness ensure that Bethany's report is released to her parents this afternoon and tell the House when we will see action, rather than reviews, for this vulnerable group of young people?

Baroness Blackwood of North Oxford: We absolutely agree with the noble Baroness's point. We need to ensure that everybody who can be cared for in the community is able to be cared for. That is why we have reduced the number of people in in-patient care by 22%; we have set a target to reduce that number by 50%. We are driving that forward as quickly as possible.

On the matter of the serious incident review of Bethany's case, we have received the report and are working to release it as soon as possible. NHS England is taking action to improve Bethany's situation and secure an alternative, more suitable, provider in the community as quickly as possible.

Regarding the case reviews of every individual, the Government have committed to providing each patient with a date for discharge or, where that is not appropriate, with a clear explanation of why and a plan to move them closer to being ready for discharge in the community. This significant commitment from the Government should be welcomed.

Baroness Hollins (CB): My Lords, I declare two interests. First, I had an editorial published in the *British Journal of Psychiatry* last week, proposing that learning disability and autism should be removed from the Mental Health Act. Secondly, I have just agreed to chair a panel to review the cases of people with learning disability and/or autism who are in segregated care. Does the Minister agree with the treatability criterion in the Act, particularly with respect to the question of removing learning disability and autism from it? In other words, does she agree that, in detaining

somebody in hospital under the Act, the excuse of doing so to improve—or with the intention to improve—their behaviour, even though their behaviour may be a reaction to inadequate social care, is an inadequate reason for detention under legislation?

Baroness Blackwood of North Oxford: I thank the noble Baroness for taking on the chairing of the independent panel. I cannot think of anybody better placed to do so. When it comes to her question about the detention of an individual to improve their behaviour, again, I do not think that anybody in this place or elsewhere could disagree with her. On changing the Mental Health Act, we commissioned the independent review led by Sir Simon Wessely, who is also a leader in the field. He reported in December. In its findings, the review made it clear that we need to modernise the Mental Health Act, ensure that views are respected and ensure that patients are not detained for any longer than is absolutely necessary. Sir Simon stated that there is “no clear consensus” on removing autism from the Act, and that,

“we have heard also about the many negative consequences that could arise from being outside this framework ... this should be kept under review”.

Obviously, we will not respond to that immediately. There will be a White Paper by the end of the year. We will consider this carefully and we recognise the strength of feeling on this matter.

Baroness Browning (Con): In support of what the noble Lord, Lord Touhig, and the noble Baroness said—we greatly welcome her chairmanship of the review—there is a very good reason for removing autism as a mental disorder: it is not a mental disorder. It is as simple as that, although it is true that people with autism, including children, will have comorbidities and will develop a mental health condition on top of their autism. I do not know whether the Minister understands my frustration, but I have been raising this issue in Parliament for nearly 28 years. The real problem is that we do not have sufficient psychiatrists who understand and can differentiate between autistic behaviour and what they believe to be psychotic behaviour. Once patients start the spiral of medication for psychosis, the autism disappears and the person disappears altogether.

Baroness Blackwood of North Oxford: My noble friend puts this very clearly. The Government accept completely that autism and learning disability are not mental disorders. The question is whether being excluded from the legislation would cause challenges or difficulties for those who may have autism and mental disorders. We will have to consider that carefully as we go into the process of considering a review of the Mental Health Act. As my noble friend just said, we recognise that we will have to go through a careful process. We also recognise the strong feelings—and the correct view—that autism and learning disability are not mental disorders. There is no disagreement on that point.

Lord Addington (LD): My Lords, does the noble Lord—I am sorry, does the Minister agree that we are confusing disability with illness, something which has gone on for far too long? Are we going to have a

programme to train people in recognising the different facets of the two and how they interact? The treatment of many people with autism has undergone is probably the best way to induce poor mental health in many of them. Can we please do something to stop that?

Baroness Blackwood of North Oxford: I thank the noble Lord and I recognise the challenge to my gender today. He and my noble friend are absolutely right that we must ensure that all health and social care staff have appropriate training on autism and learning disability. A number of Members of this House have campaigned long and hard to ensure that this happens. Some £1.4 million of government funding has been put in place to develop and test some new training packages and today we published the government response to the consultation on mandatory learning disability and autism training which confirms the intention to introduce mandatory training for all health and social care staff. I think that that is an excellent step forward and I am absolutely sure that this House will scrutinise it for its effectiveness. That is right, but it marks a steps forward and should be welcomed.

Tributes to Mr Keith Phipps

3.31 pm

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, before we move on to the rest of our business, I would like to take this opportunity to pay tribute to a loyal servant of the House, our Principal Doorkeeper, Mr Phipps. I know that the whole House will join me in thanking him for his 25 years of outstanding service.

A dedicated public servant, Mr Phipps left school at 18 and joined the Coldstream Guards. He served in the Army for 22 years and in December 2000 enlisted as a Yeoman of the Queen’s Bodyguard. In 1994, Mr Phipps joined the House as a Doorkeeper and was promoted to Principal Doorkeeper in 2005. As he rose in seniority, he consistently served Members of the House with his characteristic charm, good nature and unflinching politeness. He handles colleagues with the utmost courtesy, while at the same time making it clear that there is an underlying message of authority, along the lines of, “Don’t mess with me”—some might say, the original strong and stable. Over the years he has provided Members, long-standing and new, with his wise counsel, as my noble friend Lord Robathan attested in his maiden speech. During their time in the Army in Hong Kong and Northern Ireland, my noble friend found that Company Sergeant-Major Phipps was right about most matters and could be relied upon to steer his company commander in the right direction. Many noble Lords will recognise that description of Mr Phipps, who has been a source of wisdom on procedure and custom, helping to steer us all in the right direction; and of course, his commanding presence made him the ideal candidate to act as the master of ceremonies during the Queen’s Diamond Jubilee lunch, which hosted Her Majesty the Queen and 700 guests in Westminster Hall.

When I joined this House in 2014, Mr Phipps and his team made me feel very welcome. He has always been willing to help out and on several occasions has

taken pity on my poor guests, who invariably get the most uninformative tour of this place, taking over as tour guide with panache and more anecdotes than I could ever remember. His generosity and good humour are, I am sure, valued by all noble Lords.

Our remarks today come earlier than expected. Mr Phipps officially leaves on 13 December, but today is our last day with him as our Principal Doorkeeper. As the season's festivities get under way in the coming month, I am sure that the Cirencester Salvation Army will want to seize the opportunity to sign him up for a starring role as Joseph in the nativity play, a role that I understand he played successfully some years ago.

Mr Phipps, on behalf of the whole House, thank you for your incredible service to us. We wish you and Sue all the very best for the future; enjoy your well-deserved retirement.

Baroness Smith of Basildon (Lab): My Lords, this feels a bit like the end of an era, because Mr Phipps has become a bit of a legend in your Lordships' House. As we have heard, his journey from the Coldstream Guards to the longest-serving Principal Doorkeeper is one in which he can take immense pride. Much of his work will exist in fond memories—his own, ours and those of the many colleagues with whom he has served. It was also captured when he played a starring role in the 2017 “Meet the Lords” mini-series, an appearance—or should that be performance—that has earned him his own personal entry and credit on the IMDb website, which prides itself on being,

“the world's most popular and authoritative source for information on movies, TV shows, and celebrities”.

Today we say farewell to a celebrity in our midst.

I first met Mr Phipps when I was a fairly new MP in the other place and had a group of constituents visiting from the men's group at one of our local churches in Basildon. He will not remember this, but I remember it very clearly. I walked through the Peers' Lobby with some trepidation and approached the imposing-looking gentleman in a white tie. Very politely, I asked, “Would it possible for my guests to sit below the Bar to get a better view of the Lords' proceedings?” In rather imposing tones, he asked, “Are they all wearing ties?” Then, spying one member at the back of the group, he pointed and said, “He's not wearing a tie; he won't be able to get in”. Embarrassed and a little puzzled, I looked around at my guests and spotted the offender. I said, “But, Mr Phipps, he's the vicar and he's wearing a clerical collar”. He let him in. For a few years now, just to be on the safe side, one of our staff in the Labour Lords office, Rob Newbery, has kept a drawer full of ties to provide for any Peer or Peer's guest who requires one.

Noble Lords: Oh!

Baroness Smith of Basildon: We are here to serve.

In all the years he has been in your Lordships' House, we have appreciated Mr Phipps's company, efficiency and natural authority. We have always known who is really in charge. I hope he has enjoyed his time with us as much as we have. I had to smile at the comments of his late father, Ken, when he reflected in 2012:

“He enjoys his job I think—he has a little moan every now and then, but who doesn't?”.

On a more serious note, it is both an honour and a pleasure to thank him on behalf of these Benches for his dedicated and unparalleled service to your Lordships' House. There is no doubt that he has made his mark in the most positive way, for which we are extremely grateful.

Keith, we are going to miss you. We wish you and Sue, your wife, a very long and happy retirement. There is only one thing left to say: thank you and goodbye, Mr Phipps.

Lord Newby (LD): My Lords, I have seen Mr Phipps in two guises: as a doorkeeper here in your Lordships' House and as a member of the Queen's Bodyguard when I was captain of that august body. His attitude in both environments was that of an experienced NCO having to deal with a blundering second lieutenant who did not even know how to salute properly. He knew how it was done. I certainly did not, and I am sure that new Members of your Lordships' House have felt similarly at sea when they first tried to work out how we do things here. But he has done that with everybody with an avuncular friendliness and firmness that has been extremely impressive.

At a time when the atmosphere in Parliament has sometimes been extremely fractious, he has helped to ensure that the ethos of your Lordships' House reflects the tolerance and civility that, I am sure, we all believe should characterise the operations of a Parliament. We will miss him and the qualities he has brought to his roles, and I am sure we will all do our best to uphold the values he has brought to his work and our proceedings. We wish him and his wife a long and enjoyable retirement.

