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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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The following abbreviations are used to show a Member's party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
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

Friday 25 June 2021

The House met in a hybrid proceeding.

11 am

Prayers—read by the Lord Bishop of Lincoln.

Arrangement of Business Announcement

11.06 am

The Deputy Speaker (Lord Russell of Liverpool) (CB): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, others are participating remotely, but all Members will be treated equally. I ask all Members to respect social distancing and wear face coverings while in the Chamber, except when speaking. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

Wellbeing of Future Generations Bill [HL] Second Reading

11.06 am

Moved by Lord Bird

That the Bill be now read a second time.

Lord Bird (CB): My Lords, I would like you to imagine how you would approach a Government, any Government, who always say, when you speak to them—they have to say it, God bless them—that they take the future into account. I spoke recently to quite a number of MPs and members of the Government. As always, they said, “Actually, what we are doing is probably enough”. I come along with a Bill that is nicked—stolen from our Welsh colleagues and made slightly different—and I say, “Well, actually we have to do more with the future, because the future is always being postponed.”

This is the problem that I have. How do I get the Conservative Government to look seriously at the future, in the way that the Welsh are seriously looking at the future, at the same time as trying to keep them onside, befriending them, being nice to them, being kind and thoughtful and never, ever telling them off? We know that as soon as you tell a politician off, they close their ears, in the same way that I close my ears when people tell me off—I am no different from anybody else. So, I have a problem. I want this Bill to go through and to be about the future today. I do not want the future to be continuously put off.

In my journeys around the United Kingdom, I talk to MPs, to charities and to local authorities—I talk to everybody. I am a bit like the Queen Mother; I go around shaking hands. I do not open supermarkets—nobody has asked me to do that yet—but I am a busy little lad and I go around. On one occasion quite recently, I was with a new MP—someone who came in in 2019 somewhere in the north of England, with a strong political record and a complete commitment to the well-being of their constituents. This young lady said

to me, “What is your Bill going to do for my constituent who comes up to me in absolute terror or with an absolute problem? What is your Bill going to do?” I said, “Nothing”, and she said, “Well, why would I support your Bill, why would I vote for your Bill?” I said, “Ah! What would have happened if your predecessor, or your pre-pre-predecessor, had addressed the problems in the first instance that your constituent has to face now?”

Many of the problems that people face in their constituencies, and I face in my life, did not come from the future; they came from the past. In a way, had we had a future generations Bill 10, 20, 30, 40 or 50 years ago, we might have hesitated before we did certain things. In fact, we could rename my Bill. It does not have to be the Wellbeing of Future Generations Bill; we could just call it the “Hindsight Bill”. Why do we not have a Minister for Hindsight? Very clever—somebody who can read the future or who can say, “Hang on, why are we always doing things that come back to bite us in the rear at some later stage?”

For instance, would we have charged our children to go to university? Would we have done that almost beautiful act of them and us-ism, increasing the divide between them and us? Many people I meet would love to go to university but are frightened because they do not have what the public school boys or grammar school boys have, or whoever it may be, whose mum and dad have got a bit of money put aside, maybe property and all that. Now, university is not everything, but the message was sent out, just after we rescued the banks, just after 2010, at the time of the coalition. Had there been a future generations Bill on the statute book then, maybe we would have said, “Hang on, what are you doing here? You are trying to solve an immediate problem, but you are being oppressed by the needs and demands of today and you are throwing tomorrow away.”

Would we, for instance, have closed down our mental health institutions in the mid-1980s? People like me, even before the *Big Issue*, were saying “Hang on, do you know what is going to happen? If you close the mental health institutions and have care in the community”—it looked as thin on the ground then as it does now—“you will have an enormous increase in people on the streets; the streets will fill up and the prisons will fill up.” If you go into a prison, you meet people who, 30 or 40 years ago, probably would have been in the mental institutions. That is a major problem. Being mentally ill now, you are worse off than in the days of the mid-19th century when the poet John Clare was locked up. He was first put in a private institution and then a public one.

You have people wandering around the streets. When the *Big Issue* started, we were inundated with Jesus Christs and Napoleons on the streets. We even had a few admirals as well, I assure you—I do not know whether they were admirals; they did not look like admirals, and they certainly did not look like Napoleon or Jesus Christ. I had people coming up to me and telling me that they were angels. That was probably about 50% of the people we were working with in 1991, because in 1987, I believe, the institutions were closed down.

[LORD BIRD]

With a future generations Bill, you would have something that I find missing in modern politics. When I came into the House of Lords—forgive me for saying this—I was chased hither and thither by Barons and Baronesses who said, “Look, there’s this problem, and this problem, and this problem. What will you do about this? What will you do about the homeless sleeping in stations?” All the time I was being pushed and pushed. I said, “Look, there are millions of people in this world obsessed with the crisis of now. They will continue to be obsessed with it, because the crisis of now never gets solved, because we do not think about the future.” I have come into the House of Lords to do nothing more than prevent poverty forming in the first instance, and not be controlled by worshipping again and again at the altar of the accomplished facts—that you have to do this. Of course, because we are always responding to emergencies, we think that that proves our humanity, but actually it does not. We cannot just keep responding to the emergencies; we must do much more.

I apologise, I realise that I have 10 minutes and I have only started. How are your Lordships? I hope that you had a nice Friday. I walked here. I walk everywhere; that is why I am so young and fit—and only 75. If you sit in the House and are not really a politician, you notice that we spend an enormous amount of time untangling legislation from former times. We are always undoing it. If you look at the facts, about 70% of the time of the House is spent unravelling the damage done by poverty—why have we never done this?—the damage done by lack of biodiversity and by industrialisation, and the damage done by closing down the mines, steelworks and heavy engineering jobs, largely up north, without putting anything in their place. Forty or 50 years later, we are still suffering the damage from the fact that we did not look at how the future would pan out when we did these things. The most graphic example was when I stood with many people who were mentally ill and brought them into the House of Commons 20 years ago. It was incredibly moving to be here and meet people who said, “I wish we had not done it.”

The Deputy Speaker (Lord Russell of Liverpool) (CB): Before I call the next speaker, I remind all noble Lords that I clearly stated that all of us in this Chamber, when we are not speaking, should be wearing face masks. I ask noble Lords to respect the House and everybody else and to wear masks when not speaking. I call the noble and learned Lord, Lord Mackay of Clashfern.

11.18 am

Lord Mackay of Clashfern (Con): My Lords, I find it somewhat difficult to follow the noble Lord, but I support his Bill. I believe that it is necessary for us to consider the future when looking at the present, but one difficulty that I have is that the future is rather difficult to predict. We have to expect the unexpected. How you plan for the unexpected is something that I have not quite grasped from the Bill, although I believe that the Bill requires a mode of thought that is an improvement on the present situation. It puts a legal duty on government that resembles the duty that parents have for their offspring.

I am now at the great-grandchild generation. We all have a responsibility to do our best for them, but what the best is varies very much from time to time. That has certainly been my experience. I also want to say that, when someone tells me off, I try to take account of that, because I believe that it is a good lesson for the future. The difficulty is that this is a mode of thought that does not seem to me easy to formulate in detail. We must consider carefully in Committee the system put in place in the Bill.

What is well-being? It is a very difficult concept, and I want to mention one important aspect of it. Those of us who heard the national parliamentary prayer breakfast this morning will have heard statements of the spirit that enables people to have hope in the face of adversity, and I believe that this should form part of well-being. We must do our best to provide our offspring with a spirit that enables them to have hope, which is the best protection against despair and the consequences of despair.

11.21 am

Lord Blunkett (Lab) [V]: My Lords, I congratulate the noble Lord, Lord Bird, on his tenacity and his amusing and very important speech. Bringing this back for a second time and developing a report, to be launched next week, demonstrates his lifelong commitment to trying to ensure that we learn from the past rather than live in it, tackle causes rather than symptoms, and avoid the mistakes many of us have made. I congratulate the noble and learned Lord, Lord Mackay; I hope to goodness that I can be as thoughtful and look to the future in my mid-90s, should I be fortunate enough to reach that age.

I just want to say three things. First, we have economic impact statements and equality impact statements, but we do not have social policy impact statements. Avoiding the tragedy of mistakes of the past involves examining what we are doing in light of a mode of thought, as the noble and learned Lord, Lord Mackay, said. Sure Start, the development of the child trust fund and education maintenance allowances were, in their own way, endeavours to invest for the future rather than the moment. All sadly met the same fate during the austerity measures between 2010 and 2015. I am working with the right honourable Andrea Leadsom to try to reinstate the spirit of Sure Start, and to do so in a cross-party way, because that is clearly the only way to retain that programme and policy as Governments change, or even when there is change within Government. Sadly, the child trust fund, which was an endeavour to give all young people a real start in life and to overcome at least some of the great problems of asset divide, also had built in a mistake, which I have been trying to put right with the noble Lord, Lord Young of Cookham. Namely, we did not think about the issue of youngsters with learning disabilities, who would not be able to easily access their funds at the age of 18.

Thinking for the future, even with the best of intentions, is really important. Of course, our health, housing and mode of employment determine our well-being. But the well-being of the future and future generations will be obtained if we just pause for a moment every time we take a measure and think about what it will look like in 20 years’ time.

11.24 am

Lord Thomas of Cwmgiedd (CB): I, too, warmly welcome the Bill and congratulate the noble Lord, Lord Bird, on bringing it forward. As has been said, Wales has similar legislation. In the short time available, I want to comment on two aspects of that legislation that may prove problematic.

The first problem with the Welsh Act is that the duties may not be clear and specific enough to be enforceable; secondly, there is no proper mechanism for legal enforcement. These issues were covered in the report of the Commission on Justice in Wales, which I chaired, and I tried to deal with them in much more detail in the David Renton lecture I gave to the Statute Law Society in November 2019. Suffice it to say today that if legislation is not to be aspirational, and is therefore to be effective, it must create specific legal duties and have a mechanism for enforcement. That is why I warmly welcome this Bill; it has legal duties that can be made specific enough, and there is an enforcement mechanism.

Clause 6 and various provisions of Part 5 address the issues that may be defective in the Welsh Act. The duties are either laid out in sufficiently specific terms or the recommendations made by the commission, which become enforceable, can be made specific enough, and there is an enforcement mechanism before the High Court. Therefore, when enacted, the Bill would be a powerful instrument with appropriate machinery for ensuring that politicians—I pick up, with respect, the point of the noble Lord, Lord Bird, about that—could not give way to short-term or electoral interests or to pressures from others.

Our country's future could be a real future with this Bill. We simply cannot go on ignoring the reality that without independently enforceable duties, the interests of the short term and the pressures of the electoral cycle will triumph. That is why the creation of legal and enforceable duties under this Bill will provide a real future for our children, our grandchildren and their children. I wish the Bill well.

11.26 am

Lord Moynihan (Con): My Lords, I also welcome the Bill and congratulate the inimitable noble Lord, Lord Bird, on securing time for the House to consider this measure.

I would like to concentrate my brief remarks on the importance of health, an active lifestyle and recreation in the context of the well-being of future generations. In so doing, I note that there is only implicit passing reference to these essential building blocks to be laid at the foundation of the Bill before the House today, which seeks to ensure that UK policy-making needs to take future generations into account. It is a civic society build and subsequent bolt-on measure, requiring collaborative thinking and action between civic society and lawmakers, which is why a call for public consultation in the first place is right.

While the Bill does not seek to define “wellbeing goals”, I believe that, following public consultation on the issue, they should ideally be placed in the Bill. Alternatively—albeit sub-optimally—they should be brought before the House under secondary legislation

for further annual debate. That is a nuanced approach to the principle that government should be required to set measurable national well-being objectives and publish an annual report on progress towards meeting them.

I draw the attention of the noble Lord, Lord Bird, to the proposal by the Department of Health to launch an office for health promotion this autumn. It wisely has set out the objective as leading national efforts to look to the future to improve and level up public health, setting action across government to improve the nation's health by tackling obesity, improving mental health and promoting physical activity. Since well-being policies cover educational opportunity, no well-being measures can avoid placing the interests of children at the epicentre of the Bill, for they are the future. Issues around poverty, levelling up, education and, above all, mental and physical health and well-being are critical for children—not least access, with responsibility, to the countryside, which we have been working on in Committee on the Environment Bill this week.

My noble friend Lord True, representing the Cabinet Office, is the right man to respond to this debate today because that is exactly where ministerial responsibility for well-being should lie. Once established, the well-being goals will require more co-ordinated action across government departments than ever seen before. We will need to move away from the silo approach which has characterised Whitehall departments for far too long and work toward a series of national well-being goals capable of being judged against definable outputs across government. I hope the Prime Minister will consider creating the office of a Secretary of State for well-being and children in the Cabinet Office.

11.29 am

Lord Whitty (Lab) [V]: My Lords, I commend the persistence and drive of the noble Lord, Lord Bird, on getting this measure considered for the statute book.

The short-term thinking of generations of politicians, business leaders and financiers has left an appalling problem for our grandchildren and future generations. On one level, we have recognised this. For example, this week we have been debating the Environment Bill and we have had the report of the Climate Change Committee. But that just reveals that, although we set ambitious targets for greenhouse gases and sustainable development goals, we have not put in place the means of actually delivering the way to deal with problems inherited from our generation—and it is indeed our generation and, perhaps, the generation immediately before it that has created these problems.

Eighty per cent of greenhouse gases in the atmosphere have been generated in my lifetime, and 60% since global powers formally recognised the problem at the Rio conference. On the social side, also, problems of inequality—between and within countries—overpopulation and failure to tackle social ills, such as mental health and social care, have also been inherited from previous generations but have been aggravated by our failure to deal with them. The Bill aims to mitigate that, in an apparently modest bid—but, in mindset terms, a revolutionary change—to ensure that all decisions on projects and policies take into account the interests of future generations.

[LORD WHITTY]

One apparently minor point concerns me. It sounds bureaucratic and technical, but it concerns discount rates, time preference presumptions and the Treasury's Green Book rules. It runs through not only the psychology of our decision-making process, focusing on the short-term, but the technical process itself. For much of the key areas of decisions taken in recent decades whose inheritance we are now living with—from the 1970s to the 2010s, say—the official Treasury bill discount rate was never below 5%, usually at about 8% and sometimes as high as 15%. That mechanism was itself a major inhibitor of longer-term thinking, and we are living with the results.

We are now, since the financial crisis, in an era of low interest rates and low discount rates—below 1% at the moment—but that will almost certainly not persist beyond recovery from this pandemic. Can we, therefore, find a new mechanism that runs through our processes, so that we no longer discount future long-term benefits but begin to prioritise their interests and the interests of future generations?

When the noble Lord, Lord Bird, presented his earlier Bill, the Minister, the noble Lord, Lord True, objected that this just meant another quango, another parliamentary committee and another tick box, but this is so much more than a tick-box exercise; it is a whole new way of taking decisions. It will, regrettably, take time to bed in. The Welsh Government have made a commendable start, but they recognise that they have a long way to go. We have not even made that start; let us begin to do so today.

11.32 am

Baroness Garden of Frognal (LD): My Lords, this Bill has attracted a large number of speakers, partly out of the huge respect in which the House holds the noble Lord, but also because of the importance of the issue his Bill seeks to address.

Let us applaud the Welsh, and the noble Lord for his passionate introduction to the Bill. This is a wide-ranging Bill, it is ambitious and challenging, and I fear that some measures may prove too demanding for a Private Member's Bill. I have not seen any costings—that may be my mistake—but the proposals seem so overwhelmingly positive that it may be that the funds will be forthcoming.

The Bill advocates a Joint Committee on future generations and a commission to be appointed by the Prime Minister. Here I have problems. We in this House have seen how prime ministerial appointments can distort the membership, so perhaps commission members could be generated by another method. The commission would need to be and seen to be non-political, and if they are prime ministerial appointments, there is a huge danger that they will be overwhelmingly party political. The well-being of our young people can only benefit by co-operation between government and across all the parties and the public bodies. It would be good to think that such dialogue already takes place, but I suspect that it does not.

I also applaud the proposal for a citizens' panel of at least 50 people, a large and wide-ranging selection of people, which would need an exceptional leader or

convener, but which could prove invaluable in bringing expertise from all parts of our community to this subject. The bigger prize would be for the next generations to have better prospects for rewarding employment and fulfilling lives, if we all work together in the way suggested.

The Bill greatly deserves further consideration and scrutiny, and I look forward to Committee and trying to ensure the well-being of future generations by exploring in more detail how these proposals would work in practice. I very much support the intentions behind the Bill and congratulate the noble Lord on all his endeavours, especially all the work he does to improve the lives of the less fortunate and the young. He may not be able to solve all our problems—as he has so modestly admitted—but, my goodness, he does an amazing job in tackling many of them.

The Deputy Speaker (Lord Russell of Liverpool) (CB): The noble Baroness, Lady Bertin, has withdrawn from this debate, so I call the next speaker, the noble Lord, Lord Wigley.

11.35 am

Lord Wigley (PC) [V]: My Lords, I strongly support the Bill. I thank the noble Lord, Lord Bird, for bringing it forward, welcome his heartfelt plea against short-termism and urge colleagues to give it a Second Reading.

I speak against the background that a Well-being of Future Generations (Wales) Act was adopted by the then National Assembly for Wales in 2015, which the noble Lord, Lord Bird, in his own words, has partially nicked. In considering our experience in Wales, I can do no better than to draw to the attention of the House the comments of Senedd Member Delyth Jewell, who worked for five years at Westminster and received the award of best researcher across all parties and in both Houses in 2014.

Delyth highlights three significant examples of benefits arising from the Well-being of Future Generations (Wales) Act in Wales. First, the Welsh Government, in having to abide by the requirements of the future generations Act, were persuaded to declare a climate emergency in 2019 and, consequently, were obliged to find additional funding to help mitigate climate change and to actively consider steps to ameliorate its effects wherever possible.

Secondly, the existence of this legislation required the Welsh Government to think carefully before spending more on road programmes and to consider whether that money could be better spent on more integrated public transport systems and on active travel initiatives, generating environmental and health benefits.

Thirdly, the existence of this legislation has given the people of Wales a tool to challenge government action whenever there is a feeling that short-termism is detrimental to the interests of future generations. That includes the right to challenge public authorities and local government in Wales. This is seen as having ensured that such bodies work more closely with the Welsh Government to get a more coherent approach to such issues.

Finally, Delyth Jewell points out that, whereas that Act provides a platform to ensure that such considerations are not lost, in reality, a limit on powers and resources

can lead to frustration. More work must be done to ensure that the general public are aware of the potential benefits of using the Act as a lever to protect the interests of their children. Incidentally, I should point out that the arts and culture have a role in the holistic approach to Wales's well-being goals.

I would, finally, add, that in passing this Bill for England, Parliament should will the means to make its provisions fully known to the public and accept that future Governments will need to find the necessary resources to make it effective, not just a token gesture to future generations.

11.38 am

Lord McConnell of Glenscorrodale (Lab): My Lords, I draw attention to my entry in the register of interests.

When Gro Harlem Brundtland, on behalf of the World Commission on Environment and Development, published her ground-breaking report in 1987, she set out the definition of “sustainable development” that has become standard in the decades since. That is, that we should be meeting

“the needs of the present without compromising the ability of future generations to meet their own needs.”

I am delighted to see that definition used in the Bill placed in front of your Lordships' House today, even if I am disappointed that, in the 34 years since, that definition and purpose have not been standard practice for Governments across the world, not least here in the United Kingdom.

There have been hundreds of summits, photo calls and agreements across those 34 years. The most recent, of course, were the 2015 sustainable development goals, agreed by the United Nations and not only signed up to by the United Kingdom but, in many ways, created by the two committees that were, in one case, chaired by our Prime Minister, David Cameron, and in the other, led and in many ways directed by the then Secretary of State for International Development, Justine Greening.

Unfortunately, in the aftermath of that agreement in 2015, the Government made an almost conscious decision to deprioritise the goals here at home. They have never been located properly in the Cabinet Office as universal goals that can help shape, inform and direct government policy and help us measure progress. Although there has been some progress elsewhere in our international spending, despite the hard work of the noble Lord, Lord Bates, the noble Baroness, Lady Sugg, the noble Lord, Lord Ahmad, in his current position, and a number of other Ministers over the years, the Government have never put those sustainable development goals right at the heart of their policy.

So I welcome this Bill. I am not absolutely convinced of the need for legislation but I look forward to the debates on it. I want to see some clarification on the relationship with the devolved Governments and the devolved nations, and I want to explore more the definitions and the way in which they would be implemented. If we can debate this Bill in the same positive manner and with the passion shown by the noble Lord, Lord Bird—not just in his presentation today but in his lifetime of commitment to tackling poverty and disadvantage in this country—we will

provide a good service as a second Chamber. I look forward to those debates. I hope that we will get a chance to look in detail at the provisions that are put forward and that, at the core of the debates, we will look to the future—particularly to children, who, I am pleased to see, are given priority in the Bill and in the deliberations that are going ahead now.

11.41 am

Lord Moylan (Con): My Lords, another day, another independent commission roaming around telling us what to do. I am sorry to sound a dissentient note, and it is painful that I find myself in opposition to the noble Lord, Lord Bird, for whom I have much admiration, but this is a bad Bill and I think somebody should say so.

Of course we should think about the future; that is axiomatic. We do think about it: we think about the future socially and as families. That is not the problem with this Bill. The first problem is that the Bill is avowedly anti-democratic. There is a very helpful essay in the Explanatory Notes explaining why democracy cannot be trusted—an essay that will, I imagine, be read with wry amusement in Peking and various other places. The whole Bill is based on the notion that, in a country that voted to take back control, we should be setting up more and more mechanisms to ensure that people cannot effectively vote for what they want because they cannot be trusted. We have to learn to trust and encourage democracy in this country, not walk away from it.

The second problem with the Bill is that it is, frankly, contrary to the evidence. I do not know where this gloom has come from. The noble Lord, Lord Bird, is not inherently a gloomy figure, but why is it that he thinks we live in a world of utter misery? We do not. What were the generations of the past doing when they built our sewers, roads and bridges if they were not thinking of future generations? What were we doing in the 20th century when we improved air and water quality and started putting in place protections for the countryside if we were not thinking of future generations? Even now, as several noble Lords have said, most of the business of this House appears to be taken up at the moment with putting in place measures that are there to think about future generations. We do not need a Bill with this large apparatus to do that.

There is a third problem, and here I want to say something capitalism and free markets. Capitalism works by thinking about future generations. This might come as a shock to some Benches, but it does. When private entrepreneurs invested in building our railways in the 19th century, of course they were thinking about future generations, because they would never have made their money back—that was their hope—if those railways were not going to run for another 100 years or more. We have the benefits of those railways today. When Sir Jack Cohen started Tesco, he was doing exactly that: setting up something that was going to last a very long time, and could last a long time only if it was predicated on meeting the needs of future generations.

For shortage of time, I take just a couple of examples. What we actually need is more capitalism to make progress. I have so much admiration for the noble Lord, Lord Bird, who has done so much for the current generation,

[LORD MOYLAN]

but I deeply hope that he abandons this Bill because it does nothing for future generations while hobbling the democracy of the present one.

11.44 am

Baroness Bull (CB): My Lords, I am grateful to my noble friend Lord Bird for providing this opportunity to think about the important question of how policies created by one generation can effectively ensure the well-being of those that follow.

A recent paper from the Health Foundation on better policy planning for the long term proposes six reasons why it is essential to look forward, even though, as we have heard, the future is of course largely unknowable: to ensure preparedness for shock events, such as pandemics; to respond to “slow burn” issues, such as the rise in obesity; to enable “long-term investments”, typically in infrastructure; to meet “complex”, “multifactorial” policy goals, of which levelling up would be a good example; and, of course, to “protect future generations”.

The paper also sets out the considerable pressures and temptations that Governments face to act for the short term, including annual funding settlements, short electoral cycles and incomplete data on which to base decisions. Governments can also be overly influenced by temporary yet dominant narratives among the public or in the media, and there is the obvious need to appeal to the voters of today, not of tomorrow. Devising policies for the future involves making intertemporal choices, often with short-term costs for long-term gains—rarely an easy sell.

To me, this highlights the important role of those independent institutions that endure beyond the electoral term—something that, I suggest, is missing from the Bill as it stands. Our universities and charities often have long histories and a degree of permanence that can make them anchors of stability in a fast-changing world. They can bring evidence, rigour and analysis, as well as objectivity, to the debate, making them well placed to convene different stakeholders around complex questions, build shared understanding and sometimes even reach consensus.

This potential has been demonstrated recently in the coming together of a group of clinicians, academics, research funders, charities, service users, Public Health England and the NHS, with the aim to identify four overarching research goals to address the growing crisis in mental health. The process recognised that, as it can take up to 20 years for research findings to be fully implemented, long-term solutions can be achieved only through a shared agenda and collective scientific, social and political endeavour.

Finally, I would go further than this Bill in mandating the involvement of young people in conversations and decisions about what is of course their future. The UN reports that participation in political processes enhances young people’s well-being, develops their skills and strengthens their commitment to democracy. If there is to be a commission for future generations, I would want to see it made up principally of young people—they are the ones with skin in the game. Their active involvement would ensure that it reaches better decisions

and would lead to better outcomes. There will inevitably be those who doubt this to be true, but the future will not be on their side.

11.48 am

Lord Flight (Con): My Lords, I congratulate the noble Lord, Lord Bird, on his lively introduction, but I regret to say that I am in the camp of my noble friend Lord Moylan. The points that he made, particularly about capitalism, are absolutely right.

There are factors within our control and factors not within our control, and the big ones are invariably not within our control. What Covid has taught us is just that. It has been the biggest factor to affect the world probably since the Second World War, and there was no forecasting of it. A lot of the task of forecasting practical things that we can control already happens and can probably be improved. Think about the military, which is organised to reflect forecasting and an assessment of things that we can control.

Reference has been made to a hindsight Bill. In my experience, history rarely repeats itself. There is a danger of spending a huge amount of effort and money on something because it was important in the past but will not be important in the future. The sort of things that are forecastable include switching to electric cars and more money being spent on the NHS—lots of practical things that can be, and already are, controlled. But as I say, do not rely on government, which will always make decisions and change its views for political reasons.

As another speaker pointed out, the Bill has 44 clauses, two schedules and six parts. Goodness me—where is all this leading? It represents an attempt to control far too much and, to my mind, slightly reflects motherhood and apple pie. Of course valuable work can and should be done to assess likely future trends, but my crucial message is not to forget that the big issues will always come and take you by surprise and can rarely be planned for.

11.50 am

Baroness Blower (Lab): My Lords, I am very pleased to speak on Second Reading and trust that the Bill will proceed to enactment. I congratulate the noble Lord, Lord Bird, on his captivating presentation and differ somewhat from the noble Lord, Lord Flight, whom I follow. Short-termism is the enemy of better policy-making, which is why the issues of sustainable development, the well-being goals and the future generations principle contained in the Bill are so important.

Many noble Lords have experience and expertise of the approach taken by the Labour Government in Wales, but Wales is not alone in being forward-looking. I will comment on the work being done in New Zealand, where the Government’s commitment to the well-being of future generations is underpinned by a well-being budget. Although New Zealand is in general a nation that is healthy, well educated, socially connected and has a high material standard of living, it has some of the problems we see in the UK: poor mental health outcomes for some sections of the population, significant numbers of children living in poverty, and significant

disparities of well-being between different ethnic groups. In her introduction to the *Wellbeing Budget*, Jacinda Ardern, the New Zealand Prime Minister, observes that

“While economic growth is important—and something we will continue to pursue—it alone does not guarantee improvements to our living standards... Nor does it measure the quality of economic activity or take into account who benefits and who is left out or who is left behind.”

If the pandemic has taught us anything, it is that we live in an incredibly unequal society in the UK. Some of us knew that before March 2020, but it is now abundantly clear to all. In household income, work and health outcomes, both mental and physical, and in education—to name but a few—there is a great deal to be done before we get anywhere near the Government’s so-called levelling-up agenda.

The future generations principle is defined as

“acting in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs”.

Many presently in your Lordships House are of the generation which has seen the introduction of enormous amounts of plastics, of one kind or another, into our lives. It could be argued that, 50 or 60 years ago, no one had any idea that plastics would be littering the land or killing our oceans. It is incumbent on us to ensure that any new materials brought into use for the convenience of those who live now will not have a deleterious effect on the people still alive and around when we are long dead. It could also be argued that this is difficult, because we cannot know what the future wants. But Professor Thompson, who is mentioned in the Explanatory Notes, says there are many things we can know—for instance, that future generations

“will not want to live with toxic chemicals, foul air, and chronic disease.”

There is a great deal we can do in this Bill. I hope it goes further and to enactment.

11.54 am

Baroness Uddin (Non-Afl): My Lords, it is a great privilege to stand shoulder to shoulder with my noble friend Lord Bird, and I hope that we will see this Bill to its end. I believe that it is an addition to our responsibility on equality duties

We live in an unequal society between those who have and those who live in abject poverty and deprivation. The Bill desires an outcome in which our country is fit for the next generation. I am thankful for this opportunity to consider the challenges to improve its life chances.