Lord Judge (CB): My Lords, on behalf of the Cross-Benchers, I enthusiastically support what has already been said. But the three words I want to use have not been used: “Salubritas Et Industria”. For the benefit of the Cross-Benchers, that is Latin. It is the motto of Swindon Town Football Club. I say this with feeling, because the most important game in Swindon Town's football history was a 4-3 win in a playoff for promotion to the Premier League in 1993. It was one of the greatest games ever played at Wembley. Swindon scored three goals by half-time; they were home and dry. The opposition scored three goals, so it was 3-3. Then the ref gave a penalty to Swindon Town. The opposition team was Leicester City—my team since I was a boy. I have always had my doubts about that penalty, but for today I will say, as Mr Ranieri once said, “If the ref says is a penalty, is a penalty”. The result was that Swindon went up to the Premier League, and within a very few months, on the wings of that great triumph, Mr Phipps came here. Here he has stayed.

Industria et salubritas. Looking at my own translation, “industria”, as we are all well aware, means work. We have had nothing but work from him, whenever it has been needed. “Salubritas” means health; as we wish him a diminution in his work, we on the Cross Benches wish him all possible good health and a serene, peaceful retirement.

The Lord Bishop of Peterborough: My Lords, on behalf on these Benches I join in the tributes that others have paid. Each of us coming into the House has been

greeted and welcomed. We have been guided, led in right directions and stopped from going in wrong ones, always with firmness and kindness. It is that kindness for which I thank Mr Phipps as I, like others, wish him a long, happy, healthy retirement.

Lord Robathan (Con): My Lords, I am distressed today, and your Lordships should be as well, for the following reason. For some two years Keith Phipps looked after me as a company commander. He kept me out of trouble and on the straight and narrow. He supported me when he conceivably may not have agreed with everything I wanted to do—quite a lot that I wanted to do, actually—and since I have been here he has similarly kept me on the straight and narrow and out of trouble. If he is leaving, who will do that task? Your Lordships should all be worried.

He has shown as Principal Doorkeeper the values and behaviour we would wish for in such an esteemed position, exactly the same as he showed in the Army. He has supported this House as he supported the Army and has shown authority and dignity. I salute him. We have been friends, I hope, for some time. His wife Sue, I, my wife and he have dinner together from time to time. I hope as he goes, we can remain friends and shall continue to have dinner.

The Lord Speaker (Lord Fowler): My Lords, I conclude very briefly by placing on record my personal thanks to Mr Phipps for the assistance he has provided to me and my two predecessors as Lord Speaker, which has been fantastic. I know from what has been said, and from my short time in the Army, that service in the Coldstream Guards means that he is made of very tough stuff. He will have developed a resilience to many things, including serving under the noble Lord, Lord Robathan. There is an apocryphal tale about the noble Lord marching his platoon to a cliff edge. Nothing was said and they went further and further, when Mr Phipps suddenly intervened to say, “Say something, sir, if it’s only goodbye”.

Mr Phipps’s service to the House has been exemplary, very much in the highest tradition of public service. I know I speak for the whole House when I convey to him our deep gratitude and, above all, our very best wishes for the future.

Intelligence and Security Committee Report *Statement*

3.44 pm

The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon) (Con): My Lords, with the leave of the House, I shall now repeat in the form of a Statement the Answer to an Urgent Question asked in another place on the publication of the Intelligence and Security Committee’s report on Russia. The Statement is as follows:

“The ISC provides invaluable scrutiny and oversight of the work of the intelligence community to Parliament, so I am grateful to the committee for conducting this timely inquiry into our work on Russia. Russia’s reckless behaviour in Salisbury and Amesbury shows that now more than ever we cannot afford to be complacent about that Russian threat.

Because the ISC deals with matters of national security and intelligence, its reports always contain sensitive information, so it is entirely right that reports such as these go through an intensive security review before publication. This report is one of a number of ISC reports that the Government are currently considering. The current length of time that this report has been with the Government is not unusual as this has averaged around six weeks for reports published in recent years, and three to four weeks for a response to be forthcoming from the Government.

For example, the details of the CT attacks review and the 2017-18 annual report were sent together to No. 10 on 12 October 2018. We were asked to respond 10 days later on 26 October. We responded on 8 November and then the checked, proof-read report was published on 22 November 2018. Similarly, the details of the detainees report was sent to No. 10 on 10 May 2018. Again, the ISC asked for a response in 10 working days on 24 May. We responded on 30 May and then the checked, proof-read report was published on 12 June 2018.

In both cases, the process took approximately six weeks because by law it is imperative that this process is thorough. In accordance with the JSA 2013, the impact of releasing sensitive information must be carefully considered by the Prime Minister on the advice of civil servants. We cannot rush this process at risk of undermining our national security.

There is no set timeline within the MoU with the committee for the Government to clear such reports for publication. Under the same memorandum, there is no set timeline for a response, nor is such a deadline set in the governing legislation. I want to assure the House that the committee is well informed of this process, which is continuing along the standard parameters that apply before every publication. Once the process has been completed, we will continue to keep all relevant parties and the House informed”.

3.47 pm

Lord Collins of Highbury (Lab): My Lords, as the noble Earl, Lord Howe, knows, the feelings of this House were made perfectly clear yesterday: this report should be laid before Parliament today. There is no doubt about that. It affects matters highly relevant to the next period of general election campaigning and it is vital that the public and this House know the contents of this report.

Perhaps I may ask the Minister a straightforward question: has the Prime Minister read the report? If the Prime Minister chooses to withhold this information from the public until after the election, when it is eventually published—which it will be—how will he tell UK voters that he was acting in their interests and not his own?

Lord Ahmad of Wimbledon: My Lords, first, as I said, the Prime Minister is acting within the orders laid down. This is not a formality. The Prime Minister’s approval for the publication is vital. As I am sure the noble Lord knows, it is a statutory requirement within the JSA 2013. A report such as this is reviewed by the relevant senior officials within government before going to the Prime Minister for final approval.

As I said in the repeat of the Urgent Question, the committee is well informed of the process. I shall not comment further on the process, apart from to say that the Prime Minister is considering the report.

Lord Beith (LD): My Lords, in 10 years on the Intelligence and Security Committee I became familiar with the extreme care that the agencies and the Cabinet Office take when seeking redaction of anything whose publication might imperil national security. Does the Prime Minister want to substitute his own inexperienced judgment at this stage for the judgment of those agencies and the Cabinet Office? Has he some other reason for delaying the report—perhaps something to do with his complicated relationship with President Trump—or does he simply not want anything that might embarrass him to be published at this stage, in which case that is not a provision that the Act makes?

Lord Ahmad of Wimbledon: I respect that the noble Lord speaks with insight and experience on this matter, but I am sure that insight and experience lends itself to the fact that the Prime Minister needs to consider the report submitted to him. As I said in response to the noble Lord, Lord Collins, this is a formality. It is enshrined in legislation and he is doing just that. Any other thing is mere speculation.

Lord Cormack (Con): My Lords, while I entirely agree that this report should be published in the public interest, and I reinforce what has been said, does my noble friend agree that it would be wrong to see the publication of the report as an act of hostility towards Russia? Many of us deeply regret the fact that the Russians were not invited to the D-day celebrations this year. They should certainly be invited to the celebrations on 7 and 8 May next year. They lost 26 million people in the Second World War. While it is important that we are correctly informed of what they are up to at the moment, we should not forget our historical debt.

Lord Ahmad of Wimbledon: I hear what my noble friend says. I am sure I speak for everyone in your Lordships' House when I say that we all should pay tribute to those who lost their lives during the Second World War, battling Nazi aggression across Europe, and to the many Russian civilians who lost their lives. I reiterate to my noble friend that our differences and disagreements with Russia are not with the Russian people. However, we have seen Russia commit aggressive actions. As I am sure my noble friend acknowledges, Russia committed an act right here on UK soil in Salisbury and should be held to account for it. We have been asking for its co-operation on this matter. On the wider issue of talking to Russia on important security issues, I, as Minister for the United Nations, reassure my noble friend that we continue to engage with Russia on important issues of global affairs in fora such as the UN Security Council.

Baroness Whitaker (Lab): My Lords, in view of the Government's answer to the questions on this subject yesterday, can the Minister give the House a categorical assurance that there is nothing in the report that embarrasses the Government in any way?

Lord Ahmad of Wimbledon: As my noble friend made clear, and as I have repeated today, this is a sensitive report. It is important that it goes through the full process. That is exactly what is taking place, in accordance with legislation. The Prime Minister will respond accordingly. I shall not add any other comment to those I have already made.

Baroness Coussins (CB): My Lords, I am sure the report may well be sensitive but, as I understand it from the exchanges in this House yesterday, all the relevant security agencies have already given their approval for publication. Why does the Prime Minister not have confidence in their judgment?

Lord Ahmad of Wimbledon: First, my right honourable friend the Prime Minister and this Government have total confidence in our agencies, which do a sterling job in keeping us safe. According to law, however, it is not for those agencies to comment. The Prime Minister provides the final approval after taking all matters into consideration. That is the process being followed.

Lord Campbell of Pittenweem (LD): My Lords, I declare an interest as a former member of the Intelligence and Security Committee. Does the Minister not understand that hiding behind the customary approach has led substantially to a belief that there is something in the report that the Government do not want published in the course of a general election? If that charge ultimately proves correct, the Government will necessarily suffer grave embarrassment for their approach to this matter.

Lord Ahmad of Wimbledon: Again, the noble Lord has great insight and I am sure he would share my view that this is not about hiding but about following due process. In the Answer to the Urgent Question that I repeated, I reiterated that this is not unusual or the only report currently being considered by No. 10 and the Prime Minister. All that is being done is that due process is being followed. The Prime Minister takes his responsibility very carefully and he will give approval for publication in due course.

Lord West of Spithead (Lab): My Lords, I declare an interest, having been the deputy chairman of the JIC for three years, director of naval intelligence for three years, chief of defence intelligence for three years and Security Minister for three years. It seems that usual procedures are for the obedience of fools. This seems a slightly different report. While I would be the first to say that we must never give away any of our country's secrets, I do not believe that in this case there is any likelihood of that. This has a nuance of something else. By holding it back, we are creating an area of uncertainty and a feeling that something is being hidden. Will the Minister go back and ask again whether the Prime Minister could read the report—I do not believe he has from what the Minister has said—and then, having read it, perhaps make a rapid decision to have it released?