The pandemic has forced us to examine long-standing divisions, in which millions of children experience food poverty, homelessness, a poor standard of education, digital inequalities, lack of equal opportunities for work and an endemic level of violence and abuse, with a third of violent crimes being committed against women and girls, including in our schools, colleges and universities. Eradication of violence, including knife crimes and brutalisation of our young black men within the criminal justice system, requires radical overhaul, such as through the urgent reconsideration of the Prevent strategy, which for so long has been seen to target specific communities and has done so much to demonise Islam and Muslims.

It is my fervent hope and prayer that, in looking towards the well-being of our future generations, we will champion and positively promote our multicultural and multifaith society to ensure that all sections of our communities have a voice and say in the way we shape our country. I welcome the well-being duty being placed on public bodies and the proposed Joint Committee, as well as the Minister for Future Well-being. These structures will have to be embedded across government, and the well-being agenda will have to be mainstreamed to work in partnership with the Ministers for children and women, and other senior government Ministers, to effect the changes suggested in the Bill. Such a constructive approach would integrate the levelling-up and build back better agendas, alongside the poverty eradication, education, housing equality and environmental commitments that have been so prominent within this Government, and among the many demands made by young people who have marched and protested throughout our country in recent months.

We have an informed generation of young people. Many have taken the decision to engage in political activism. I take this incredible opportunity to salute the many hundreds of thousands of children and young people who have marched for a better future and demonstrated that they are conscious of building a safer and more equal society and country; who have engaged in political acts and want their voices heard in dialogues and the process of decision-making; and whose consciousness, understanding and appreciation of protecting the environment, and of poverty, health, civil liberties, drugs, social justice, inequalities, racism and Islamophobia, as well as international conflicts, is most profound. They are an exemplar to each of us in this House and elsewhere. This debate is about safeguarding their future well-being. As we consider the merits of this Bill in its next phase, I look forward to elaborating these points further.

The Deputy Speaker (Lord Russell of Liverpool) (CB): The noble Baroness, Lady Stroud, is experiencing technical difficulties, so I will call her later, when she is able to reconnect. In the meantime, I call the next speaker, the noble Baroness, Lady Watkins of Tavistock.

11.57 am

Baroness Watkins of Tavistock (CB): My Lords, I support the principles of the Bill in the name of my noble friend Lord Bird, while questioning the extent of detail which could constrain this and future Governments in policy development. Any Government have a responsibility to both current populations and future generations. Many of the Bills being considered in this parliamentary Session are associated with trying to ensure that future generations survive and thrive in the UK—for example, the Environment Bill, referred to by many noble Lords.

The pandemic has sent a shock of seismic proportions globally, without sufficient preparedness even in G7 countries. An aim of the Bill is to enshrine in law a “shift to a longer-term, preventative approach to policymaking”, which would involve adopting new methods of risk analysis, planning and fiscal policy to ensure that future generations are respected and taken into account.

[BARONESS WATKINS OF TAVISTOCK]

The need to improve the well-being of all our citizens remains a paramount responsibility of all Governments and is amply illustrated through the successful Covid vaccination programme. I fully support the concepts outlined in Part 2, but suggest that some elements are very prescriptive. Clause 4 in Part 2 contains such processes, which are the reverse of the intention of the Bill and could result in convoluted, time-consuming cycles of repetitive consultation, slowing down well-being policy-making.

While supporting the concept of establishing a future generations commission for the UK, Clause 4 makes no mention of England. Surely UK-level discussions need to involve all four countries and younger people, as was so ably mentioned by other noble Baronesses.

The vital issue that we face is that young people want and need to be able to access health promotion and ill-health services digitally, face-to-face and sometimes in hospital. However, I must disagree with the noble Lord, Lord Bird. We did the right thing in shutting the large mental hospitals but we did the wrong thing in not providing alternative suitable accommodation. They need high-quality education, safe and secure housing, and secure employment opportunities but, as the noble Lord said, long-term planning must involve listening and devising policies based on citizens' stated desires coupled with scientific data.

Young people today will be paying off the debt associated with the costs of the pandemic for 50 years, if not a century. Unlike former generations, those going into higher education have student loans to redeem. The requirement to undertake future generations impact assessments, as outlined in Part 2 Section 11, is paramount. In summary, I hope that we can work to revise and simplify the Bill to enable nimble policy development, while fully embracing the best evidence relating to the future well-being of our population.

The Deputy Speaker (Lord Russell of Liverpool) (CB): Her connection issues having been resolved, I call the noble Baroness, Lady Stroud.

12.01 pm

Baroness Stroud (Con) [V]: My Lords, I thank the noble Lord, Lord Bird, for his tireless advocacy for the vulnerable, championing the potential of those whose voices are insufficiently heard. It is concerning that we should need this Bill at all. The well-being of future generations should be at the forefront of all our policy discussions, but sadly that is not always the case when we look at the deteriorating outcomes for our children. It certainly has not been the case during Covid. If we are to focus on the well-being of future generations, it is important to stop and think about what trajectory we are on. Are things already getting better, or are they deteriorating for the next generation?

We are currently witnessing an unprecedented decline in the well-being of our children, characterised by a rise in mental health problems. Despite being more connected than any previous generation through social media, more children are expressing feelings of loneliness and depression than ever before. Although the causes

of these trends are not clear, we know that poor mental health in childhood can lead to poor performance at school, affecting academic outcomes. One in eight children has a diagnosable mental health disorder; that is roughly three children in every classroom. In 2017, suicide was the commonest cause of death in boys and girls aged between five and 19. Nearly half of 17 to 19 year-olds with a diagnosable mental health disorder have self-harmed or attempted suicide at some point, rising to 52.7% for young women.

Given these worrying trends, it is crucial that we start an honest conversation about whether our actions are impacting on the next generation. We must ask ourselves what has changed for children during this period of declining outcomes. One development that has occurred at the same time as this increase in mental health problems is the arrival of the internet and social media in young people's lives. Young people are increasingly attached, often alone at home, to their smartphones or computers. We must look at the impact that social media has on a young person's self-esteem, the damaging material that many young people may be exposed to, and the impact that increased discussion and awareness of mental health issues may have on normalising mental health issues in a young person's mind.

We must also explore the changing nature of the family and its effect on young people. The current generation of children and adolescents experiences higher levels of family breakdown or lack of family formation than any previous generation. It is also, arguably, showing signs of the least resilience, needing safe spaces at university and unable to cope with disagreement. The OECD average divorce rate increased by more than 50% between 1970 and 2012. These are issues that we really must look at. We must examine whether there is a causal link between these metrics and the mental health statistics that we see in the UK.

Add to that the changing work practices and use of early years childcare, and more of this generation have experienced both parents working and being placed in formal childcare at an early age, the effects of which are still relatively unknown and unresearched. Parents and doctors, being so busy, are thought to be increasingly reaching for medical solutions to challenging childhood behaviour. We need to explore whether this supposition stands up and, if so, what impact this early medicalisation has in the long run on children's mental health. Could these early behavioural problems be the early warning signs of future mental health problems that require time, care, play and communication—

Baroness Scott of Bybrook (Con): May I remind my noble friend of the three-minute advisory speaking time.

The Deputy Speaker (Lord Russell of Liverpool) (CB): I call the noble Lord, Lord Browne of Ladyton.

Baroness Stroud (Con) [V]: We must ensure that these issues are well examined. We cannot be content with the thousands of children who go neglected and abandoned in our cities and streets every year.

The Deputy Speaker (Lord Russell of Liverpool) (CB): Again, I call the noble Lord, Lord Browne of Ladyton.

12.06 pm

Lord Browne of Ladyton (Lab): My Lords, I pay tribute to the noble Lord, Lord Bird, and I welcome this Bill. In his Second Reading speech on the first version of this Bill, the noble Lord shared that, after 25 years of helping the homeless, he realised that instead he should have been preventing people becoming homeless in the first place.

When I was the MP for Kilmarnock and Loudoun, I met DCS John Carnochan of Strathclyde Police. Then the head of the Strathclyde murder unit, which had a phenomenally high clear-up rate for homicides, John often lectured worldwide on how that was achieved. One day, at a crime symposium, the thought struck him that instead of taking pride in the clear-up rate, he would rather have shared pride in prevention. From that thought came the violence reduction unit, which adopted a health approach to offending and significantly reduced violence and gang-related behaviour in Strathclyde and then in Scotland—a well-being model now adopted by the Mayor of London and promoted extensively elsewhere by this Government.

There are many examples of policies that have avoided the challenge of long-term change for self-inflicted chronic problems because their implications will make parts of our electorate uncomfortable, if not downright antagonistic. On that theme, I had intended to devote my limited time to the self-inflicted problem of gambling harm, but instead I will highlight why this Bill is particularly welcome at this time and is an opportunity that we should embrace.

Over the past 16 months, the fragility of our society and our economy has been laid bare. The scale of inequality has been exposed; we have been brought to an acute, overdue point of inflection in how we reflect on racism; the health crisis has spawned further inequalities, and undoubtedly the relaxation of restrictions may create even more inequalities. The extent of abusive power in our society, particularly the exposure of the vulnerable, mostly women and children, to it, has become more apparent. It is no coincidence that this has happened when so many of us have been locked down together—in too many cases women with their abusers, and children online, in what can be the most abusive environment you could imagine. We need a focus on well-being as a starting point for building back better and there is no question but that the future must be driven by it.

If we are not going to find new radical ways of thinking that will transform our country and give it resilience now then perhaps we never will. Surely we need to embrace the ambition of becoming a robust well-being society, a country that generates strong economic sustainability with the creation of quality jobs, and with a focus on biodiversity and climate change, fair work, diversity, and a long-term commitment to equality. The noble Lord offers us a helpful template, and we have, in Wales and New Zealand, an ongoing study from which to learn. On the previous Bill, the Minister predictably recognised the implicit value of what the legislation offers but graciously, on behalf of

the Government, declined to take advantage of it. In anticipating that he will do the same today, I respectfully ask him to please point us to the alternative that is on offer.

12.09 pm

Baroness Ritchie of Downpatrick (Non-Aff) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Browne of Ladyton. I commend the noble Lord, Lord Bird, on introducing and sponsoring this all-embracing Bill, which will, if implemented, have far-reaching consequences for the well-being of future generations. I agree with the noble Lord that we do not want the future to be put off. We want an emphasis on the well-being of future generations, and to look at the causes, not the symptoms.

I believe that this comprehensive piece of legislation, which is worthy of our support, encourages a more joined-up approach between government departments. How much the enactment of this legislation, with all its many functions, is required now as we emerge from the Covid-19 pandemic. My noble friend Lord Browne referred to the fragility of our society politically, economically and socially. In fact, even before the pandemic we required this type of legislation which looks at the well-being of future generations. I urge the Government not to set their face against it and to respond to its contents positively through support and rugged determination to show that they are willing to act now to deal with all the challenges facing our society and communities as central and local government and devolved Administrations face the ongoing consequences from Covid. Those include the capacity of the NHS, the ability and capacity of the economy to recover from the downturn brought about by business closures and furlough, the opening up of different types of businesses, people forced to work from home, and the climate emergency, food hunger and food insecurity. In considering those various facets, is it not time that our policy-making took on a different approach, a different way of thinking and a different methodology of implementation? Therefore, we should be looking at the well-being of future generations. I note that the noble Lord, Lord Bird, said on an earlier Private Member's Bill with a similar aim:

“There is a growing consensus that it is time to shift to a longer-term, preventative approach to policymaking. This involves adopting new ways of thinking, planning, and budgeting to ensure that the needs of future generations are respected and taken into account at all levels of government.”

In his submission today, the noble Lord, Lord Bird, encapsulated that viewpoint. I fully support the Bill and hope that the Government see fit to support it too.

12.12 pm

Lord McColl of Dulwich (Con) [V]: My Lords, I, too, thank the noble Lord, Lord Bird, for his inspiring opening speech. One of the most important requirements for future well-being in the secular world is good health. Without good health, the chances of well-being are remote, so I was very pleased to hear my noble friend Lord Moynihan bringing up the subject of good health because the main cause of ill health in the so-called civilised world is obesity caused by putting too many calories into the mouth. The countries with

[LORD McCOLL OF DULWICH]

the highest Covid mortalities are the countries with the highest prevalence of obesity, notably the United States, the United Kingdom, Italy and other countries. For 15 years there have been repeated warnings in your Lordships' House of the dangers of the obesity epidemic, and one of the few leaders to take notice was the Prime Minister himself, who urged the nation to deal with obesity and led the way by reducing his weight by 3 stone. If only others had joined his worthwhile campaign.

I am afraid that two-thirds of British people are obese. What is even worse is that half our children are obese. There is little well-being lying in store for them. We urgently need an all-out, nationwide campaign not to tell people what to do, but to make sure that they know the truth if they wish for a well-being future. Obese people have trillions of excessive fat cells and the fat leaks out of them and impairs their immune system. This leaves them susceptible to all kinds of diseases, such as type 2 diabetes, hypertension, strokes, heart attacks and infections of all kinds, especially Covid. As we are bound to suffer more epidemics, we desperately need to slim down now. That is, if we really want a well-being future.

12.15 pm

Lord Henty (Lab): My Lords, I, too, congratulate the noble Lord, Lord Bird, on his Bill which largely follows the Welsh model. Should the Bill reach Committee stage—the noble Lord has not had much luck so far—I hope he, or indeed the Government, will accept some amendments in the footsteps of the Welsh Government, who have a draft social partnership and public procurement (Wales) Bill which is intended to put more meat on the bones of the Well-being of Future Generations (Wales) Act.

I draw to the attention of the noble Lord, Lord Bird, two particular features. One is the harnessing of the huge power of public procurement to impose the objects of the Act and the Bill. The other is the emphasis on social dialogue. In particular, the Welsh Bill proposes a tripartite social partnership council composed of government, trade unions and employers. It would be a huge step forward in the United Kingdom for the future, as the TUC has proposed.

I would go further and recommend to the noble Lord, Lord Bird, an amendment making one of the well-being goals in his Bill the restoration of collective bargaining. As my noble friend Lady Blower mentioned, this is part of the scheme in New Zealand. The restoration of collective bargaining is a step essential to the well-being of future generations. In the United Kingdom, from the end of the Second World War to the end of the 1970s, collective bargaining coverage extended to 85% of the British workforce. Now it is less than one-quarter. That means that three-quarters of our 32 million workers have no say over the terms and conditions of their work. The well-being of future generations cannot be secured without them having an industrial democratic input into the conditions of their working lives. This is a step required by international treaties ratified by the United Kingdom and has been urged repeatedly in recent years by the International Labour Organization

and the OECD. The Government accepted a commitment in the trade and co-operation agreement with the EU signed last December which states:

“each Party commits to respecting, promoting and effectively implementing the internationally recognised core labour standards, as defined in the fundamental ILO Conventions, which are ... freedom of association and the effective recognition of the right to collective bargaining”

and other things. Last week, this was emphasised in the Carbis Bay declaration by the G7. For the moment, the Bird Bill is a great step forward.

12.19 pm

Baroness Greengross (CB) [V]: My Lords, for many years, especially since Beveridge and the advent of the welfare state, we have had an implied social contract between the generations. At some stages in life, you pay into the system through taxes and national insurance contributions, and at other stages in life, society supports you. In recent years, as the idea that the baby boomer generation has benefited disproportionately from public policy through their lifetime has become widespread, this social contract has been increasingly questioned. Many people feel that the present generations of younger people are not receiving the same degree of support from the state or enjoying equivalent living standards as their parents and grandparents at a similar age.

As we consider the increasingly urgent need to develop and implement a sustainable system for funding social care, we must bear the issue of intergenerational fairness clearly in mind if we are to arrive at a system that commands enduring support from the whole of society. To achieve this, it must impact on all generations in a way that the majority of people considers to be fair, and it must give young people confidence that it will be there to support them in future. We need more than a short-term fix to deal with the population bulge represented by the baby-boomer generation.

Sir Andrew Dilnot told the Intergenerational Fairness Forum, which I am delighted to chair, that to date each generation has taken more out of the welfare state than it has contributed. This has been sustainable only because of the growth of GDP over the period since World War II. It raises the question of how much each generation can spend above its lifetime contribution—in truth, probably not more than the trend rate of economic growth, if we are to avoid passing on to future generations an ever-increasing public debt and the interest burden associated with it.

To achieve sustainable and fair funding for social care, the Intergenerational Fairness Forum recommended that a hypothecated, mandatory system of social care insurance should be established. We felt that this would be more equitable and more effective than funding social care through general taxation as we have to date—inadequately, I am afraid. Such a system would protect social care funding during periods of public expenditure constraint and against competing priorities for public expenditure. As contributions would be set at a percentage of income, it would also be a progressive system.

I believe that a social care funding system based on these principles would also adhere to the principles underlying this Bill, which I am pleased to support. I commend it to the House.

12.22 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, it is a great pleasure to follow the noble Baroness, Lady Greengross, who is always committed and who I know has done massive work in the intergenerational policy area. I thank the noble Lord, Lord Bird, who as always showed himself to be passionate, committed and dedicated. It takes no small effort to bring a measure such as this to your Lordships' House. There has been a lot of work behind it, so I congratulate him on that.

I believe that this Bill is important and very timely. As the noble Lord, Lord Bird, said, it owes much to the Welsh example. It places improving well-being and intergenerational concerns centre stage. That is not to say that there are not laws now that do just that, or that we would have difficulty with this new principle being brought in, but it is certainly not true of all measures and policies.

This week the Public Services Select Committee, on which I sit, met two very senior civil servants—high flyers, the brightest and the best, well intentioned, sincere and hard-working. They told the committee that this Government, and indeed successive Governments, have always been committed to preventive measures, early intervention and long-term planning. One has to ask, then: why are we in the situation we are in? There is no doubting the good intentions of successive Governments, but they are far from the reality, alas, in fields as diverse as health, social care, social policy, home policy, justice policy and so on.

We need to take account of the long term—a problem that has beset UK Governments for a long time. I believe that this legislation will certainly help. Two very current crises highlight the importance of this Bill—first, the pandemic. In October 2016 the UK Government held a national pandemic flu exercise. So far, so good. One consequence was that the exercise found there were not enough ventilators. No action was taken; short-termism triumphed. As we emerge from the shadow of the pandemic, we will need careful, clear forward planning.

Secondly, the climate crisis and the drive to net zero demand imaginative global thinking to deal with this very serious issue. I recall meeting the Prime Minister of Tuvalu before the Paris conference. He told me his nation would cease to exist because it would be overwhelmed by the oceans. Oblivion beckoned. The climate crisis clearly demands action too.

The current generation of youngsters, teenagers and twentysomethings will carry forward the mistakes and inactions of our generation and earlier generations. Let us take the action that helps to alleviate that burden and help plan for the future with this legislation.

12.26 pm

Lord Brooke of Alverthorpe (Lab) [V]: My Lords, I am grateful to the noble Lord, Lord Bird, for presenting the Bill. He is a great, doughty fighter, and I very much support what is in the Bill.

I have listened carefully to the arguments advanced about what we can and cannot expect and how we can and cannot plan for the unexpected. We need to be very honest about politics, and we are not honest

enough in politics. While I subscribe to much in this Bill, the reality is that when the Minister stands up, I expect he will use all the lovely words of comfort but will reject the Bill. The Government will reject this Bill at every stage. If it manages to get through the Lords, time will not be found for it in the Commons. That is my expectation, and that is very much the life that we encounter.

Right at the beginning, the noble and learned Lord, Lord Mackay, talked about difficulties in meeting the unexpected. We can recognise that in certain areas there are expectations that will not change, yet we ignore those expectations and often work against them. I am thinking here of the very important part of the Bill, to which I subscribe, on the environment. We are now going through Covid, an experience we have never had before. In the past five years since 2016, with Brexit, we have seen massive changes and government struggling day by day to cope with what is thrown at it—Covid being the ultimate. It was totally unexpected.

If we look at what we have been doing to the planet, is it unexpected that the planet itself, nature and the spirit behind nature will hit back against the human population to try to defend themselves? We have grown from 1.8 billion 100 years ago to 7.4 billion now, and we are projected to go to 10 billion. This is quite unsustainable. COP 26 is coming, but we are not talking about population. Faiths and science will not address the fundamental problem we have of too many people trying to inhabit this planet and damaging it. We will find that the planet in turn will care for itself, as it has always done, and come back at us. For the sake of our children, the one issue we must spend time focusing on, looking to the future and trying to work together, is what needs to be done about the environment and especially world population growth, where changes are needed. The faiths need to address that. If they want to protect God's planet, they have to do the things that God needs on the planet.

12.29 pm

Baroness Finlay of Llandaff (CB): My Lords, I am delighted to be able to speak to this Bill, and I am delighted that the noble Lord, Lord Bird, has adopted the Well-being of Future Generations (Wales) Act 2015. I shall reflect on the six years that that has been in place, because I live and work in Wales. It has acted as a checklist for public bodies about the way that they behave. It has created an undercurrent of different thinking. As the noble Baroness, Lady Blower, said, it has built on the model from New Zealand.

The Act set seven goals. The first is to have a resilient country. Many things of course are completely out of our control, and it is to plan for the unexpected, as the noble and learned Lord, Lord Mackay, pointed out, that we need to create the skillset and thinking in the next generation.

The second goal was better health, as the noble Baroness, Lady Bull, has said, which is completely compatible with the Health Foundation paper. The third is greater equality, which fits the Government's levelling-up agenda. The fourth is to have cohesive communities, supporting each other and improving our relationships all together. The fifth is having a

[BARONESS FINLAY OF LLANDAFF]

thriving culture, recognising the creativity and identity—in Wales, of course, this includes the language—that creates a community that can be self-supporting.

The sixth goal is to be globally responsible. Has that not just come home? We have an Environment Bill at the moment, and I suggest that that must be completely compatible with this aim. As the noble Lords, Lord Wigley and Lord Bourne of Aberystwyth, said, climate change is upon us and staring us in the face.

The seventh goal is prosperity. That goes far wider than money; it is about the value of relationships, of work, of safe housing and of better mental and emotional health, and so on, in our society. My noble and learned friend Lord Thomas of Cwmgiedd pointed out that the Welsh legislation does not contain duties and enforcements, but that has not stopped the legislation changing thinking.

I hope that this Bill will give us an opportunity to protect children from violence. I would like to see an amendment to provide greater protection to children because, if we repeal the legal defence of “reasonable punishment”, we will do a great deal. The battery of a child cannot be justified on the grounds that it constitutes reasonable punishment. There is strong and consistent evidence from good-quality research that physical punishment is associated with increased childhood aggression and anti-social behaviour.

I hope the Bill has a fair passage through Committee. The future is about today. It cannot be put off into the future, because today does indeed come from the past.

12.32 pm

Lord Lilley (Con): My Lords, I congratulate the noble Lord, Lord Bird, on securing this debate, even though I am not keen on Bills that attempt to bind future Parliaments to adopt currently fashionable approaches. They are futile because, mercifully, we cannot bind future Parliaments—and nor should we, because future Parliaments should make policy in the light of the experience, evidence and values of the future, not of the past.

However, I warmed to the Bill’s definition of what it calls the “future generations principle”, which the noble Lord defines as

“acting in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.”

I agree that that is a principle which we should adopt, even though we do not need to enshrine it in law. Sadly, however, we have been doing exactly the opposite. As my noble friend Lady Stroud said, our pandemic policies have sacrificed young people, the next generation, to the benefit of their elders and not-so-betters. Even though children almost never suffer badly from Covid, schools and universities have been closed for much of the time and young people’s education curtailed, at the behest of teachers and parents, and to save granny.

Our climate policy sacrifices the poor of the world today for the benefit of their descendants, who will be far richer, in future. It is true that poor countries are more vulnerable to climate change than rich ones, but they are vulnerable because they are poor. The cure for

poverty, and therefore for vulnerability, is economic growth, which requires energy. I do not often quote Lenin with approval, but he did say that the future well-being and prosperity of the workers’ paradise would come about as a result of communism and electricity—and he was half right. It is electricity that you need for growth and economic prosperity, and to make a country more resilient.

To require poor countries to replace cheap fossil fuels with far more expensive and less reliable intermittent renewables, which are several times more costly when you take account of dealing with their intermittency, means that poor countries will be able to invest far less in growth and development and will therefore remain poor for longer. Yet Stern shows that, even on his most pessimistic assumptions that we do nothing to mitigate climate change, people in developing countries will, by such economic growth as is then permitted, be six times richer a century hence than they are now. Why should we prolong the poverty of poor people now in order to make richer people in future generations better off?

12.36 pm

Lord Young of Norwood Green (Lab) [V]: My Lords, I too congratulate the noble Lord, Lord Bird, who is a man of action. I still buy the *Big Issue*, and a year ago a seller told me how it had turned his life around. I will support the Bill, even though I have doubts about its practicality. Dickens gave us a warning in *Little Dorrit* about the Circumlocution Office and its ability to obstruct progress.

I make a plea to the noble Lord to choose his examples more carefully. The old mental asylums were appalling places where people were incarcerated for years in appalling conditions. Community healthcare, first introduced by the Italians, was a major step forward. Of course, we need more of it and probably different varieties, but it was a major step forward.

Student fees, contrary to the noble Lord’s assertion, were first introduced by a Labour Government and saw a massive increase in working-class children deciding to go to university—often the first in their family to do so. When the previous Government decided to raise the fees to nearer £9,000, I was a bit concerned, but in fact the statistics showed us that working-class children continued to go to university. Of course we need to review the policy—apprenticeships now also need to be taken into consideration—but we should not ignore the fact that it was an important increase in social mobility.

I also have to take issue with my noble friend Lord Brooke, who referred to population control. The last person who gave that issue major impact was Malthus, who predicted that the world could never survive if the population increased from the then current number. It has of course increased phenomenally. Even the Chinese Government, with their dreadful means of trying to achieve population control, have realised that that is not the right way forward. However, as the noble Baroness, Lady Greengross, reminded us, there really is a need to remedy the intergenerational compact. Is maintaining the triple lock really fair when we need to be spending more on the younger generation?

I might not go as far as the noble Lord, Lord Moynihan, because I think there are aspects of the Bill that are worth looking at. I remind people that the Environment Bill, even though the noble Lord, Lord Lilley, is very sceptical, is an attempt to look forward, provided that we do not set ridiculous targets—some were unfortunately posed in the recent debate on the Environment Bill—and provided that we base our approach on evidence, reckoning that this generation also has to be able to afford advances in the environment.

So we should give further time to the Bill from the noble Lord, Lord Bird. Whether or not it proves to be practical, it is worth the effort, for the reasons that a number of noble Lords have given. In these circumstances, I will be supporting it.

12.39 pm

Lord Walney (Non-Aff) [V]: My Lords, I refer the House to my entry in the register relating to my role in the levelling-up goals created by Justine Greening. I have three brief points.

First, I add my praise, not only to the inspiring noble Lord, Lord Bird, but to my successor representing Barrow and Furness in the other place, Simon Fell, who introduced the legislation there this week. I used to be dismissive of suggestions about widening the focus of various bodies from a relatively narrow interpretation of economic growth to one of wider well-being. Bluntly, people like me were wrong and we should be grateful to those who have made the running on this issue.

My second point is about how to make that meaningful. I have a note of question and caution on an aspect of the Bill that would introduce the requirement for a fresh set of impact assessments on public bodies. I hope that the likely effectiveness of this measure will be carefully considered in Committee. Impact assessments are a blunt tool, even when applied to well-defined datasets and outcomes. It may well be true that recent Administrations have been sceptical about equality impact assessments because they were less committed than they should have been to equality outcomes. Nevertheless, there is a genuine concern that impact assessments often do not drive better outcomes; they can simply load more bureaucracy on already overburdened and underresourced public bodies. That risk is surely manifold in the area of future well-being, a concept which of course can be contested and is certainly less easy to define.

Finally, have the Bill's sponsors considered, or might they consider, a role for the National Infrastructure Commission in this endeavour? The noble Lord, Lord Bird, and others have rightly identified the need to tackle the short-termism that blights decision-making here and in democratic nations across the world. The commission was established specifically to counter the way that this short-termism damages major spending projects. It is making some impact but its influence on the political landscape—where, bluntly, the damage is often done—could and should be greater. It strikes me that a formal link between the infrastructure commission and the proposed future generations commissioner could significantly increase the influence of both, to the great benefit of those future generations about whom so many have spoken powerfully today.

12.42 pm

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to take part in this Second Reading. In doing so, I declare my technology interests as set out in the register. I congratulate the noble Lord, Lord Bird, on bringing the Bill and on the manner in which he introduced it.