Lord Ahmad of Wimbledon: The noble Lord knows that I respect his insight and experience greatly, but I reassure him that more is being said about this than is warranted by the facts. Due process for a report is being followed—this is not unusual practice. As I

indicated in the original Statement, the standard procedure is being followed, and the Prime Minister is giving the report due consideration. The noble Lord knows how much I respect his opinion. I agree with him about the importance of issues of national security. The Government take their responsibility seriously, as does the Prime Minister, and it is right that he gives this matter due consideration.

Baroness Falkner of Margravine (Non-Aff): My Lords, will the noble Lord consider this point? Even if the Prime Minister, following the Act, refuses to publish the report today, can the noble Lord assure the House that if there are sensitive matters in terms of Russian interference that require security services and other agencies of state to take necessary precautions in the six weeks leading up to the next election, they will do so, irrespective of whether the report is published?

Lord Ahmad of Wimbledon: My Lords, the noble Baroness uses the word “refuses”, but there is no refusal to publish; we are merely following due process. On her latter point, I reassure her that, as noble Lords who have served in various offices of state, particularly at the Foreign Office or the Home Office, as security Ministers or Ministers dealing with counterterrorism will know, this is not a case of waiting for the publication of a particular report. If there is a threat to the United Kingdom, we will deal with it there and then with the robustness that it deserves, with the Government working hand in glove with the security agencies.

Lord Davies of Stamford (Lab): Clearly, one of Mr Putin’s main priorities is to weaken NATO on any occasion that he can. He is clearly working very hard on Turkey at present, and some people are saying that he may well have some success in that direction. What is the Government’s strategy for dealing with this threat?

Lord Ahmad of Wimbledon: As the noble Lord rightly points out, Turkey is a member of NATO. We continue to use NATO channels and, importantly, we have been talking directly to Turkey. My right honourable friend the Prime Minister has spoken to President Erdoğan a number of times over the past few weeks, and my right honourable friend the Foreign Secretary has spoken to the Foreign Minister of Turkey on matters of bilateral importance and on the situation in Syria. We take Turkey’s membership of NATO very seriously. NATO has kept the peace across Europe since the Second World War. As the noble Lord points out, it is important that NATO’s commitment continues, and Turkey is an important part of that alliance.

Civil Partnership (Opposite-sex Couples) Regulations 2019

Motion to Approve

3.57 pm

Moved by Baroness Williams of Trafford

That the draft Regulations laid before the House on 22 October be approved.

Special attention drawn to the instrument by the Joint Committee on Statutory Instruments, 3rd Report, and by the Secondary Legislation Scrutiny Committee, 4th Report.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, this instrument was debated in the other place on 31 October. Its main purpose is to allow opposite-sex couples in England and Wales to form civil partnerships. The Government want to see more people formalise their relationship in the way that they want with the person they love. We know that there are over 3 million opposite-sex couples who cohabit but choose not to marry. These couples support 1 million children but do not have the security or legal protection that married couples or civil partners enjoy.

That is why we announced last year that we would extend civil partnerships to opposite-sex couples and why we supported the Civil Partnerships, Marriages and Deaths (Registration etc.) Act 2019, guided so ably through this House by my noble friend Lady Hodgson of Abinger. Section 2 of the Act enables the Secretary of State, by regulations, to amend the eligibility criteria for civil partnerships and to make other appropriate and consequential provision. The Act requires the regulations extending eligibility to come into force no later than 31 December 2019.

This instrument therefore amends the eligibility criteria in the Civil Partnership Act 2004 to allow opposite-sex couples to register civil partnerships under the law of England and Wales. It provides specific protections for religious organisations and persons acting on their behalf in relation to civil partnerships. Importantly, the regulations prevent religious organisations and persons acting on their behalf from being compelled to do specified acts, such as allowing religious premises to be used for civil partnerships. The instrument also ensures that, where religious organisations do choose to participate in civil partnerships, they can distinguish between opposite-sex and same-sex civil partnerships, as with marriage.

The instrument amends legislation relating to children and parenthood to provide opposite-sex parents in a civil partnership with generally the same rights as opposite-sex married parents in a number of areas. It also amends the Gender Recognition Act 2004 to allow applicants to obtain a full gender recognition certificate without the need to dissolve their civil partnership, provided that the other partner consents, as is currently the case for married couples. The instrument makes consequential and related changes to primary and secondary legislation, including to pensions entitlements and the registration of opposite-sex civil partnerships overseas by UK consular officials.

The instrument also amends the Marriage (Same-Sex Couples) Act 2013 so that, for now, only same-sex couples will be able to convert their civil partnerships to marriage pending the outcome of our consultation on conversion rights, which closed on 20 August. I know that this last change has been drawn to the attention of Members of this House by the JCSI and the Secondary Legislation Scrutiny Committee. It is also the subject of an amendment expressing regret, tabled by the noble Lord, Lord Collins of Highbury—

although I note that this is somewhat at odds with the comments of Dawn Butler, who welcomed the regulations and did not mention the JCSI's report during the debate in the other place.

We have given very careful consideration to the committee's concerns about the provision but, on this occasion, we do not agree with them. Our approach on conversion maintains a difference between opposite-sex and same-sex couples in terms of their ability to convert their civil partnerships into marriage. Importantly, these two groups are not in a directly comparable position. The right to convert a civil partnership into marriage was introduced to enable same-sex couples to marry without having to dissolve their civil partnership, as marriage historically had been denied to them. That same consideration does not apply to opposite-sex civil partners, who have always been able to marry.

Even if same-sex and opposite-sex couples can be compared, the Government consider that maintaining the status quo in the very short term—we anticipate for no more than a few months—is fully justified. Extending conversion rights on an interim basis to allow opposite-sex couples to convert their civil partnership to marriage now, while we are considering responses to the consultation, would risk creating uncertainty and confusion over future rights. We do not wish to introduce a new, potentially short-term conversion right that might be changed later in 2020 when we determine our long-term position on conversion.

In addition, it is difficult to see that opposite-sex couples are disadvantaged by this interim position. Couples who have waited for the chance to form a civil partnership as an alternative to marriage are highly unlikely to wish to convert their relationship into marriage in the first few months. Once we have made civil partnerships available to opposite-sex couples, our priority will be to resolve the longer-term position on conversion rights for all civil partners and to bring forward further regulations as soon as possible next year.

I hope that this reassures noble Lords that we have carefully considered these issues and why we consider the regulations to be compliant with the Human Rights Act 1998.

Before winding up, I again pay tribute to my noble friend Lady Hodgson and to Tim Loughton in the other place, for their great skill and tenacity in steering the 2019 Act through Parliament; I pay tribute also, of course, to noble Lords who took part in the debates here.

I know that my noble friend is keen for the first opposite-sex civil partnership to be formed before the end of 2019. Our intention is to commence the regulations on 2 December, which would allow the first opposite-sex civil partnership to take place on 31 December, given the usual 28-day notice period. I know how long some opposite-sex couples have waited for the opportunity to formalise their relationship and enjoy the stability, rights and entitlements that other couples enjoy. This is the final legislative step in the process and I look forward to the first opposite-sex civil partnership being formed by the end of the year. I commend this instrument to the House.

Amendment to the Motion

Moved by **Lord Collins of Highbury**

At end insert “, and while this House agrees with the general principle of the Regulations, nevertheless regrets that Her Majesty's Government is continuing with the new legislation following the criticisms of the Joint Committee on Statutory Instruments in their third Report that the Regulations ‘will plainly discriminate on the ground of sexual orientation from the moment it is in force’ and that that Committee ‘has a real doubt as to whether it would be lawful for the Secretary of State to include regulation 37 in the proposed Regulations’; and calls on Her Majesty's Government to replace these Regulations with new ones which ensure equal rights and are not discriminatory.”

Lord Collins of Highbury (Lab): My Lords, I make it clear at the beginning that the reason why I have submitted this amendment is that I felt it was really important that this House debates the reports under consideration from the Joint Committee on Statutory Instruments and this House's Secondary Legislation Scrutiny Committee. It is important so that the Minister can answer the questions raised by those committees. In her introduction, she gave the same answers that she gave to the committees, but they were not satisfied with those answers. That is why we need a full debate today. Also, the Government Chief Whip told me yesterday that there was no business scheduled this afternoon apart from this statutory instrument, so I took the precaution of preparing a six-page speech, to make sure that we are here for most of the afternoon. I assure noble Lords that I will not read it all out.

What I am concerned about is that the Government should have taken responsibility for this matter in the first place. When the Supreme Court made its judgment in June 2018, this Government had the opportunity to decide on primary legislation and subject that legislation to the scrutiny it should have received. However, they decided not to. We had a Private Member's Bill, which I agree with the Minister was ably pursued by the noble Baroness, Lady Hodgson. We had the Supreme Court judgment in June 2018. Why did the Government have to wait from 2013 until the Supreme Court judgment, when people who wanted civil partnerships were pursuing this matter? Why did it take a Supreme Court judgment to make this Government react?

In October 2018, Theresa May announced with great fanfare that the Government intended to extend civil partnerships to opposite-sex couples. I am fully aware of the concerns of opposite-sex couples who want to have the opportunity to enter into a civil partnership. I know they are concerned about the time they have had to wait. I share that concern completely, so my amendment today will not delay the implementation of this statutory instrument. However, I want to say that I personally experienced the consequences of delay. When I originally planned my civil partnership, this House imposed restrictions that delayed it for a year. We had to celebrate our planned day without having a formal, legal civil partnership. We were kindly allowed to use the offices of the London mayor and have a civil

partnership in City Hall. True enough, 12 months later to the day, the law changed and we entered into a civil partnership. As the Minister mentioned, that was because same-sex couples had no other choice; civil partnerships were all that was open to us.

When same-sex marriage was mooted by David Cameron, I was in two minds about it. Did it undermine the equal status I had in a civil partnership? What was this about? I actually congratulated David Cameron and said that this was worth doing because it is that final step to equality under the law and equal treatment. My husband and I took great pleasure in converting our civil partnership. It did not undervalue it—we still felt that we were married under the law—but we wanted to celebrate something else: not only the change in society, but the fact that it would personally affect us. We were really pleased to do that.