How fortunate the House is also to have the perfect Minister to respond at the Dispatch Box to the debate, not only through his role at the Cabinet Office but through his previous chairmanship of the Intergenerational Fairness and Provision Committee, on which I was so privileged to serve. To that end, does my noble friend the Minister agree that the six conclusions that we set out when we published our report in April 2019 still ring true? Further, the future is now and that future is digital. Does he agree that we need to do everything to understand how to have an inclusive digital future—a digital economy and society—in which everybody, now and for future generations, is able to fully participate?

Property is a huge issue to consider. Quantitative easing and other measures have had such a deleterious effect. Does my noble friend agree that for many young people, the property ladder is largely out of rungs? Similarly, pensions as a cast-iron guarantee for retirement have been massively misunderstood in recent years. They have now been raided in terms of the top-end provision and largely wrung out.

I turn to life itself. How can it be that future generations may suffer a lower life expectancy than we will enjoy? To that end, I largely agree with the comments of my noble friends Lord Moynihan and Lord McColl.

Is it time for us to reconsider and reinvigorate the stellar strength of our stewardship of this brilliant, bright blue world, spinning in infinite space? Covid has shown us so much: grandparents and parents taken well before their time, and young people's futures so severely scarred and in need of desperate repair. We should not take from that the differential impacts; we should look at how we address them but the lesson is surely that we are all in this together. If we can grasp that sense of inclusion for today, perhaps

“To-morrow, and to-morrow, and to-morrow”

does not need to creep in at “petty pace” but can come confidently, collectively and connectively into that digitally enabled, inclusive dawn.

As other noble Lords have said, there is much we cannot know about the future but there is much that we can. The most important thing that we can know is this: the future is in our hands. It is in all of our hands.

12.45 pm

Baroness Bennett of Manor Castle (GP): My Lords, it is a great pleasure to rise in this Second Reading to commend the noble Lord, Lord Bird, on this Bill and to offer the Green group's support with anything we can do take it further forward. While walking down this morning to the House, I was listening to a podcast called “Big Biology”, in which Professor Kevin Gaston from the University of Exeter talked about the ecological impacts of lighting. This relates to a debate on the Environment Bill earlier this week. He was talking about the interactions and how the way we have lit up this planet is causing trees in many places to leaf out a couple of weeks earlier. We also know that the climate

[BARONESS BENNETT OF MANOR CASTLE] emergency is having similar effects. But when he was asked how those two things interact, he said “I just don’t know”.

The noble and learned Lord, Lord Mackay of Clashfern, said that the future is difficult to predict. However, we now have knowledge, which we may not have had in the past, that human actions on this planet are having systematic and extremely deleterious effects, and that they are interacting with each other. We need to take a systems approach to thinking about the impact of all our actions: what impacts they have today but, crucially in the context of this Bill, what impact they will have in future. The Bill is giving us a way of doing that.

We might wonder why we made so many mistakes in the past. The noble Baroness, Lady Blower, referred to plastics. How did we come to put microbeads into large amounts of cosmetics, designed to be washed down the plughole, and not think about where they would go? This is the kind of issue that the Bill addresses.

That is all big, conceptual thinking, but can we deal with this practically? Again, the noble Baroness, Lady Blower, referred to New Zealand, which has a living standards framework that guides everything the New Zealand Treasury does. We have a Committee on Climate Change which, just this week, pointed out that the Government are not being guided by their own legislation in terms of all their policies matching net zero. Again, the Bill is another way of getting at these issues and making sure that they are law.

A number of people referred to the limitations of the Welsh Act and said that this legislation can and should be stronger. I believe that it is. However, a couple of weeks ago I was outside Norwich, standing beside a magnificent oak tree that had been a sapling when Elizabeth I was on the throne. According to the local plans, that oak will soon be in the middle of a motorway—demolished and taken away for it. Just a couple of weeks later, the Welsh Government announced that they were planning to put a moratorium on all new roadbuilding. That is a practical demonstration of what a well-being of future generations Act can achieve. As another noble Lord said, it is about a change in thinking and that is what we so desperately need.

12.48 pm

Baroness Massey of Darwen (Lab): My Lords, I congratulate the noble Lord, Lord Bird, on again securing a debate on the importance of enhancing the chances of future generations. Before I came into this debate, I was in a virtual seminar with children and young people from the UK, Ireland, Belgium and France. They were from primary and secondary schools, and youth organisations, discussing what they would like to know and could do about climate change. They fear for their generation and for generations to come. They were exciting and articulate; they have learned to be confident while expressing their views in reasoned argument. This is what the future generations, with encouragement and support, are eager to do.

I would like this debate and the Bill to persuade the Government to develop a practical but inspirational strategy for children and young people; they are the future generations. By children, I mean those who are 18 and under, and by young people I mean those around 18 to

around 25. I ask the Government to take another look at the UN Convention on the Rights of the Child, ratified by the UK in 1991: a strategy for children could build on that. Wales will incorporate the convention into its legislation, and Scotland intends to do so. Any strategy for children must incorporate the rights, as stated in the UN convention, to education, health, the arts, culture, good parenting, a social life and sport. Education should include learning about resilience skills and what makes good relationships. Children need play, protection from harm—including online harm—and the skills to reject what might be harmful.

Strategies that remain relevant to people’s lives must seek out the views of people, including children. We have some good bases for doing this. The voluntary sector for children, the royal colleges, local government and academics are producing reports, seminars and briefings on what is best for children and on child participation. We have had the inspiring Leadsom report on the early years and other government initiatives, but where do they go? How are they monitored?

A strategy for children would stretch across many government departments, with their own plans but with the single focus of child well-being. It would need co-ordination and co-operation in all structures. Inspiring and exciting things could happen, as they sometimes do now, although we often do not know about them. For example, I learned last week that the DCMS is fostering youth involvement in democracy with “young inspectors” and school councils—how many people know about that? I did not. Strategy needs structure, with aims, targets and monitoring of the results, whatever its subject. It needs someone in charge, who can drive things forward, while consulting others. This is why so many of us here, and beyond Parliament, are asking for a Minister for children at Cabinet level. Well-planned and co-ordinated practical measures are needed to respond to the possibilities of the future and to help our children.

12.52 pm

Lord Bates (Con): My Lords, when you are the 33rd speaker and the final Back-Bench speaker, it is always a bit of a challenge to make a contribution that does not trespass on the Whips’ motto that everything needs to be said but not everyone needs to say it, so with my three minutes, I will focus on three brief points about why I very much support and welcome the Bill. I will also try to squeeze in two or three ways in which I believe that it could be strengthened.

The first reason why the Bill is necessary is that we have an outstanding generation of children and young people, as the noble Baroness, Lady Massey, has talked about. I speak as a parent and grandparent, but, beyond that, I think that this generation is one that we can rightly be proud of. We often bemoan the future—or the young—generations, but, when tested during this pandemic, their adherence to and observance of the rules has been inspirational, even though they have sacrificed and surrendered most. It is worthy of our admiration and thanks, particularly because, statistically, they were going to suffer least from the pandemic’s effect. They were acting out of a desire to protect older generations, who were going to suffer more. It is worth embarking on efforts to build back better for them.

The second reason is a sense of responsibility. I am part of a generation that has been blessed with many good things. We have been able to build our way to prosperity without having to worry about pollution, though we are now waking up to the cost of that. We have been damaging our planet and environment, and we will leave it to future generations to respond to that. We have had the benefit of affordable homes and building up equity in them, of final-salary pension schemes and of having our higher education costs paid for, so we have a responsibility.

My final point is that foresight is a good practice in government. It is worth pausing for one moment to be thankful for Beveridge and his 1942 cross-party report, and to be thankful for the vision of Aneurin Bevan in leading the creation of the NHS. To bring this a little bit up to date, it is also worth being thankful to Theresa May for announcing the biggest ever injection into the NHS in 2018, risking the ire of many in her own party—how thankful we are that she did that. Those are three reasons why we should go ahead with the Bill.

The reasons I would call for restraint are these: some of the costs set out, the complexity of the consulting mechanisms and the financial implications. Otherwise, I welcome the Bill and wish it a safe passage.

12.55 pm

Lord Shipley (LD) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Bates. I agree entirely with what he has just said. I thank the noble Lord, Lord Bird, for the opportunity afforded by his Private Member's Bill, which I warmly welcome for both its proposals and its timeliness. It offers a resetting of how we construct public policy, and, for that reason, it is to be strongly welcomed. I hope that the Minister will speed the Bill and give the principles behind it government support.

On the timeliness of the Bill, the Covid pandemic has brought a number of policy issues to the fore, meaning that the concept of well-being must now become more central to public policy-making. I am pleased that the Today for Tomorrow report is being launched next week, with the ambition of putting long-term planning in place for public policy decisions today. I venture to suggest that, had we been doing that, we would not have had the rise in poverty, particularly child poverty, now being experienced. We would not have the crisis over unaffordable housing for so many people on low incomes. We might not have had such a serious pensions crisis, which is now facing so many younger people, or the wide gap in access to broadband or catch-up funding for young people who have missed substantial parts of their education in recent months.

Well-being requires clear goals in relation to an individual: having good educational opportunities and the security of a decent home and job. But it also needs to reflect places, such as rural areas, where house prices are very high, where there is substantial fuel poverty and where the cost of transport is high for those who live there to reach further education or work. That is one example of the importance of place, and I hope that we explore it further in Committee.

We know that future forecasting can be difficult, but we should have known that a pandemic would be likely to reduce employment for those in temporary employment or the gig economy. We should note that

three-quarters of job losses in the last year are among the under-35s—yet we seem to have been unprepared for that.

I see the Bill not as anti-democratic but as enabling us to understand better the impact of today's policy decisions on the future and future generations. We would benefit from the Bill, perhaps after it is strengthened in Committee. We do equality and environmental impact assessments, which make a difference. Surely we should now be undertaking well-being assessments to inform our understanding of our policy decisions today and their impact on tomorrow.

12.59 pm

Lord Watson of Invergowrie (Lab) [V]: My Lords, I congratulate the noble Lord, Lord Bird, on reintroducing this Bill on hardwiring into policy-making the future interests of generations. As he said, we cannot have the future continuously put off. Of course, the fundamental question is how to overcome the short-termism in policy development that is inherent in democracies. Perhaps it is simply human nature for Ministers to give limited consideration to making decisions in the now that may not come to fruition until long after they have left office. If that is indeed a natural human trait, for the sake of the well-being of future generations it is one that absolutely must change.

The Bill would place a duty on public bodies to produce future generations impact assessments and would give the Office for Budget Responsibility a wider remit to publish a future generations risk assessment, effectively placing a cost on not taking the necessary action. The Intergenerational Foundation, a non-party political charity that works to protect the interests of younger and future generations, recently reported on how government spending is skewed against the young. It found that the gap in the amount of money that Governments spend on an older person compared to that spent on a child has doubled in this century; almost £20,000 is now spent annually on each pensioner, but less than £15,000 on each child. Compounding this disparity is the wealth of evidence that investments made in a child's first five years improve their health, well-being and economic future throughout their lives. The noble Lord, Lord McColl, said that the main cause of ill health was obesity. I hesitate to contradict an eminent physician, but the main cause of ill health is poverty; obesity is largely a symptom of poverty. Without high-quality early years care and education available to all three and four year-olds, the Government risk the future of the youngest children, creating issues for them that will be costly to put right in later life. That does not make good economic sense.

In March, the Government commissioned the Leadsom report, to which my noble friend Lord Blunkett, referred, highlighting six action areas which it said were key to improving the health outcomes of babies and young children. Crucially, however, it made no mention of the additional resources required to achieve those outcomes. If a preventive approach to policy-making was taken by government, children up to five would be well-supported, with their future well-being and economic success greatly enhanced. If they supported early years adequately, the futures of two generations could be secured. The Government know what is needed to

[LORD WATSON OF INVERGOWRIE]

solve this problem and are simply choosing not to do so. Perhaps if the growing calls, including by my noble friend Lady Massey and the noble Lord, Lord Moynihan, today, for a Minister for Children with the right to attend Cabinet were answered, that message might be not simply heard but understood.

I doubt that the call from my noble friend Lord Henty for an increase in workplace collective bargaining will find favour with the noble Lord, Lord Moylan, who remarkably claimed that capitalism is the answer to the issues identified in the Bill. Were that the case, there would be no need for the Bill. I endorse my noble friend's words: dignity at work and fair pay are vital aspects of helping people to help themselves, which is why collective bargaining is one of President Biden's priorities.

Some 1.5 million people in England had less than £100 in savings prior to the pandemic, so it is critical that we support the next generation to develop positive savings habits and money mindsets by investing in and prioritising financial education in primary school. Money habits and financial attitudes are generally formed around age seven, but financial education is still not a compulsory part of England's primary school curriculum. The KickStart Money financial education programme has reached over 20,000 primary age children, with independent evaluation showing that two out of three have now begun working towards a savings goal after the lessons. There is surely a lesson there for the Department for Education.

There is also the critical issue of children's mental health, with the pandemic having taken a heavy toll among school-age children. In January this year, the Government published a White Paper called *Reforming the Mental Health Act*, containing a summary of proposals that could constitute the first changes to that Act in four decades—but none of the proposals aims to provide support for children and young people before they reach a point of crisis.

The voice of children should be heard in debates such as this; they are not slow in letting us know their views on the issue overarching literally everything else when considering the future well-being of generations—and that is, of course, climate change. Many noble Lords have made the case for action and have done so powerfully and convincingly. I want to signify my own support for their urgings and to highlight the fact that I am not alone in being extremely concerned at the lack of urgency shown by the Government. That was emphasised as recently as yesterday, when their own independent advisers, the Climate Change Committee, chaired by the noble Lord, Lord Deben, scored the Government nine out of 10 on their targets but somewhere below four out of 10 on their efforts to meet them.

A new net-zero strategy was expected earlier this year but has been delayed until the autumn, leaving little time before the COP 26 conference. A new heat and building strategy is also promised but has also been delayed. I believe that the Government also need to demonstrate how their environment and planning Bills will help to cut emissions. Every new government policy should be subject to a net-zero test to prove that it is compatible with the overarching climate target.

No doubt the Minister will rebuff such calls on the grounds of cost, but my response to that would be to ask whether he has examined the cost of not taking effective action.

The Welsh Government became the first part of the UK to enshrine the rights of future generations into law, which led to Labour's 2019 manifesto containing a commitment to introduce a future generations well-being Bill. When answering a debate proposed by the noble Lord, Lord Bird, in your Lordships' House in March 2020, the Minister said that the Government must examine the Welsh model. Have the Government done that?

Baroness Scott of Bybrook (Con): My Lords, I remind the noble Lord that there is an advisory speaking time of three minutes—he has done double that.

Lord Watson of Invergowrie (Lab) [V]: I was informed by the Whips' Office that I had seven minutes. I shall finish in one sentence. The Bill proposed by the noble Lord, Lord Bird, offers England the opportunity to build on those experiences. It is heartening that, with very few exceptions, noble Lords in today's debate all heartily support its ends. I wish the Bill well.

1.05 pm

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, as always I welcome the contribution from Her Majesty's Opposition. The only demur I would have is that at the end we got back into referring to political parties. One of the interesting things about this very distinguished debate is that the names of political parties, except for one reference in the speech of the noble Lord, Lord Bird, have scarcely been mentioned at all. That exemplifies the point that we all have a common interest here: I do not believe that anybody comes into this House or the other place, or the humblest parish council in the land, who does not have the aspiration of doing his or her best not only for this generation but for future generations. That is the motivation that has created the great political parties of this land and kept their hearts beating over generations.

Therefore, I very much welcome the tone of the debate. As some noble Lords anticipated, I shall not be able on behalf of the Government to support the mechanism, and I shall come to that shortly. I declare a past interest, which was referred to by my noble friend Lord Holmes of Richmond, and the noble Baroness, Lady Greengross, who both served with me on your Lordships' Select Committee on Intergenerational Fairness and Provision. Of course, I avow that committee and give assent to its collective deliberations, and I give assent to the collective deliberations of Her Majesty's Government, for whom I speak.

In doing so, I begin by congratulating the noble Lord, Lord Bird, on his work on the Bill, his success in introducing it and getting first place once more this time and, of course, his distinguished career as a passionate advocate and campaigner for reducing poverty, which we all admire. I think that the noble Lord was misheard when he spoke about mental health institutions—those terrible places, where once my father was incarcerated. He was not defending those; he was talking about their potential replacement, and I agree with him on that.

There is always a balance between the long term and short term in policy-making, and this is considered by the Government and by all Governments, and will continue to be considered. My noble friend Lord Bates referred to the NHS, in which we all take pride and which we all salute. Of course, the NHS and the welfare state was envisaged by Beveridge as an insurance-based institution that would build up over time. The great Labour Government after the Second World War took the view that this was something that must be introduced now, for the present generation. That was an example of trying to weigh the long term against the short term.

Other noble Lords—it may have been the noble Lord, Lord Bird—mentioned mines. I grew up in the great mining county of Nottinghamshire. When I was young, my mother bleached the whites over coal and we heated the house with coal; I warmed my clothes, before I went off to school on a frosty morning, in front of a coal gas fire. That was our way of life. Along came the Clean Air Acts, in the interests of future generations, and air quality swept away that way of life. That was an interest made in the interests of future generations which had an impact on the present. Those kinds of tensions and challenges go on all the time in policy making.

The question is over the mechanisms in the Bill proposed by the noble Lord, Lord Bird, which are quite far-reaching and specific. As was pointed out by the noble Lord, Lord McConnell, my noble friends Lord Moylan and Lord Flight, and the noble Lord, Lord Young of Norwood Green, and others, there is a balance to be found on the question of legislation and on the question of ensuring how we think about future generations. I think that the noble Baroness, Lady Watkins of Tavistock, had a particularly interesting and balanced speech on that.

There is no single view, and one of the problems of creating a commission with the statutory enforcement powers that are proposed and which is made up of people who would serve for seven years is that it may embed a particular view of the future. Is not the purpose of politics, of Parliament and of this House for distinct views to come together here to debate and consider the future? We and the public bodies that are responsible to Parliament must have that place in reconciling differences of opinion. The Government share the scepticism around imposing a statutory framework, so I express our reservations about the Bill, although, having heard the fascinating debate today, I look forward to further discussion in Committee.

The Bill is very broad in its scope and nature, and we do not see that as the best way forward. The Government are committed to, and are already, delivering sustainable long-term action in the environmental, economic and social well-being spheres both now and for generations to come. We have heard discussion of Covid, and the Government have of course set out their aspirations and plans in terms of levelling up, using—as the noble Lord, Lord Browne of Ladyton, referred to—the opportunities as well as the challenges and problems presented by the Covid crisis to build back better for all citizens. We will publish a landmark levelling-up White Paper later this year, which I hope will set out bold new policy interventions to improve livelihoods and opportunity in all parts of the United Kingdom.

I ask noble Lords to cast their minds back just a couple of weeks to the G7 summit, hosted here in the UK, and the shared commitment from global leaders, led by the UK, to building back better for a more equal, environmentally friendly world for future generations. That is something to which this Government are committed and give their full support.

There is already in place a requirement for public servants to take account of the Government's wider goals when designing and implementing policy. That is fully expressed in Her Majesty's Treasury's Green Book guidance to policy officials about how to maximise the social value of public spending and therefore improve outcomes for the public. The Green Book sets out government guidance on the design, appraisal and approval of new public spending in terms of optimising social—that is, public—welfare. Many aspects of social policy have been referred to in this debate, including the importance of concern for children, which so many noble Lord stressed.

The debate is not so much about ends, on which most noble Lords have spoken and where the Government are on the same page, but about mechanisms; it is here that the Government have reservations about whether the legislation as set out by the noble Lord, Lord Bird, would be practicable and effective. For example, the Bill provides for the creation of a number of public bodies including, as I have already referred to, a very powerful future generations commission. The Government's policy is that new arm's-length bodies should be created only if there is a clear and pressing requirement—a clear need for the state to provide the function or service through such a new body, with no viable alternative. We are not convinced that the aims of this Bill meet the criteria, given the concern for the future that is embedded in the mechanisms of government policy-making. The creation of such a body could in fact leave departments off the hook, by outsourcing the thinking on this subject.

The noble and learned Lord, Lord Thomas of Cwmgiedd, referred to enforceability and extolled the potential role of the courts—as well he might. However, from our point of view, it is hard to see how legal enforceability would work in practice in relation to duties in this Bill.

The noble and learned Lord, Lord Thomas, the noble Lord, Lord Wigley, my noble friend Lord Bourne, the noble Baroness, Lady Finlay of Llandaff, and others all referred to the Welsh example. We will no doubt examine this closely in Committee. Supporters of the legislation consider it ground-breaking in the United Kingdom context to require public bodies to take a long-term view that might not come naturally; detractors see it as bureaucratic and unnecessary, a blunt tool that shoehorns longer-term thinking into a prescribed process. I am sure that we will explore whether it is a drag on policy in terms of bureaucracy or whether it has an advantage.

Regarding the longer term, many noble Lords referred to climate change. We are committed to the COP 26 conference later this year, which I hope will satisfy people of the concern and long-term intentions of the Government regarding sustainable goals and a sustainable world.

[LORD TRUE]

I hope that, if not today then in Committee, I can assure noble Lords of the Government's commitment to long-term thinking. Despite the reservations that I have expressed about the statutory nature of what is proposed, I take the opportunity to repeat my personal admiration for the noble Lord, Lord Bird, his outstanding work and the very thoughtful debate that he provoked and which his Bill will no doubt continue to provoke in the months ahead.

1.15 pm

Lord Bird (CB): I thank noble Lords for getting behind this debate. It has been very interesting; I have learned an awful lot. I learned that I am anti-democratic in nature from my good friend, the noble Lord, Lord Moylan. I remind him that those railways that were built ran into the sand in 1936, when Stanley Baldwin had to rescue them and nationalise the railways, the first big industry that was nationalised. I am also really glad that the noble Lord, Lord Lilley, brought in Lenin, because I can now remind the House that Lenin said—apossitely, in my opinion:

“The capitalists will sell us the rope with which to hang them”.

There is an element—is there not?—that if we rely on the market in the way that things go, we will move inexorably towards a much worse world, in which we fail 37% of our children at school and fail when it comes to biodiversity. Our consciousness of the environment over the past 50 years has increased enormously, yet 50% of all the damage ever done has been done in the past 50 years. It took us thousands of years, up to 1970, to do half the damage. In spite of our having committed Governments, reports and thousands of organisations created to look at saving the world for our children, we still have a situation where things are getting worse for our children and the quality of life they lead. A lot of them, including my own children, are led by the domination of their digital separation from each other. There are all sorts of problems like that, and I do not think we can leave it simply to a Government—any Government—to put on a kind of patina, a surface of future.

I have spoken to Ministers and I can tell noble Lords that they nearly always say, “We take the future into account”, and I say, “I’m sorry, I don’t believe you’re really embracing the needs of today”. What is happening with the people I work with, the homeless? I am sorry to return again to something I keep bringing up in this House, but we are facing one of the biggest crises of homelessness we have ever seen. Some 800,000 people are facing eviction because they are behind on their rent and 200,000 children are sofa surfing. That was not the case 30 years ago, when I started the *Big Issue*. Things got better, and then they got worse. Maybe we are going to leave it to cycles.

I just want to say that I think there is an urgency. I wanted this brought forward with urgency. What my organisation will be doing, and what I will be doing as an individual, is going around the country and stirring the people up, so that we have extra-parliamentary arguments as well as parliamentary arguments, because it is not working. When I go up north, I see the damage that was done because we did not replace the industries we destroyed. Then I look at the mental

health situation. I am no defender of mental asylums—I have been to many of them, with members of my family and people I have worked with, and I would never defend them—but it is indefensible to close something and provide nothing to replace it. We did that in the north, we did that in the Midlands, we did that with the coal mines and we did it to our mentally ill. I am sorry to say that we have done it to our children. If a child today presents with mental problems at school, they may wait three, six or nine months to be handled, because there is no real provision for children with mental health problems.

I am also a very badly beaten child; that subject was returned to. I have spent the whole of my life struggling with the problems of what happened to me as a child. I meet ever more children who are going through that now, and that is what I want to avoid. I beg to move.

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

1.22 pm

Sitting suspended.

Arrangement of Business

Announcement

1.26 pm

The Deputy Speaker (Baroness Finlay of Llandaff) (CB): My Lords, the Hybrid Sitting of the House will now resume. I ask Members to respect social distancing and to please remember to wear a mask in the Chamber when not speaking.

Office of the Whistleblower Bill [HL]

Second Reading

1.26 pm

Moved by Baroness Kramer

That the Bill be now read a second time.

Baroness Kramer (LD): My Lords, perhaps it would help to start this debate by explaining why I regard whistleblowers as crucial to a healthy society. To quote Stephen Kerr, the former Conservative MP and first chair of the APPG for Whistleblowing:

“Whistleblowers are the first line of defence against crime, corruption and cover ups.”

Indeed, the APPG’s first meeting coincided with breaking news of the Gosport War Memorial Hospital scandal, including stories describing how whistleblowers were ignored and silenced.

The scandals exposed by whistleblowers range from care homes, the NHS, policing, the Prison Service and transport projects to financial institutions—many of those, unfortunately—and many private companies. Research by the chartered institute of fraud has found that 42% of all internal fraud is identified by whistleblowers. But before anyone thinks all is well, the sad history of many scandals is that early warnings are ignored when they should be regarded as the canary in the mine and many whistleblowers pay such a personal price that others who want to speak out are deterred. That has to change. I see whistleblowers as a citizens’ army, not just exposing wrongdoing but significantly deterring it.

The first phase of the work of the APPG for Whistleblowing focused on providing a platform for whistleblowers to describe their experiences and recommend reforms. The lived experience of so many whistleblowers, shared in their testimonies, was a legacy of inaction and retaliation when they spoke out. This came with devastating professional and human consequences, with many seeing their lives turned upside down. Despite moves to increase the role of regulators and enforcement authorities, it remains the reality for so many whistleblowers. The APPG's 2019 report outlined a 10-point plan to improve this situation, from a legal definition that includes all whistleblowers to proposing new ways to support individuals and protect them from retaliation. Crucially, it recommended the creation of an independent office of the whistleblower with real power to act.

In its second phase, the APPG has been talking to regulators. My assessment—the APPG has not yet concluded its work—is that most regulators regard their role in dealing with whistleblowers as very limited by law. Anyone who trawls through the various regulators' websites will quickly find that the rules for each regulator not only differ but rarely meet the obvious expectations of whom they can hear and what they can do. This situation is confusing and chaotic, and must be improved. Every regulator will tell you how important whistleblowers are. I am sure the Minister will take the same view. I am here today because of the gap between these assertions and the reality facing those who become whistleblowers. Behind every new scandal is a legacy of vital early warnings being ignored and the whistleblowers who bravely put their heads over the parapet being left out to dry and overlooked.

I think we all agree that regulators work hard to try to ensure that the confidentiality of whistleblowers is protected, but we know that such protection often fails because the individual has already spoken internally or is one of a few privy to the necessary information. Regulators regard what most of us would call retaliation against a whistleblower as outside their jurisdiction; indeed, I have never heard of a regulator intervening in an employment tribunal case even though this is where most employees who speak out end up. Most regulators engage with whistleblowers through a call centre staffed by people trained to handle and pacify complaints, not experts capable of spotting wrongdoing. Some regulators act with alacrity. Others pay little attention to what they regard as complaints by troubled people. Interestingly, many of them greeted with sheer relief the idea of the office of the whistleblower to sort through this complex and difficult area, provide them with clarity, help whistleblowers with tailored support and help them as regulators to get on with their jobs. That is why it is important that we ensure that the office has sufficient powers to carry out this role effectively. I am particularly keen that it has the scope to examine, consult and act on knotty and difficult problems.

Who is a whistleblower? Surely it is not just a worker, as you would assume from current law. It could be a client, a supplier, a relative or a contractor, all of whom may need support and protection.

How do you deal with retaliation when it involves a real inequality of arms? It pits little people against well-funded organisations with access to the finest

legal expertise and the patience to drag out a case for years. This week in the London central tribunal, as I drafted this speech, there were three whistleblowers that I know of in hearings whose current phase of litigation was costing from £24,000 for a preliminary hearing to £145,000 for a liability hearing—just a fraction of what their final legal costs will be. Dr Raj Mattu, a whistleblower who has permitted me to use his name, was a leading cardiologist fired after he exposed tragic levels of excess deaths at Coventry hospital. He spent £1.48 million clearing his name. When he was totally cleared, he was awarded £1.22 million; he still ended up facing huge bills. If the Minister says, “Well, this is the old world. It does not happen now”, I refer him to the case of Dr Beatt, which was resolved just a year ago. He was awarded £870,000; I do not yet have permission to tell people his costs but let me just say that the pattern is consistent. These costs are prohibitive and skew the system in favour of employers and organisations. We must level this playing field to enable more people to come forward.