The noble Baroness might think, as she said today, that there is a difference between that situation and the one we have now. I am not so sure. The consultation has not finished. I wish that we had been able to conflate all this into one proper process. There are very good reasons why people might not want marriage. It is often because they do not want the religious connotation. Sometimes—I am sure the noble Baroness, Lady Barker, will refer to this in much more detail—a couple might want a civil partnership because of religious differences. There are all kinds of reasons, but I would not exclude the possibility that once people enter into a civil partnership—I have mentioned the words of the most reverend Primate the Archbishop of Canterbury, who talked about the journey the Church of England has been on—they might see the value of that legal recognition and decide that at some future stage, they would like it to be a marriage. Does that mean that they have to stand up in court and divorce, so that they can be married?

I know that the Minister will say that this will be subject to a separate consultation, but the Joint Committee has raised two principles. It is about equal treatment. I want to be very clear that the Government will be absolutely wholeheartedly behind the principle that we end up with equal treatment for same-sex couples and opposite-sex couples; that there will be no division in this and we will not end up with a different situation for same-sex couples.

The Minister says that this will be for only a short time. Maybe or maybe not; we do not know how long the consultation will take. I remember that when the noble Baroness, Lady Hodgson, moved her replacement for Clause 2 of her Private Member's Bill, which we all had concerns about, she said that the Government had concerns about the original clause since they believed that it would not deliver,

“a robust opposite-sex civil partnerships regime”,

and pointed to,

“the lack of detail in the regulation-making power”.—[*Official Report*, 1/2/19; col. 1290.]

We have now gone through the process. The noble Baroness's amendment was clearly tabled following detailed consultation with the Government—it was, in effect, a Government-backed amendment—and was clearly going to address those issues.

Whether I like it or not, or whether anyone else does, the two committees responsible for scrutinising secondary legislation are saying that these regulations are at fault. I come to the other principle. The Minister mentioned the fact that there was no objection from the other place. My biggest concern about this is that we have these committees as part of our job of scrutiny. These reports were produced so late in the day. I was sitting in the office on Friday trying to read them and to submit an amendment to ensure that we have a proper debate. My first concern is the delay in considering the reports and in the opportunity to see the Government's response to the committees' concerns. All the Minister's responses today were given to both committees. They were not satisfied with them, so there is an issue here that she needs to address.

Let me make it clear: we back these regulations. We want them to be implemented. I do not want an opposite-sex couple to suffer the same delays, having their expectations raised and then dashed by this House. I want the regulations to go through, but I also want the Government to respond to the committees' questions. There are process issues here.

4.15 pm

Once again, the general election called by the Prime Minister has seriously affected our ability to scrutinise legislation. We need to be able to do so, because if this is against the Human Rights Act and considered to be in breach of equal treatment, then we need to know the full consequences and to be reassured by this Government. I come back to the basic point: this Government could have legislated much earlier. They changed their views about civil partnerships. I do not know whether they will change their views again, but I do know that David Cameron appeared reluctant to support civil partnerships after the introduction of same-sex marriages. I was not unsympathetic to some of those views, but I was persuaded, and I am strongly persuaded, that people should have that choice, which should apply equally to same-sex couples and opposite-sex couples. I hope that the Minister can reassure us.

There are a couple of points that I want to bring in. The date of 31 December was in the amendment to the Private Member's Bill introduced by the noble Baroness, Lady Hodgson, and was backed by the Government. The Government knew what they were doing. They should have been better prepared, to ensure that this legislation came into effect in a proper and timely way. Can the Minister confirm that we have produced clear guidance to local registration services about the commencement of this scheme? Will this have been published in time for 2 December, in preparation for couples who wish to enter civil partnerships on 31 December? It is a great way to end this year. I wish all those couples who wish to enter into civil partnerships all the best. I certainly do not want to appear to be acting as a barrier to it. However, I hope that the Minister will be able to reassure us in relation to those quite stringent and strong comments of the Joint Committees.

There are other issues that I was going to raise. The basic issue is whether the Minister can update us about the further consultation period. What are the timeframes and timescales involved in that? She assures

us that it will be a short period. I hope that we end up with a system in which we are all treated equally under the law. I beg to move.

Lord Cashman (Non-Affl): My Lords, I support of the amendment in the name of my noble friend Lord Collins of Highbury. I will not rehearse the very powerful statement that he made to your Lordships. I too spoke in the debate and supported the Private Member's Bill, so ably and rather brilliantly presented and steered through this House by the noble Baroness, Lady Hodgson. I had concerns about discrimination continuing despite these regulations coming into force. I share the deep concerns of the Joint Committee on Statutory Instruments and I would welcome the Minister's response to the items raised by my noble friend Lord Collins.

I also have to reflect on this as someone who undertook a civil partnership and welcomed the work that was done. It is good to see the noble Baroness, Lady Hunt of Bethnal Green, in her place; I am sure that if she had made her maiden speech by now, she would be taking part rather forcefully in this debate. I recognise the work that she and Stonewall, and many others, did to achieve consensus on equal marriage.

This country is better for the fact that equality is shared, regardless of difference or perceived difference. Why do I say, "perceived difference"? It is because, although I am not blessed in having children—I think that an atheist can use the term "blessed"—I believe that everyone wants to see the best for their child, offspring or partner. To see same-sex couples, along with opposite-sex couples, having the opportunity to celebrate their relationship and commitment of love publicly makes us all better for that commitment. I say that because within these regulations, we reinforce the principle of discrimination. Again, this was raised in our debate on the Private Member's Bill. We reinforce the concept that religious organisations and bodies can choose to discriminate by saying that they do not or will not celebrate same-sex civil partnerships. Surely, rather than reinforcing the principle of discrimination within the regulations, we should be encouraging and reinforcing the principle of openness, and moving towards a universal celebration. Equally, opposite-sex couples cannot convert their civil partnership into marriage, so again we are reinforcing the principle of discrimination and inequality.

I know that the Minister is personally committed to the principles of equality; I believe in all good faith that so, too, are the Government. I am concerned about the perception now coming from the Home Office. She would expect me to say this, particularly given that I tabled an amendment to the Policing and Crime Bill, which was adopted by the Government in what became that 2017 Act, widening the disregards and pardons for those homosexual convictions which are no longer crimes. Two and a half years later, regulations come there none—despite repeatedly asking the Government to bring forward those regulations. I know that there are problems of capacity within all government departments in relation to the work that has to be done on Brexit but, in the end, we cannot excuse the fact that inequality rumbles on and blights the lives of those who carry these convictions, which

often prevent them going into occupations which they love and would want to pursue. While these convictions remain, they cannot.

This is blighting people's lives and I therefore urge the Minister to reassure me and others that the inequality raised within these regulations will be addressed swiftly. I am a non-aligned Peer—that sounds rather luxurious—but I still wish to call the noble Lord, Lord Collins, my noble friend. As he rightly said, let us get this through and allow those who may wish to take this wonderful opportunity—perhaps on 31 December or even 1 January—the luxury to say that in a country where we are equal, they celebrate the person they love regardless of the gender of that person.

Baroness Hodgson of Abinger (Con): My Lords, I am extremely grateful to the Minister for her extensive explanation of the regulations before the House today. I know that she has taken a particular interest in the civil partnerships Bill and I am most grateful to her for her care and attention to it. As my noble friend has already said, I had the honour to sponsor the Private Member's Bill in your Lordships' House and I therefore welcome these regulations. I pay tribute to the honourable Member for East Worthing and Shoreham, Tim Loughton, who took the Bill through the other place.

As the House has already heard, these regulations are part of the commitment made during the passage of the Bill and we should not forget that they are of enormous importance to many people. There are over 3 million opposite-sex couples who cohabit and choose not to marry, and they support a million children, yet they do not have the legal protection that married couples or civil partners have. When taking this Bill through your Lordships' House, I was surprised to receive such an enormous postbag on this subject and it was clear to me that many opposite-sex couples would like to formalise their relationship and enjoy legal security but not be married; they have waited a long time for this legislation to be introduced. However, these regulations extend only to England and Wales. Where have we got to in Scotland and Northern Ireland? I understand that there has been a Bill in the Scottish Parliament and I would be grateful if the Minister could update me on its progress.

I am grateful that the Government have given time to getting the Bill on to the statute book and that these regulations are before the House today. It was important that opposite-sex couples should be able to have a civil partnership before the end of this year, so I very much hope that, in spite of the impending general election, the regulations will still be able to come into force by 2 December and thus the first civil partnerships will be able to be registered 28 days later on 31 December this year.

This is, of course, just one part of the Civil Partnerships, Marriages and Deaths (Registration Etc.) Act. Will my noble friend update the House about progress on the other parts of the Bill—notably that mothers will be able to sign their child's marriage certificates—and also on the two reports on registration of pregnancy loss before 24 weeks, and whether coroners will be able to investigate when a baby dies after 38 weeks' gestation without having had independent life?

However, as I have already said, I enormously welcome these regulations. I am incredibly grateful to all noble Lords who have taken part in the passage of the Bill and are speaking to encourage these regulations to go through. They are a milestone in getting nearer to opposite-sex couples being able to have a civil partnership.

Baroness Watkins of Tavistock (CB): My Lords, as a member of the Secondary Legislation Scrutiny Committee, I have had the opportunity of carefully considering these regulations. There are, without doubt, still imperfections with regard to the conversion of opposite-sex civil partnerships to marriage, as the noble Lord, Lord Collins, outlined so well. However, we need to proceed so that people who wish to have a civil partnership but are of the opposite sex are not disadvantaged. The noble Lord, Lord Collins, gave me some time at lunchtime to discuss this, because I feared that he might want to hold it up. His remarks, and those of the noble Lord, Lord Cashman, this afternoon brought home to me how very fortunate I was 38 years ago to be able to marry the person I love, and that other people were unable to form similar relationships because they were of the same sex. I thank those noble Lords for their generosity and support in enabling people of opposite sexes to have a civil partnership if they wish to, often for very personal reasons. I know of one person who was married but in a very abusive relationship who feels she could never marry again but would like a civil partnership.

I greatly appreciate that your Lordships do not want to hold this up, despite the fact that there remain some inequalities, which it is essential that the next Parliament resolves. I ask the Minister to ensure that opposite-sex couples will be able to form civil partnerships by the end of this year.