How do we compensate whistleblowers whose professional life is effectively ruined by the informal blacklist that follows them for life? I got a lovely email from a whistleblower who has found his career reduced from senior professional jobs—on a par with, or even senior to, many of the people in this Chamber today—and who can now only find work driving a delivery van. How do we deal with confidentiality agreements, the UK equivalent of American non-disclosure agreements, which are part of nearly every settlement agreement and mean that both politicians and the public are in the dark about both the number of whistleblowers fighting to save their careers and what, if anything, has happened to counter the wrongdoing they have exposed? Is the Public Interest Disclosure Act 1998—the key piece of legislation—capable of revision, or does its place as a narrow subset of employment law mean that more overarching legislation is needed? The answer can be found through the work of an office of the whistleblower.

One objection always raised in opposition to creating an office of the whistleblower is the cost it would take to set up and run. To that I say this: the money lost through scandals and corruption far outweighs the cost it would take to run this office. But in pounds, shillings and pence, the financial penalties from one successful prosecution of financial abuse would pay for the office for years—a good example is the £45 million fine from the Lloyds Reading fraud case.

The current chair of the APPG on Whistleblowing, Mary Robinson MP, is very supportive of the Bill, and I thank WhistleblowersUK and Protect for their support. Many MPs are now exercised by the issue and, as we come out of the pandemic, whistleblowers will be crucial in addressing waste and fraud that has occurred in the Government's Covid programmes. That is not an attack on the Government; it is making sure that people who took advantage of those programmes are identified and dealt with.

We need quick progress to ensure a proper and effective framework for whistleblowing so that corruption and fraud can be stopped in their tracks, while ensuring

[BARONESS KRAMER]

that those who speak out are protected and supported. I note that just two weeks ago Paul Scully MP, a Minister for BEIS, said:

“It is right and proper that we review the whistleblowing framework”.—[*Official Report*, Commons, 8/6/21; col. 846.]

An independent office of the whistleblower can drive and support the change we need and ensure that we build a better, fairer society for all. I beg to move.

1.36 pm

The Earl of Erroll (CB): My Lords, this is an important Bill which addresses an area that needs thoughtful sorting out. I agree with the points the noble Baroness, Lady Kramer, made. There is no point in me repeating any of them, but one I think is particularly important is the whole area of financial redress to whistleblowers. They cannot be left out of pocket and many of them without work. Their whistleblowing has harmed their employment and their future, and that is very serious.

I have two caveats about whether there should or should not be total anonymity. The French experience during the Second World War resulted in France not allowing anonymity for whistleblowers nowadays, because the quickest way of getting your neighbour’s property was to make an anonymous report to the Gestapo that they were members of the resistance, at which point they disappeared. We must always be careful of people using this mechanism incorrectly for their own business ends and that it does not become a weapon, but this is not to say that everything the noble Baroness, Lady Kramer, said about protecting whistleblowers was not right.

I also remember back to the 1980s, when I was in software development. If you lost a software developer to the opposition, the best thing was to get an Anton Piller order, at which point you walked in and seized all their files and records because you said there had been copyright infringement. That closed them down for at least a week and put them at a serious disadvantage. It was even better if you could actually follow up with a Mareva injunction—which we never did—because, with a bit of luck, they would go bankrupt. You have to be very careful about some of these things being used in that way.

One of my sons commented on the disturbing tendency that there is no longer the principle of innocent until proven guilty. You can now force people to resign, often from high-profile public positions, by an accusation that many years ago they behaved inappropriately by today’s exacting standards—and this resignation must happen immediately, before any examination of context, veracity or circumstances. Two consequential thoughts came to me from this. The first is that there must not automatically be an unquestioning belief that any blown whistle is true. You will get ones that are not, but it must be handled terribly carefully. The second is a bit broader than the Bill, but I thought I would slot it in here, and it is relevant to stuff that has happened recently in the news. Carelessly worded and overhasty tweets made by someone who is young should not be held against them for ever, especially once they have entered a more reflective and responsible area in their lives. We have a Rehabilitation of Offenders Act, which allows people to put their past behind them

after a certain period and gives them a fresh start. We should do the same for all these people who have poorly presented pronouncements in the past which are perceived painfully.

1.40 pm

Lord Sharkey (LD): It is a pleasure to follow the noble Earl, and I congratulate my noble friend on securing this debate and on the compelling way she has presented her Bill. As she has demonstrated, there is a clear need to reform the way we deal with whistleblowing and I strongly support the reasonable and reasoned approach to reform proposed in this Bill.

As my noble friend Lady Kramer noted, two weeks ago, the Minister for BEIS, Paul Scully, acknowledged the need for review of the whistleblowing framework, but he qualified that by saying:

“we will do that once we have sufficient time to build the necessary evidence of the impact of the most recent reforms”.—[*Official Report*, Commons, 8/6/21; col. 846.]

The reforms he refers to took place in 2017 and were essentially confined to establishing the publication of annual incident reporting. That was four years ago—plenty of time to assess the impact of these relatively minor new requirements. I hope the Minister will not argue the need for more time or evidence. I hope he recognises both the need for rapid action and the merits of the approach proposed by the Bill.

Whistleblowers make a vital contribution to our national life, but they face enormous difficulties. Two of the most egregious cases are the attempt by Jes Staley, CEO of Barclays, to discover the identity of a whistleblower who made serious allegations against the bank; and the truly appalling treatment of Sally Masterton by Lloyds in connection with her exposure of criminal practices. The details of these cases make for grim reading about the shocking behaviour of very senior people in our banking sector. These and many other cases demonstrate the huge inequality of arms between the blowers and the blown upon. They demonstrate the fact of life-changing retaliation against whistleblowers, the feeble punishments meted out to transgressors or the ability of those responsible to avoid punishment altogether, and the moral and cultural failings of some of our largest institutions.

Abuse of whistleblowers is not confined to the financial sector. There are well-documented cases from within the NHS and the educational sector, for example. We all owe a debt to whistleblowers. They are crucial to uncovering malpractice and even sometimes saving people’s lives, as in the case of the NHS, and always help maintain the ethical standards, transparency, honesty and fair play that we require in all organisations, large and small.

But, as things stand, whistleblowers are horribly exposed. The legal protections available to them are wholly inadequate. There is no single source of help or advice. The Bill would remedy that by creating the office of the whistleblower as that source, with powers to review the whole framework. I hope the Minister will give a sympathetic and constructive response, as he usually does.

1.43 pm

Baroness Altmann (Con): My Lords, I too congratulate the noble Baroness, Lady Kramer, for her persistence in pursuing this important issue and for introducing

this Bill. Offering guidance, protection and support for whistleblowers, with a central body that can co-ordinate across sectors—from care homes, to hospitals, to furlough fraud, to financial firms—is clearly an important aim.

The Employment Rights Act 1996 and the amendments in the Public Interest Disclosure Act 1998 are way out of date and leave significant lacunae. For example, they do not even cover entire groups, such as trustees, non-executive directors or the self-employed. There is no joined-up approach to protecting whistleblowers, and the Bill proposes establishing an umbrella body to co-ordinate across sectors, which clearly seems to be needed. Working internally, the whistleblowers are best placed to uncover wrongdoing, yet face monumental hurdles when they try to report issues that are clearly in the public interest.

The noble Baroness's Bill proposes this new body to, for example, create a panel of accredited legal firms or advisers and a fund to support whistleblowers, as well as to ensure proper financial redress for those who are victimised for trying to do the right thing.

Whistleblowing is too often viewed negatively—some kind of betrayal of your employer, who is a potential wrongdoer—unlike compliance functions, which are accepted as necessary to protect the public. Unfortunately, as the noble Lord, Lord Sharkey, explained, the reforms in 2017 require bodies such as the Bank of England or the General Medical Council merely to produce a report on whistleblowers. That is clearly not sufficient to protect the whistleblowers themselves, who are battling through the courts to try to protect their own employment position, as the noble Baroness, Lady Kramer, described.

The USA has much stronger protections, and we are falling behind internationally. It recognises that whistleblowers are often important parts of stopping wrongdoing, but our regulators do not seem to be equipped, or take too long, to react to whistleblowing. They end up being years behind the wrongdoing. Meanwhile, the offences continue and the whistleblower is still fighting through the courts for redress.

Who might fund this office? That is an important issue, but I would be grateful if my noble friend could indicate any support for the Bill.

1.46 pm

Lord Henty (Lab): My Lords, I too congratulate the noble Baroness, Lady Kramer, on introducing this Bill. She and the noble Baroness, Lady Altmann, who it is a pleasure to follow, are right to highlight that fundamental change to the legal framework for whistleblowing is necessary.

Having represented whistleblowers—indeed, the noble Baroness, Lady Kramer, mentioned one of my cases in her opening speech—and had the benefit of discussions with leading experts in the Institute of Employment Rights and with my friend Professor David Lewis of Middlesex University, I suggest the following eight points for consideration in the consultation that the Bill proposes.

First, there should be a statutory right to speak out and no civil or criminal liability for doing so within the legal confines of what whistleblowing is.

Secondly, all workers, including the police, armed services and security services, should have the protection of whistleblowing. Of course, it is understood that publication on matters of state security must be protected.

Thirdly, “reasonable belief” as a qualifier for public interest disclosure should be replaced by “reasonable suspicion” on the part of the worker, as proposed by Dame Janet Smith in the *Shipman Inquiry*.

Fourthly, trade unions have a role to play. A full-time trade union officer should be able to certify a protected disclosure and should be a legitimate recipient of a whistleblowing disclosure. Trade unions should have the right to bring proceedings on behalf of whistleblowers in the name of the trade union.

Fifthly, the list of wrongdoing already in the legislation should also include gross mismanagement or maladministration.

Sixthly, we should remove the public interest test and substitute for it a protected disclosure of a specified type of wrongdoing, as listed in the legislation, made to an appropriate recipient, including the office of the whistleblower.

Seventhly, measures to preserve the confidentiality of the disclosure and the whistleblower are needed. Measures are of course required to protect against reprisals against whistleblowers. The burden of proof should be on the employer.

Eighthly, there should be a statutory code of practice for workers and employers, which should extend to the procedure for whistleblowing, communication of a whistleblowing claim, confidentiality and anonymity, protection against reprisal, investigation and its timescale, feedback, hotlines, training and so on. The Bill from the noble Baroness, Lady Kramer, is a great start.

1.49 pm

Lord Mackenzie of Framwellgate (Non-Aff): My Lords, I, too, welcome the Bill and congratulate the noble Baroness, Lady Kramer. I shall be brief.

Whistleblowing has a very important place in workplace safety and the well-being of business and its employees. Because of that, it needs to be encouraged and nurtured. When I joined your Lordships' House 23 years ago, I was invited to join a company called Safecall, based in the north-east, which provided an independent means of reporting wrongdoing in or by organisations.

Having been a detective in Durham for a number of years, I had come to value the importance of citizens whistleblowing, or informing, to the police. This also provides a service for the public good in protecting citizens and detecting crime. A good informant needs protecting, and we now have witness protection programmes for this purpose, whereby anonymity is sometimes guaranteed.

Your Lordships will recall the TV drama “Line of Duty”, where one of the strange acronyms was the term CHIS—a covert human resource, also known as an informant. These sources of information are essential in policing, are often rewarded and need to be regulated and protected. So whistleblowing is not a new phenomenon: it occurs in all areas of society and needs regulating and protecting where it is in the public interest. The Bill of the noble Baroness, Lady Kramer, does just that and establishes the office of the whistleblower, which would provide directions and administration of arrangements to facilitate whistleblowing.

[LORD MACKENZIE OF FRAMWELLGATE]

The present position is piecemeal, and this is a long overdue measure which, had it been in place, might well have prevented the debacle at the BBC, where the very person who blew the whistle on the activities of Martin Bashir in forging bank statements to obtain an interview with Princess Diana was himself dismissed and his career as a graphic artist ruined. Whistleblowing is a public good which can prevent mischief at source. It can protect reputations, livelihoods and lives. It is our duty to give it our support, and I commend the Bill to the House.

1.52 pm

Baroness Featherstone (LD) [V]: My Lords, congratulations to my noble friend Lady Kramer on bringing this super-important, much needed Bill to the House.

Whistleblowers have for so long paid a price for their bravery in bringing to attention that which organisations, institutions or Governments want kept secret. Take your pick—the Catholic Church, the NHS, the Government, the banks, the BBC and more, all of whose reputations the powers that be judged far more important than those put in jeopardy by their refusal to hear and act on what they were being told. More often than not, those institutions shoot the messenger, those who warn of peril, rather than expose their own weaknesses or wrongdoing. It is immoral.

One brave whistleblower, Kim Holt, at that time under a gagging order and on two-years' so-called gardening leave, came to me as her MP. She was one of four senior consultant paediatricians in the Haringey child protection team. Many of your Lordships will have heard of the Baby P case, in which baby Peter Connelly tragically died. Of course, it was his family who actually killed him, but it was the cover-up by the institutions that failed to listen to all the warnings given about what was happening in the departments charged with his care that failed him.

Great Ormond Street Hospital was the worst, and it was in charge of the clinic. The four senior consultant paediatricians there, including Dr Holt, jointly signed a letter to Great Ormond Street Hospital management, saying that they were extremely worried about the terrible processes in the department that meant children were being put in danger. I worked with Tim Donovan of BBC London, and we discovered that Great Ormond Street Hospital commissioned an independent report on the role of the paediatric health team run by Great Ormond Street. It was called the Sibert/Hodes report, and its findings were damning, exposing the danger and the responsibility thereof. Despite the report pinning the failures accurately, it never saw the light of day. Great Ormond Street suppressed the original version that contained the truth and published a summary omitting all the points detrimental to Great Ormond Street.

After I had fought for justice for my constituent Kim Holt for over three years, Great Ormond Street finally apologised—too little, far too late. Kim Holt was persecuted by Great Ormond Street for speaking up for the safety of children. Richard Horton, in a signed editorial in the *Lancet*, wrote:

“When the highly critical Sibert/Hodes Report landed on the desks of GOSH’s managers, they clearly faced a difficult dilemma. If they made the findings public, the inevitable media scrutiny

might have damaged their reputation and slowed the progress of their Foundation Trust application. If they edited out GOSH’s failings, they might leave themselves open to the claim of “cover up”.

They did edit out Great Ormond Street’s failings and they did cover it up. Kim Holt was just another victim of “too big to fail” but the real victim was patient safety. The need for the independent office of the whistleblower is clear. I ask your Lordships to please support this excellent Bill.

1.55 pm

Lord Sikka (Lab) [V]: My Lords, I congratulate the noble Baroness, Lady Kramer, on this much needed Bill, which I fully support. Whistleblowers take enormous personal risks to protect society from harmful practices, but they receive little support from within the organisation or from industry regulators, which are all too often inclined to silence individuals. Whistleblowers and their families pay a heavy price for exposing wrongdoings and their reward is often insecurity and early death.