4.30 pm

Lord Scriven (LD): My Lords, it appears that on the issue of equality, we are snatching defeat from the jaws of victory. Like other noble Lords who have spoken, I do not want to hold back these regulations, because they are not just a step but a huge leap forward for opposite-sex couples' equality. However, I despair a little that the Government have not been able at this point to bring about true equality.

I wear this lanyard, as others do, not because I am proud to be LGBT or an LGBT ally, but because I believe in fundamental equality before the law and in human rights. I have spoken in this House before about not being able to marry in a religious institution, which is a form of discrimination. I would not want somebody who is part of an opposite-sex couple to feel that sense of joy being deflated by not being able to convert their civil partnership into a marriage. There is no legal reason why that cannot happen but just a bureaucratic one, based on "some consultation is taking place".

I know the Minister and her personal passion for equality, which is beyond doubt. However, she kept saying "short term". How short is short term? The one thing she cannot give is any certainty. We are going into a general election, so short term may be longer than the noble Baroness feels. In addition, it may be

short term to the Government, but for somebody who is in an opposite-sex civil partnership and wants to convert, it may take much longer than the short term, particularly if that person has a terminal illness. People make decisions because of life-changing events, so we may be denying somebody the equality that they want based on where they are in their life.

I therefore ask the Minister and the whole House, to ensure that, whoever is returned after the general election, short term must mean a matter of weeks or months. This cannot go on for years because of some bureaucratic government view about consultation.

Lord Lexden (Con): My Lords, I have listened to important comments from the noble Lords, Lord Collins, Lord Cashman and Lord Scriven, with whom I agree so much on matters relating to civil partnerships and same-sex marriage. However, I would like to return briefly to a deep injustice which the extension of civil partnerships to opposite-sex couples has made even more glaring.

Civil partnerships were introduced for the express purpose of conferring legal rights on couples who were ineligible to marry. Through these regulations, civil partnerships will be extended to all couples who now possess the right to marry. They will be withheld from people who cannot marry—in defiance of the very principle on which they were established in the first place.

I have brought up on a number of occasions in this House the question of why the Government feel it is acceptable to continue to withhold from long-term cohabiting siblings who choose to live together for companionship and mutual support all the legal rights and fiscal safeguards they offer, through civil partnerships, to couples they presume to be in sexual relationships.

Do the Government think that two siblings who live together in mutually supportive and financially independent relationships are less in need of the legal protection and fiscal safeguards afforded by civil partnerships than sexual couples? If not, why do they continue to reject both the argument that they should extend civil partnerships to long-term cohabiting couples and the suggestion that they should address that discrimination through other means—for a start, by reforming the rules governing inheritance tax so that bereaved survivors of a sibling couple are at least spared losing the joint home to inheritance tax on the death of the first sibling? I am in touch with a large number of elderly siblings who have lived together, often all their lives, in committed and caring relationships. They simply cannot understand why the Government refuse to recognise them as a single legal unit or give them any help whatever by other means.

Take Beatrice and Mary, sisters whose mother was widowed in their teens and whom they looked after throughout their adult lives in their jointly owned home until her death at the age of 100. The sisters are now 91 and 87. When one of them dies, the survivor will face an inheritance tax bill so hefty on her sister's share of the estate that there will be nothing left of their joint savings for her own care. If they were civil partners who had known each other for just a few weeks, they would be spared.

A responsible Conservative Government must recognise the value of arrangements such as that of Beatrice and Mary, bring an end to this injustice and finally put the family, in all its manifestations, back where it belongs: at the heart of Conservative social policy. The regulations advance the principle of equality in human affairs—although perhaps not as fully as many would wish—and that is very important, but Conservatives should be no less concerned with the welfare of families in all their forms.

Baroness Barker (LD): My Lords, I am very pleased that, on the last day of this Session, we are returning to this business. Like other noble Lords including the noble Lords, Lord Cashman and Lord Collins, I thank the noble Baroness, Lady Hodgson of Abinger, for all the work she did to get us to this point.

I have been a Member of your Lordships' House for so long that I can remember all the rather tortuous path that we have been down, from when we started off, back in 2004, with a Civil Partnership Bill that was wrecked in this House and very nearly fell, but was then rescued and came back, through to where we are today. It is a tortuous path for two reasons. One is that, at every step of the way, the Government have felt that they have to pick their way round strong religious sensitivities. The second is that there is a fundamental flaw in all the reasoning as a result. We were told, way back when we were looking at civil partnerships, in definite terms by evangelical Christians and all the rest, that civil partnerships would undermine marriage. They do not.

In this House, from listening to officials at the time, I understand that at every stage we had to give in to the idea that civil partnerships were somehow a threat. I have never thought that they were for a very simple reason. My father married a lot of people. On Saturday afternoons, my dad would go out, perform a wedding, come back and we would say, "And what was the bride wearing?" Dad would say, "A white dress". Because my dad was a nonconformist minister long before the Church of England saw the light on matters such as divorce, he was marrying a lot of people. He always had the right not to agree to marry someone. It was a right that he exercised very rarely—only in one or two instances when people came before him and he believed that one of them was under duress to do something that they did not want to. However, he quietly confided that he often officiated at marriage ceremonies where he felt that the people were getting married because that was all there was, and that if there had been an opportunity for them to have their relationship recognised in a different way, that would have been a more honest thing to do. If the Church had recognised that a long time ago, we would not have had to go through much of the difficulty that we now do.

Many people have shouted out their congratulations; mine go to Lynne Featherstone—my noble friend Lady Featherstone. No matter what anybody says, we would not have same-sex marriage were it not for her determination. For these regulations, I also want to give a shout-out to somebody else: Peter Tatchell. As one would expect, he has always single-mindedly stood up for full equality. Therefore, he has always been in favour of opposite-sex civil partnerships. So, we have

got to where we are today. The noble Lord, Lord Collins, is right: the Government know that we on this side of the House do not want to stop the regulations. We are keen for people who have waited for such a long time to have their opportunity.

I want to ask about the territorial extent of this issue. I see that we are legislating for England and Wales. Speaking as a Scot, I feel that it might have other things to do on Hogmanay, but perhaps the Minister can explain the likely timetable for the Scottish Parliament to consider this matter.

I also want to talk about Northern Ireland. It is important that we get legislation of this type in Northern Ireland as quickly as possible, for the reason alluded to by the noble Lord, Lord Collins. I know several people in committed relationships who have been brought up in a faith that means so much to them that they cannot bring themselves to offend their families and that faith, but want to secure their relationship in legal terms. For others, civil partnership is about equality; as the noble Baroness, Lady Watkins of Tavistock, said, other people have experienced difficult and violent marriages and want never to return to that situation, but are in partnerships to which they are committed. What is the envisaged timetable for introducing this in Northern Ireland?

My understanding of this legislation is that, just as happened with the abortion legislation for Northern Ireland, there will be a read-across from existing legislation. Therefore, I think I am right that the aspects of the regulations that deal with the GRA are a read-across from the GRA as it relates to same-sex marriage. The Minister will know that I and other people think that that legislation is flawed, and that the same flaw therefore appears in these regulations. I accept that this issue should be addressed through primary legislation and amendment to the same-sex marriage Act in so far as it affects the GRA but, when the time comes, this issue should be addressed for both same-sex marriage and opposite-sex civil partnership, for example through my Private Member's Bill or perhaps through some forthcoming government legislation. I wish that she would understand that.

4.45 pm

I want to ask about something that the noble Lord, Lord Collins, and I have often talked about, which is the international recognition of partnerships which have been registered abroad. I see that the noble Baroness, Lady Ashton, is in her place; I remember when she was on the Front Bench taking through the legislation for civil partnerships. We had the same debate about this issue for same-sex marriage. My understanding is that we make bilateral agreements with other countries. Can the noble Baroness, Lady Williams, explain the effect of this legislation on those agreements? Will opposite-sex civil partnerships be included in the same way as same-sex marriages? Further, how will that international recognition be updated, particularly following Brexit, as some of the recognition agreements we have were made under EU law?

I agree with the noble Baroness, Lady Hodgson, that other matters were thrown into the Bill so that it became a bit of a clothes-hanger for different things.

I am concerned about the regulations covering the involvement of coroners in investigations of stillbirth. When will those regulations be likely to align?

The noble Lord, Lord Lexden, for whom I have the greatest admiration, will be wholly unsurprised by my next few sentences. He knows that I believe and will continue to believe that legislation which is meant to govern partnerships formed voluntarily by adults should not be the same as that which should apply to relationships of consanguinity; that is, if people are siblings, they have no choice about that. I therefore believe that if the Government were to be so misguided as to go down the route he suggests, the potential for abuse by one sibling against another would be enormous. I agree that many of the issues he wants to be addressed should be, but they are largely fiscal and property matters and should be dealt with in a different way.

As was the case during the passage of the Bill, there is a great deal of unanimity. Can the noble Baroness send a message back to her department that whatever the outcome of the next general election and whoever is sitting in the place she now occupies, this is a matter which, while there are one or two doubts, enjoys broad agreement that there should be equality and that the legislation in this form should be implemented at the earliest opportunity?

Lord Berkeley of Knighton (CB): My Lords, it is important and indeed incumbent on those of us who are in heterosexual marriages to express our support for the sentiments uttered by the noble Lords, Lord Collins and Lord Cashman, and the noble Baroness, Lady Barker. That is because it is easy for these issues to appear as though they are being pushed by just one section of society. Therefore, I want to say how strongly I would like to see the elements which still need to be resolved here being addressed in the future. I have a feeling that the Minister feels similarly. In art as in social policy, a leap of a mile is often required to gain an inch. In this instance, the Government have gone a long way further than an inch, but I take this opportunity to encourage them to aim for the mile in the near future.

I will add just a note on the words of the noble Lord, Lord Lexden. I have enormous sympathy for his point about siblings, but there is a certain sense of Groundhog Day here because I can remember the same noble Lords talking about this. I cannot help feeling that this is a slightly different issue, although that does not mean that it is not one which the Government should tackle in due course.

Baroness Deech (CB): My Lords, I am all in favour of civil partnerships for heterosexuals and of them being converted into marriage. However, I am a bit puzzled, because the argument for civil partnerships for heterosexuals is that they want to avoid the patriarchal nature of marriage—but, of course if you enter into a civil partnership, and good luck to you, you will take upon yourself all the financial and other burdens and unfairnesses that come about in marriage if you split your civil partnership; it will be just the same. Still, people should have the choice.

I want to say, in support of the noble Lord, Lord Lexden, that over the years I too have argued for protection for two people who live together, whether

they are sisters, strangers or people in a legal partnership whose financial and social position depends so much on the way the state treats them, through tax law and, especially, inheritance law. I do not accept the argument that to give support to, say, siblings or a father and daughter would in any way undermine the respect due to civil partnerships and marriage.

So I hope that this goes through and that civil partners will be allowed to convert if they want to. I also feel that heterosexual civil partnerships will mean that there will not be any more call for extending the oppressive and unfair law we have at the moment regarding financial provision on split or cohabiting couples. If they choose to cohabit and do not want civil partnerships, which are readily open, good luck to them; they ought to be free of the law.

Lord Oates (LD): My Lords, like my noble friend Lady Barker's father, my father married a large number of people, although he did so as a Church of England clergyman rather than as a nonconformist minister. I very much support the equality being progressed for opposite-sex partners via this legislation. I also very much support the comments made by my noble friend Lady Barker, the noble Lord, Lord Collins, and others about it being a shame that the Government did not take the opportunity to go all the way and ensure that there is proper equality.

While we are on the issue of real equality, I will raise an associated issue. When I formed my civil partnership 15 years ago, obviously I did not have the option of a same-sex wedding—but, even today, if I chose to convert it, I would not have the option of that wedding in a Church of England church. My father went to a register office for probably the first time in his life when he came to my civil partnership ceremony. I hope that both the Government and the Church, particularly as it is the established Church, will really reflect on the fact that, not only as a matter of choice by certain members of that Church but by law, a same-sex marriage cannot take place. I hope that they will consider the pain and sorrow that causes and will really think about that position. I recognise that this is not the matter before us, but the amendment expressing regret is about equality, and this is also a matter of equality.

Baroness Williams of Trafford: My Lords, I thank all noble Lords who have taken part in the debate. As the noble Lord, Lord Collins of Highbury, said right at the outset, the Commons can push things through quickly, but in your Lordships' House we consider things very carefully before we give them our blessing, as it were.

I will start with the words of the noble Baroness, Lady Barker. Whatever the outcome of the general election, we as Peers in this House who promote equality will continue to do so cross-party, because that is what we have always done. If we had not approached equality in a cross-party way, we would have made little progress over the last 50 years. So I look forward to working with noble Lords across the House in progressing what is a human right: equality.

Noble Lords' criticisms have varied from saying that we are rushing things through too quickly to asking, "What on earth has been the delay since the Supreme Court judgment in 2018?" I know that these are meant not as opposition to these regulations but as scrutinising why we have been doing what we have, and why we have delayed in some parts and rushed in others. I totally take noble Lords' points about not wanting to perpetuate inequality. That is certainly not what either I or other noble Lords wish to do. In progressing equality, we do not want to create the unintended consequence of inequality.

The first question from the noble Lord, Lord Collins of Highbury, was: why the delay? We announced our intention to gather further evidence in 2018, having previously consulted on whether to extend civil partnerships to opposite-sex couples. I know it is frustrating, but consultation and evidence gathering can be quite time-consuming.

Can the Government guarantee equal treatment for same-sex and opposite-sex couples? That was the challenge from the noble Lord, Lord Cashman. We will absolutely ensure that future regulations on conversion are compliant with the Human Rights Act, as we have to with pretty much all legislation, or indeed secondary legislation, that we enact.

On the opportunity to see the Government's response, again, it might be frustrating, but, given the limited time available, we waived our right to respond to the JCSI report. Victoria Atkins set out our position in the debate in the other place on 31 October. As noble Lords will know, the Secretary of State is under a statutory duty to bring the regulations into force no later than 31 December. As noble Lords have pointed out, a December election puts that at risk. We know that there are couples who are hoping to form a civil partnership early in the new year and that the availability of this new relationship is very keenly anticipated. It may be that couples have spent money and made detailed arrangements with their family, with the expectation that the new rights will shortly be available. We are very keen that that expectation will be met, if possible, and to meet the statutory deadline.

The noble Lord, Lord Collins of Highbury, asked about the consultation timing. As I said, it closed on 20 August and we are considering the responses. In addition to analysing the responses to the consultation, we must ensure that the operational processes are in place for conversions to take place. It is a priority. We will make further regulations early in 2020, to be debated in this House and the other place.

My noble friend Lady Hodgson and the noble Baroness, Lady Barker, asked about Scotland and Northern Ireland. On 25 June, the Scottish Government announced that they would introduce legislation extending civil partnerships to opposite-sex couples, and a Bill was introduced in the Scottish Parliament on 1 October. The Scottish Government's Bill provides for opposite-sex civil partnerships registered in England and Wales to be recognised in Scotland as marriages, initially, and as civil partnerships when those relationships are available in Scotland. In Northern Ireland, Section 8 of the Northern Ireland (Executive Formation etc) Act 2019 places a duty on the Secretary of State to make

regulations so that couples in Northern Ireland are eligible to form same-sex marriages and opposite-sex civil partnerships no later than 13 January 2020. The duty came into force on 22 October, after the Northern Ireland Executive did not reform, and my officials are working closely with the Northern Ireland Office towards the deadline.

The noble Lord, Lord Scriven, asked about individuals who are gravely ill. We are mindful at this stage that, for some people, the need to be able to form a civil partnership is urgent for a number of reasons, including, as he mentioned, terminal illness. Generally, couples must give 28 days' notice of their intention to form a civil partnership, but in exceptional circumstances couples can seek a reduction in the notice period. There are also separate expedited arrangements for people who are seriously ill and not expected to recover. These processes will apply equally to civil partnerships between opposite-sex couples, meaning that those with life-threatening conditions will likely be able to form a civil partnership, rather than just give notice of it, as soon as the regulations come into force.

The noble Lord, Lord Collins of Highbury, asked me about the General Register Office issuing guidance to local registrars. It has already advised registration authorities to prepare for the commencement of opposite-sex civil partnerships from 2 December. As soon as the parliamentary processes are complete and the regulations are made, the GRO will advise registration authorities that firm bookings can be taken for notice to be given from 2 December and any provisional bookings can be confirmed.

5 pm

My noble friend Lady Hodgson and the noble Baroness, Lady Barker, asked about coroners investigating still-births and the mother's name on marriage certificates. On the same day that the 2019 Act received Royal Assent, the Ministry of Justice and the Department of Health and Social Care jointly published a consultation on proposals as to whether—and, if so, how—coroners should investigate still-births. The consultation will inform the report required by Section 4 of the 2019 Act. The consultation closed on 8 June. We received a good response from a wide range of people with an interest in this issue and officials are considering and analysing the evidence. The Government will publish the findings as soon as possible.

On the issue of mothers' names on marriage certificates, the General Register Office is currently working on the secondary legislation, IT systems and administrative processes that are required to implement the marriage schedule system. Officials are also working with the Church of England and the Church in Wales on the details of the proposals. I will keep noble Lords informed.

The noble Baroness, Lady Barker, asked about civil partnerships formed in one country being recognised in England and Wales. Overseas relationships can be recognised as civil partnerships in England and Wales if they meet the conditions set out in the Act. The regulations include a list of specified overseas relationships that will be treated as civil partnerships here. Other overseas relationships can also be recognised as civil partnerships if they meet the general conditions.

In all cases, such relationships must be exclusive and registered by two people who are not otherwise married or in a civil partnership.

The noble Baroness, Lady Barker, also asked about spousal consent and the read-over from the GRA. Our proposed changes to the GRA will align the provisions for civil partners more closely to those for married couples. Any substantive change to the spousal consent provision would require future primary legislation as it could not be addressed through the powers in the 2019 Act relating to civil partnerships. If, following our consultation on reform, we decide to change the requirement for spousal consent, we will make an equivalent change to the legislation relating to civil partnerships. I note that the noble Baroness's Private Member's Bill was given its First Reading the other day and I look forward to debating it with her if and when it comes to this place.

Sibling civil partnerships were mentioned by my noble friend Lord Lexden, and the noble Baroness, Lady Barker, neatly outlined that arrangements which have a predominantly financial basis are not the same as a civil partnership, and we have not made any changes to the existing rules which prevent siblings or other family members forming a civil partnership. Parliament has been clear throughout the passage of the primary legislation that there was no desire to do so.

I will conclude there. I thank all noble Lords for taking part in the debate. I look forward to these regulations being passed by your Lordships' House. I beg to move.

Lord Collins of Highbury: Normally, the Minister would ask me to withdraw my amendment. Perhaps she might like to do so for the record.

Baroness Williams of Trafford: I forgot. I got carried away because the noble Lord was so smiley. I am sure the noble Lord will want to withdraw his amendment.

Lord Collins of Highbury: I thank the Minister for those kind remarks. I welcome the assurances she has given us this afternoon, in particular the commitment that the report of the consultation, which was completed in August, is a priority and that we will see revised regulations early next year. That is the fundamental issue that I wanted to address today.

I welcome the debate we have had today. It has been an opportunity to revisit issues and restate principles. I return to the point I made, which was also made by the noble Baroness, Lady Barker, and many other noble Lords. I welcome the fact that the noble Baroness, Lady Hunt, is in her place. I thought she would make a contribution, but I did not realise that she has not made her maiden speech. It must be terribly frustrating for her to sit there. No doubt at some later stage she will have a word in my ear.

We have been on an incredibly long journey. There is still much more to do. The right reverend Prelate listened to our contributions. I know that even in the Church of England there is a positive debate. When civil partnerships were first introduced in this House, the Church took a position against them. Now, I think the Church recognises their value. Certainly, the most

reverend Primate the Archbishop of Canterbury has written strong and powerful articles recognising the value of civil partnerships and the loving relationships which are so important.

This will be a matter of choice. Heterosexual couples will enter into civil partnerships for all kinds of reasons. I do not accept the argument that marriage is a patriarchal institution that must be condemned. If two women can enter into a marriage nowadays, it is certainly not as patriarchal as it used to be. Marriage has developed and changed. It has strengthened our institutions, and I hope that civil partnerships will do likewise.

I welcome the contribution from the noble Lord, Lord Lexden. I know he feels very strongly about this issue. We have worked together many times on equality and on ensuring that the injustices of the past are put right. I share his concern about the injustices that siblings potentially face. I beg to differ on the means to resolve them. I urge the Government to think about how they might resolve these very personal, difficult circumstances. To lose a sibling is very painful, but to lose your home at the same time is even more difficult, and I recognise that that is an issue that needs to be addressed.

As the noble Baroness, Lady Barker, said, the battle for equality throughout the United Kingdom is not over. We still need to see it in one part of the United Kingdom. I hope that we will see it introduced rapidly, in the light of the noble Baroness's comments.

This has been a good debate. I heard what the Minister said. I welcome those commitments. In the light of that, I beg leave to withdraw the amendment.

Amendment to the Motion withdrawn.

Motion agreed.

Thomas Cook *Statement*

5.09 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy and Northern Ireland Office (Lord Duncan of Springbank) (Con): My Lords, with the leave of the House, I shall repeat a Statement made in the other place by my right honourable friend the Secretary of State for Business, Energy and Industrial Strategy.

“With your permission, Mr Speaker, I would like to make a Statement on the Government's actions to support customers of Thomas Cook.

As the House knows, Thomas Cook entered into insolvency proceedings on 23 September. This has been a hugely worrying time for employees of Thomas Cook and its customers, and the Government have done, and continue to do, all they can to support them. This has included the biggest peacetime repatriation effort ever seen in the UK, with around 140,000 people successfully flown home thanks to the efforts of my right honourable friend the Secretary of State for Transport and his department, and the Civil Aviation Authority. In BEIS, we have set up a cross-government task force, alongside local stakeholders, to support employees and supply chains.

However, I am sorry to have to inform the House that the official receiver has recently brought to my attention further impacts of Thomas Cook's insolvency, which I wish to share with the House today. There is an important outstanding matter relating to personal injury claims against Thomas Cook companies, impacting customers who have suffered life-changing injuries, illness or even loss of life while on Thomas Cook holidays.

Thomas Cook took out insurance cover for only the very largest personal injury claims. For agreed claims below this figure, up to a high aggregate amount, it decided to self-insure through a provision in its accounts. As Thomas Cook has entered liquidation without ensuring any protection for pending claims, the vast majority of claimants who are not covered by the insurance, including customers who have suffered very serious injuries or loss of life, will be treated as unsecured creditors. This means that it is very uncertain whether they will receive any of the compensation that they would have ordinarily received against their claims.

This raises a potentially unacceptable prospect for some Thomas Cook customers, who face significant financial hardship through no fault of their own where Thomas Cook should rightly have provided support—customers who have already suffered life-changing injuries or illness and who may face financial hardship as a result of long-term loss of earnings or significant long-term care needs. This is an extraordinary situation which should never have arisen.

While the Government cannot and will not step into the shoes of Thomas Cook, we intend to develop proposals for a statutory compensation scheme. Any scheme must strike a responsible balance here between the moral duty to respond to those in the most serious financial need and our responsibility to the taxpayer. Accordingly, it will be a capped fund, sufficient to ensure that there is support for those customers facing the most serious hardship as a result of injuries or illness for which UK-based Thomas Cook companies would have been liable. We will develop the scheme to ensure that only genuine claims are provided with support. The scheme will not consider routine claims covering short-term problems. After the election, we intend to bring forward urgently the legislation necessary to establish such a scheme, and I am sure that any new Government will wish to do likewise.

I have also written to the official receiver to ask him to take this very serious matter into account as part of his investigation into the conduct of Thomas Cook's directors relating to the insolvency.

I am sure the House will agree that it was important to act quickly today to give reassurance to those individuals and families who would otherwise be left with unfunded serious long-term needs or other financial hardship as a result of injuries or illness sustained abroad for which Thomas Cook would have been liable. The House will have the opportunity to consider the matter in more detail in the new Parliament.

I want to make it clear to all businesses that the Thomas Cook approach was unacceptable and that we will take steps to require suitable arrangements to be in place to ensure that it cannot be repeated. I have

asked BEIS officials to urgently bring forward proposals for speedy action by the new Government in the new Parliament.

I am very grateful to the official receiver for bringing this matter to my attention and for all his efforts in this case. It is critical that we act to provide support to those who, through no fault of their own, have been severely impacted by the collapse of Thomas Cook. I commend this Statement to the House”.

5.13 pm

Lord Stevenson of Balmacara (Lab): I am very grateful to the Minister for repeating the Statement made in the other place. The collapse of Thomas Cook is turning into an issue that needs to be carefully reflected on. It is a tragedy that it happened at all, but the more information that becomes available about the actions of the directors, and the action that they should have taken but perhaps did not, the more we are concerned about it.

There were 8,000 job losses. At the time it was widely reported that Ministers and BEIS officials had little or no discussion with the company before it entered liquidation. However, in the six days leading up to its collapse, government Ministers from Germany, Spain, Bulgaria, Turkey and Greece all made personal contact with the company with the aim of trying to rescue it. Reports from Unite the Union and Syndex have shown that £188 million would have been sufficient to prevent the collapse of the company. Yet we have heard that the Government have spent over £600 million—a lot more than £188 million—on compensation and the successful repatriation of the 150,000 stranded holidaymakers.

We have not had the benefit of a report from the BEIS Committee in the other place; it has not been able to complete its inquiry because of the Dissolution. However, I hope there will be more detailed investigations when we get back, and that we will get an idea of the proposals that might be necessary. Some issues include: audit quality problems, revealed by the fact that the auditors were not able to get to the bottom of this before the liquidation; the struggles that the auditors seem to have faced over how to value some of the financial instruments in the contracts; the fact that the same auditors had been around for far too long; and teams not using their own judgment but tending to accept what they were told by management, possibly because they were so conflicted by their having additional consultancy work. These findings have not been reported by Parliament but by the Financial Reporting Council, as I am sure the Minister is aware.

We have a bit of a mess here. Having said that, it is wonderful to hear that the Government have decided that the outstanding matter referred to in the Statement—the impact on customers who have suffered life-changing injuries or loss of income while on Thomas Cook holidays—cannot be allowed to pass. We will support that decision in any way possible if it is necessary to do so after the election.

The Minister mentioned in the Statement the success of the repatriation; we should perhaps record that too. He paid tribute to the Secretary of State, but the main burden of heavy lifting fell to the Civil Aviation Authority,

which booked the planes and arranged the logistics so successfully that customers who could have been stranded for weeks, if not longer, got back within a few days of their original bookings. We should be very proud of that; the success of Deirdre Hutton and her team should be recognised.

On the substance of today's announcement, it seems extraordinary that this should have been allowed to happen at all. The first question we need to ask is: how could it be that a company of such status and standing as Thomas Cook, which was in operation for nearly 200 years, let itself get into a situation where it deliberately insured itself against the tragedy and therefore abandoned its rationale for existing—the good care of its customers—as it went into liquidation? It is unlikely that any payments will be made to those who will be treated as unsecured creditors. We all know that. Compensation is going missing; the Government have recognised that this needs to be sorted out, and we are very grateful for that.

Can the Minister give us some idea of how this kind of situation will be prevented in future? Clearly, this was something that lay within the remit of the company's own decisions. The fact that it had insurance cover for the very high end of the spectrum suggests that it was aware of the insurance requirement, but that cut-off is too high. Does the Minister have any ideas about how this might be addressed? I presume he is thinking about future legislation.

The statutory compensation scheme is a great idea and I am pleased that it is happening, but questions arise about how it will be financed and organised. Will it be based on ATOL and ABTA-type approaches or funded directly by the Government, or will some form of co-funding be laid against the other travel companies? If so, does the Minister have any ideas about this?

On the question of whether the official receiver would be passing on matters relating to the actions of the directors, that is clearly not a matter that we can deal with in this House. However, can the Minister say whether he has in mind that a criminal offence may have taken place? If so, it would be useful to know that this is the way the wind is blowing. If not—or if it is not possible to say—can he confirm that the legislation he is considering will ensure that companies trading on a near or actual insolvency basis will not be empowered to pay bonuses to themselves? We should be quite clear that that is what we are talking about at this stage.

I have one final question. Clearly the Government do not intend to become the lender of last resort for companies that get into trouble over travel arrangements, but this will possibly not be the only example of such things happening. Can the Minister offer some reassuring words about being prepared to look again at the wider context, should this turn out to be a more common issue? That would be helpful. Also, will this be a permanent arrangement, or just temporary until things become clearer?

Baroness Randerson (LD): My Lords, I thank the Minister for repeating the Statement. It raises some very serious issues. I echo the concerns of the noble

Lord, Lord Stevenson, and his inquiries about how Thomas Cook came to be in this very risky situation—risky for its customers. Is it because the law simply has no coverage of this area for companies? In other words, do we need to start absolutely from scratch in terms of legal requirements for companies? Or is it that Thomas Cook actually cut corners and could potentially be judged to be on the wrong side of the law in due course?

It is absolutely appalling that people who have suffered very serious injury, and indeed died, as a result of incidents when they were customers of Thomas Cook could find themselves in this very difficult position. We all know that when a company goes into liquidation, it takes years to sort it out, even in the best of circumstances. As it stands, who has priority as creditors for Thomas Cook? In addition to that, what are the Government's plans for plugging the gap that clearly exists in this situation after the election? The Government are looking to add a capped fund. Of course, that means there will be people who remain badly out of pocket. They will not be compensated as they should be when things have gone wrong. The official receiver is conducting an inquiry into the situation for Thomas Cook. Can the Minister explain how long it is likely to take for the inquiry to report?

I want to raise one or two other issues of concern, following the demise of Thomas Cook. They are not of the order of magnitude of what was in the Minister's Statement, but they are still serious. The CAA has done some amazing work to repatriate so many people. I know that CAA staff were literally sleeping in the office, because they were being called on to work such long hours. This is the second time in as many years that they have had to do this job and they are clearly getting quite practised at it. It is not acceptable that staff are being put under such huge amounts of stress. Are the Government considering additional resources for the CAA so that staff are not put under quite so much pressure when this happens again, as it almost certainly will?

There are still almost 2,000 Thomas Cook customers who paid by direct debit and have yet to receive their refunds. The original promised date for refunds was 14 October. These customers are a small percentage of the total, but this is a bad time of year for people to be owed money—significant amounts of money. I would like an explanation from the Minister as to whether the Government or any agency are able to provide support to those who are now having to fill in forms. There might well be vulnerable people who find this process extremely complex and our experience is always that the most vulnerable people find it most difficult to complete bureaucratic processes such as this.

Finally, the Government promised a review of insolvency legislation following the Monarch financial crash, the purpose of which was to enable companies to continue to trade long enough to bring customers home so that that responsibility did not fall on the Government again. It has happened again, and I would like to follow up with the Minister whether that work is still ongoing and whether the Government intend to introduce a change to insolvency rules to clarify that situation.

Lord Duncan of Springbank: I will begin at the beginning, if I may. The viability or long-term prospects of Thomas Cook are on many people's minds. Of course, the question is: could the Government have intervened in such a fashion that could have saved Thomas Cook? I fear the answer is no. The more investigations are undertaken by the official receiver, the more we begin to recognise the scale of the debt Thomas Cook was sitting atop—£1.9 billion, which is an extraordinary amount of money.

I appreciate that when an institution of such age falls, there are always questions about whether more could have been done. I suspect that more could and should have been done by the directors themselves. I hope that the official receiver's investigation will reveal exactly where the fault-lines lay when it sets out how this went forward. I do not have an answer for the noble Baroness, Lady Randerson, about when we will be able to expect that; I am afraid that it will rest in the hands of the official receiver, but I would like to think that it will not be long delayed. We deserve an answer to that. A significant amount of public money has already gone into the various elements of this process, with more yet to come. I would like to get to the bottom of that question because we need to understand exactly what has gone on.

I welcome the support of both noble colleagues this afternoon for the issues we have had to take forward on the wider repatriation and so forth. If I might draw it down to the compensation scheme, clearly that will have to be done after the election. I welcome the commitment from the other side that we would stand united in moving forward with this, irrespective of the outcome of the election. It is important for the victims to hear that loud and clear. At present, we anticipate that that money will be met primarily and solely through a government fund. It will not come through ATOL, which has a number of restrictions placed on it that will not allow it to compensate in this regard. The wider question as to how we are in a position to do so and identify will be important. We will make sure that very clear instructions will be on BEIS's website, but also on that of the official receiver and so on, for those who are, in essence, the unsecured creditors, because they are in many respects often at the very back of the queue during a liquidation. In this case—the official receiver has already identified this to us—we want them to be aware of the situation, with very clear guidance on what they have to do next to be prepared.

I should draw your Lordships' attention to one simple fact: there will, of course, be an interregnum between the point at which I make this Statement and when we can create such a scheme post the election. There will need to be clear guidance to help direct people towards other sources of government support during this difficult intervening period. The guidance should reveal exactly what that is. Once we pass through the storm of the election and return, the question will be how to design the programme so that it can be quickly instituted and implemented. It will need primary legislation, so we will have another opportunity to come back to and explore this.

It will necessarily be a capped scheme. The noble Baroness is of course right that some people will not receive compensation. To some degree that is inevitable depending on the severity of the situation we face. We wish to ensure that those whose experiences are the most severe are fully compensated through this approach. Those who are experiencing other elements of that compensation will not be able to secure it; it will be judged on severity. We will have a chance to look at the criteria when we return. It begs a bigger question which we need to look at: who else is doing this and how safe are they? In the next Parliament, we will need to look very carefully at this whole story to see whether lessons can be learned. The ability to self-insure but not then ring-fence the funds from which that insurance can be drawn is wrong and is creating the very problems that we are seeing here. We will need to revisit this; that will be right and proper. I do not wish to prejudge exactly how we will do it, but it will be through primary legislation. We will need to act very carefully to avoid a situation, in the ever-volatile travel sector or elsewhere, where individuals who are due significant compensation for serious injury or loss of life are placed in a predicament where they are wondering whether that money will continue to come towards them. That would be wrong. I hope that we can do something about that. The official receiver will look into how on earth Thomas Cook, a company of such standing, could reach the predicament that it found itself in. That will involve looking at the question of bonuses and each of the other elements within the wider director's role. We will need to be cognisant of what that will be. Once we receive that report, we will need to be alert to what it might mean for a wider question going forward, regarding legislation that may be required elsewhere.

On the question of support for the CAA staff, there is indeed no doubt that they have gone above and beyond. I will commit now to look what they need and how to be helpful. I will talk to my colleagues and the Minister at the Department for Transport to understand better how we may be able to afford that. The question of the nature of the forms will, I fear, be a perennial one. There are, necessarily, bureaucratic elements, much as I would wish to say otherwise. The guidance that we issue must be as clear as we can make it, and we must ensure that those who are experiencing any difficulty in completing those forms can secure the assistance that they require. I will take that away and give it some thought, to ensure that no one is, through the bureaucratic challenge, unable to access necessary funds in this situation.

I think I have covered all the issues; if I have not, I hope that noble Lords will alert me, and I will be very happy to write to them directly.

5.31 pm

Lord Birt (CB): My Lords, the collapse of Thomas Cook has had tragic ramifications for many parties, none more so than the group that the Minister identified in his Statement. Can he tell us what value the official receiver has placed on the category of obligation that he has outlined in respect of personal injury? He talks of an uncapped fund: how are the Government going to establish the quantum of that cap?

Lord Duncan of Springbank: It is an important question to understand. The notion of a cap is to look at it the other way around. We need to look at the definition of the challenges which are being experienced and let those be the criteria by which the ultimate cap is established, because the important thing is to work out who falls into the category of those severely injured, incapacitated or who have lost life. That would be assessed first, and will ultimately determine the cap, but it cannot be open-ended, because by its nature it must balance out the needs of taxpayers alongside our commitment to those who have suffered through this. Regarding the wider question of the evaluation, if the noble Lord will allow me, I will write to him specifically on that point, as I am not clear on the answer.

Lord Mackay of Clashfern (Con): Can my noble friend tell us the nature of the liability that was not covered by insurance? People need to know that; after all, some will be going on their Christmas holidays in circumstances such as this, and some may be going earlier for other reasons. We need to know exactly what gave rise to this uninsured liability. I do not know whether Thomas Cook did, but most travel agents require you to have travel insurance. This must be some kind of claim outside the scope of ordinary travel insurance. If there is an identifiable category that is apt to recur, people need to be warned of it.

Lord Duncan of Springbank: The noble and learned Lord raises a point the sad answer to which is straightforward: in this regard Thomas Cook did not set out categories but quantum. Any bills above a particular quantum would be met by the wider insurance, if they were particularly high, but those which fell below, it self-insured. The law allows it to self-insure, so the problem we have now is that, while I wish I could identify individual instances where this could be done, sadly that is not possible. This is why in the new Parliament we will have to look at this very carefully, to ensure that we have an answer to the very question that the noble and learned Lord asked. If we do not do that, of course people will be travelling without the confidence that they are insured when they believe that they are.

Lord Vaux of Harrowden (CB): My Lords, as someone who was caught up in the Thomas Cook situation, I add my commendation to the CAA for the work that it did; it was remarkably smooth. Is it not possible that some of these people may have a claim against not only Thomas Cook but the ultimate hotel or travel provider, or wherever the accident happened? If that is the case, what help can the Government provide to those people to make that claim, rather than the original Thomas Cook claim?

Lord Duncan of Springbank: The noble Lord is right that there are issues around more than just the component parts of the holiday because, as an entity, Thomas Cook is not just a single company. It has different named brands that sit underneath that name. The important thing for us here is that this will be through those who have booked a holiday with Thomas Cook, and have experienced severe injury and so forth as a consequence of that booking. In many instances, these are historic payments that will

be halted because of the situation. They are not ongoing future payments, although some fit into that category. What is important here is that the manner in which Thomas Cook sought to address those questions will have been part of the initial settlement that Thomas Cook reached. The question we are then taking on is: how do we compensate and match a measure of the liability that was experienced? It will be done through the criteria that we set in primary legislation, which we will afford your Lordships an opportunity to examine in greater detail.

Lord Cormack (Con): Is my noble friend aware that we will take great encouragement from the fact that he is involved in helping to solve this very difficult problem? We are all grateful to him for the way in which he led on the Northern Ireland Bill, which has just gone through the other place and is now the law of the land. He has shown commendable leadership and initiative. We have been glad to give him support and I hope that he will be reassured that we want to do the same for the expeditious legislation that will be necessary at the beginning of the new Parliament.

Lord Duncan of Springbank: The noble Lord is very kind and generous. A number of your Lordships were involved in the Bill on historical institutional abuse. It is now the law of the land, and we can all take heart from that. I will be as diligent in this regard as I can be and will do all I can in the new Parliament, if I am spared, to do this.

Lord Faulkner of Worcester (Lab): My Lords, can I raise a subject which I am sure is not in the Minister's brief and on which I therefore do not expect a reply this evening? Perhaps he will look into this and write to me. It is on the question of the Thomas Cook archives. Thomas Cook was a company founded in 1841, originally to take temperance supporters on holiday by train in the Midlands. It grew very rapidly into the world's leading travel company and pioneered journeys to places such as Khartoum, to help with the evacuation, as well as holidays to Switzerland and all sorts of other places. The Thomas Cook archive is priceless. It is based in Peterborough and everything in it needs to be preserved as part of the history of the industry. It is indeed a company that for many years was state-owned, after the nationalisation of the railways in 1948. So could the Minister look into the question of the Thomas Cook archive? I will be happy to send him a letter that Sir Peter Hendy has sent to the chairman of the Business Archives Council, in which he lists the case for this archive to be preserved. It is really worth doing.

Lord Duncan of Springbank: The noble Lord is of course correct that I do not have before me the answer to that particular question. But I recognise that the archives of Thomas Cook, stretching as far back as they do, will be absolutely invaluable to understanding the evolution of our country and how Thomas Cook began to show the world to the people who travelled. So I look forward to receiving the letter that the noble Lord will forward to me. I will, in due course, respond directly and place a copy of that letter in the Library for all to see with regard to the historical archive.

Royal Assent*5.38 pm**The following Act was given Royal Assent:*Historical Institutional Abuse (Northern Ireland)
Act.*House adjourned at 5.39 pm.*