The issues become evident whenever anyone looks at the life histories of whistleblowers. One such person was Paul Moore, head of group regulatory risk at HBOS. His revelations foreshadowed the follies exposed by the 2007-08 banking crash. In 2004, he reported reckless risk-taking through unsustainable lending and the sale of dubious financial products, such as payment protection insurance, to the HBOS chief executive. Paul was fired for reporting this. His complaint was put to HBOS’s auditor, KPMG, which is hired and paid by directors, and which inevitably sided with the board. As Paul’s role was senior, his sacking was investigated by the Financial Services Authority, which also sided with the HBOS board. Then came the 2007-08 crash and HBOS became the subject of a £21 billion bailout.

Despite being proved right, Paul paid a heavy price for his principled position. Headhunters ignored him and he never worked in banking again. He had to cope with bouts of depression and ill health. He died last October at the age of 61. Had the board and regulators heeded his warnings, HBOS would potentially not have failed so spectacularly. In fact, HBOS was so aggressive about its lending that it created a race to the bottom for the lending market and increased the risk in the system. The true cost of its recklessness will never be known. Paul’s case shows that employers and current regulatory bodies are conflicted and cannot support or protect whistleblowers. The current legal framework also failed to support and protect Paul. We need an independent office of the whistleblower, as the Bill proposes. I very much hope that the Government will support the Bill.

1.58 pm

Lord Berkeley of Knighton (CB) [V]: My Lords, I welcome the setting up of a body to encourage and protect people brave enough to point out things that we all need to know, but until today I was not entirely sure whether the proposed office was the right way, hence I listened and learned.

I was very swayed by the noble Baroness, Lady Kramer. Whistleblowers save lives, often at their own peril. Unfortunately, the very word “whistleblower” has

connotations of betrayal, which we must try to diminish. Yet, as the noble Baroness said in her powerful and convincing opening speech, it is not only in companies and private organisations that the blame game exists. With the police, the BBC and the NHS, we see examples of whistleblowers being pilloried and, in the Princess Diana interview scandal mentioned by the noble Lord, Lord Mackenzie, the wrong man being dismissed while the real villain was later given a new job.

I do not expect the Minister to agree with everything I am about to say, but surely an important example needs to be set by those holding the highest offices in the land, instead of which there seems to be a more determined effort than ever to ride out scandals, simply ignore wide calls for resignations and tough it out. This is relevant because it undermines the principle of accountability. It is not all about resignation, because so often a timely apology and an acknowledgement of error leads to a close of criticism. If you say, “I’m sorry, I got it wrong”, there is often not much more to say. The failure to recognise and admit error crosses political allegiance, but I currently see an extension of what is, after all, with the greatest respect, arrogance in attempts to bypass parliamentary scrutiny by using secondary legislation. We are all made up of our qualities and our failings, and if this new office can lead to a greater recognition of this and encouragement to those who bravely put their head above the parapet, it will be doing us all a great service.

2.01 pm

Baroness Chakrabarti (Lab) [V]: My Lords, I have no current relevant interest, but I speak as a former government lawyer and a long-serving director of Liberty. I have advised Ministers on breaches of, for example, official secrets and represented whistleblowers who have exposed serious wrongdoing in their workplaces at great personal cost and even greater risk.

I join the chorus of congratulations to the noble Baroness, Lady Kramer, on her important and timely Bill. In the press just this morning Zeldia Perkins, a former assistant to Harvey Weinstein, calls on Her Majesty’s Government to ratify ILO convention 190 on violence and harassment at work. I hope the Minister will take the opportunity while summing up to respond directly to her request.

However, there are many other forms of very bad practice which would justify public interest disclosure. Like other employment legislation, our whistleblowing laws lack sufficient accessibility and effective enforcement mechanisms, not least now that our civil legal aid system has been completely obliterated. On the one hand, organisations are entitled to expect a reasonable relationship of trust and confidence with their workforce and many others, as we have heard—even more so in the most sensitive areas—but on the other there is considerable public interest in serious bad practice up to and including illegality being exposed from within. How on earth can we expect vulnerable individuals to walk this ethical and legal minefield and face the dangers of discipline, dismissal, blacklisting and, in some cases, even prosecution without the kind of help that a body such as that proposed by the noble Baroness, Lady Kramer, would offer? Every day we see new evidence that institutions—whether commercial, media

or banking empires, government departments and even, tragically, as the noble Baroness, Lady O’Loan, recently uncovered, the Metropolitan Police—simply cannot be trusted to police themselves. Their internal mechanisms for advising whistleblowers are, perhaps inevitably, wholly inadequate. The noble Baroness, Lady Kramer, proposes a way through. I hope that the Government are listening.

2.04 pm

Baroness Ludford (LD): My Lords, I warmly welcome my noble friend’s Bill and her excellent introduction of it. This Second Reading is well timed for two reasons: first, because it comes just after World Whistleblowers Day on 23 June, which was initiated by Transparency International, which it says is

“an occasion for us to celebrate the courageous individuals who come forward to report corruption”;

and, secondly, because it comes in the week following the publication of the report on the failings in the case of the murdered Daniel Morgan.

Apparently, but sadly ironically, the notion of drawing attention to wrongdoing by blowing the whistle originates from the Metropolitan Police force, which in February 1884 issued 21,000 whistles—the mobile phone of the 19th century. I learned this and many other things from the All-Party Parliamentary Group on Whistleblowing, which I warmly thank for its work and especially for its reports, on which I am able to draw.

The statement by the panel of the Daniel Morgan report issued by the noble Baroness, Lady O’Loan, said memorably:

“We received evidence from serving and retired officers that in some circumstances, police officers who have sought to report wrongdoing by other police officers have been ostracised, transferred to a different unit, encouraged to resign, or have faced disciplinary proceedings. This is not conducive to a culture of integrity ... We believe that concealing or denying failings for the sake of an organisation’s public image is dishonesty on the part of the organisation for reputational benefit and constitutes a form of institutional corruption.”

My first point is therefore about the huge value to society of whistleblowers and the harm caused by the failure to listen to them. Whistleblowers are the single most cost-effective and important means of identifying and addressing wrongdoing that affects the life and security of our citizens. My second point is that you would not know of that value from the way that whistleblowers are treated. They are often treated in an appalling and unlawful way despite the fact that by doing the right thing they risk everything to protect others, and my noble friend has enumerated these problems. In fact the whistleblower should be the best friend of the CEO—an essential mechanism for promoting a culture of openness, integrity and accountability and hence for winning the trust of the public, which is vital to effectiveness. That is what was so disappointing in the behaviour of the Met Commissioner.

We need a change not only in the culture and perception of whistleblowers but in the law. One of the most pernicious features of the present situation is, as two of my noble friends have mentioned, the gross inequality of arms between whistleblowers and employers. It is time for a radical overhaul to provide legislation that supports our citizens in the 21st century. The Bill is a valuable step in that direction and I fully support it.

2.07 pm

Lord Berkeley (Lab) [V]: My Lords, I too fully support the Bill and congratulate the noble Baroness, Lady Kramer. Noble Lords who have spoken have given many examples of whistleblowing, but the one that has not so far been mentioned is of course the Post Office postmasters. They have suffered as much as anyone, and the noble Lord, Lord Arbuthnot, has been pursuing their cause for years. It is one example where the people in charge get promotions while the people who have suffered lose their careers and pensions, have to spend sometimes millions on fighting, and have family breakdowns and even one or two suicides.

I want to speak briefly about HS2 whistleblowers—yet another case that is sadly still ongoing. People do not whistleblow just for fun. Often they do it because they sincerely believe that what is being done by their bosses, colleagues, government or others is professionally, ethically or morally wrong, as my noble friend Lady Chakrabarti has just told us. One example briefly referred to by the noble Baroness, Lady Kramer, is a friend of mine, Douglas Thornton, a highly qualified professional property and land valuer who was commissioned by HS2 to value all the properties that it would have to buy. He and his colleagues very professionally produced a schedule of everything, which unfortunately showed that HS2's budget was about half what it should have been.

Rather than the management accepting this, they sacked them and kicked them out of the office, and this is still a problem today because there is not enough money to buy the land or the properties. It is part of the reason why the cost estimates for HS2 are still in the clouds, frankly, with no real back-up or anything else. I have lots of evidence, because Ministers over the years, the Permanent Secretaries and the chief executives of HS2 have either told what I would call lies or misled Parliament by hiding that they knew the true costs. One HS2 employee actually gave evidence to a Select Committee, saying, "If we told Parliament the true cost, they would never give approval." Where is Parliament on this, keeping an eye on it?

This Bill provides the opportunity to provide much more support for whistleblowers. It needs independence, power, finance and, most of all, the strongest political support by Parliament against an overpowering Administration.

2.10 pm

Baroness Walmsley (LD) [V]: My Lords, I am delighted to support the Bill and I declare my membership of the APPG for Whistleblowing.

Change in organisations is most effectively implemented if it has support from the bottom up, but if workers are not encouraged to suggest better ways of doing things, and even penalised when they report problems or wrongdoings, things will never get better. Therefore, it is in the best interests of every organisation to encourage reporting of concerns and have in place effective systems to put things right.

Unfortunately, the experience of whistleblowers, as we have heard, varies across employers. Some have systems that recognise the benefit of an open and learning approach. Too many others are closed and secretive, believing they are protecting their good name, but in

fact doing themselves harm when the truth eventually comes out, as my noble friend Lady Featherstone has just demonstrated. Some people do not know where to report issues; others know very well, but fear for their career if they speak out, so remain silent. They may have heard of other whistleblowers whose cases have dragged on for years, who have been discriminated against and had enormous costs and mental stress, as we have heard today. This is why we need a body whose duty it is to improve the system.

I support the power for the new office of the whistleblower to consult on a review of the Public Interest Disclosure Act 1998 and recommend changes. In the past two decades, the pattern of work has changed. PIDA does not protect self-employed contractors, non-executive directors, trustees, volunteers, interns and most job applicants. If they want to pursue a case, they have to go to court at great expense and stress. They take a serious risk, as court findings are often inconsistent, so the current legal framework needs to be reviewed. For example, currently there are no obligations on employers or regulators to handle disclosures in a way that protects whistleblowers and results in a meaningful investigation.

I have long been an advocate of mandatory reporting of child abuse. There are many parallels between this and adult whistleblowers. What children who report abuse want is for the abuse to stop. Imagine how a child who makes such a disclosure feels when the information is not passed on and nothing is done. The same applies to adult whistleblowers. Like the abused child, they only want it to stop. A new office of the whistleblower would contribute to ensuring that it stopped. I have often been told that you cannot mandate the reporting of child abuse in case you uncover more abuse than the system can cope with. My answer to that is that whenever you lift up a stone, you usually find something nasty underneath, and if you are afraid to lift up stones, there is something wrong with the systems to deal with the nasties you uncover. I support my noble friend's attempt to improve the system of lifting up stones and dealing with the nasties underneath.

2.14 pm

Baroness Masham of Ilton (CB) [V]: My Lords, I thank the noble Baroness, Lady Kramer, for bringing this whistleblowing Bill before the House to give more guidance and support to whistleblowers.

In the House of Lords, on 7 November 2011, I moved an amendment to the then Health and Social Care Bill on the duty of candour. It was about a duty to ensure honesty and transparency and the need for such legislation. This was made clear when the Healthcare Commission published its report in 2009, which revealed serious failures in care at the Mid Staffordshire hospital. There was a major cover-up in the hospital trust, which wanted to have foundation status. I will always be full of admiration for the patients and their relatives who battled to get recognition of the disaster of losing so many loved ones in such distressing circumstances. At that time, the noble Lord, Lord Harris of Haringey, shared this quote:

"To err is human, to cover up is unforgiveable".—[*Official Report*, 7/11/11; col. 47.]

Wrongdoing can happen not only in the health service but in prisons, the police, schools, the workplace and the environment—everywhere. It is important to get genuine whistleblowing as satisfactory as possible and make support available to those who need it.

The noble Baroness, Lady Kramer, said that the current system is unsatisfactory for many whistleblowers, and the Government have said that having two whistleblowing organisations would be confusing. Could the solution be to amalgamate the Public Interest Disclosure Act and the Office of the Whistleblower Bill? Would this help to fill the gap and get all interested people working together across the country to try to solve these challenging incidents? We should all be working for the good of the country and the people who need us.

2.17 pm

Lord Hunt of Kings Heath (Lab) [V]: My Lords, as the Bill touches on regulators, I must declare an interest as a board member of the General Medical Council.

I strongly welcome this Bill. I found the arguments of the noble Baroness, Lady Kramer, compelling. Few can be confident in the way in which many organisations handle whistleblowing. There are huge gaps, there is a lack of consistency and there is often confusion. Too many whistleblowers suffer retaliation and find their careers at an end. Often, their only recourse is to an employment tribunal, which can drag on for years and deplete their financial resources. We know that informal job blacklisting is common. Some regulators follow up on information vigorously, but some still treat whistleblowing as complaints from troublesome people.

The recent APPG report on whistleblowing, published in July 2020, described the UK's whistleblowing law as demonstrating "fundamental inadequacies". Some of its findings were striking. First, it states:

"Whistleblowers suffer more and longer than before. In 2018, nearly 40% of whistleblowers report going on sick leave, an increase of 15% since 2015."

It goes on:

"Legal support matters for whistleblowers but less whistleblowers than before have access to legal representation ... More whistleblowers self-represent than get legal representation. In contrast, employers secure more expert legal representation than ever before."

It continues:

"Compared to male whistleblowers, female whistleblowers are ... more likely to report health issues ... less likely to have legal representation ... even when the judge upholds the protected disclosures, they are less likely to see their unfair dismissal claim upheld".

The proposed office of the whistleblower would help to end the fragmented approach to these problems, sort out the often complex issues of how best to protect and support whistleblowers, and give a safe point of contact for whistleblowers that can be clearly known and understood.

Of course, there are issues to be teased out in Committee. The whistleblowing organisation Protect has argued that little detail is provided about the expectations on employers and regulators when handling whistleblower disclosures. It feels that the Bill could be improved if it included specific legal obligations on both employers and regulators. I would be interested in the views of the noble Baroness, Lady Kramer, on this.

Overall, I welcome this Bill. In the past, the Government have argued that establishing an office would duplicate the role of existing regulators. I am not persuaded by that. It is clear that the system is not working half as well as it ought. I very much hope that the Government will change their mind.

2.19 pm

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, it is a privilege to commence the winding up on this Second Reading of a Bill that has cross-party support. It proposes an office of the whistleblower, as recommended by the all-party group in its report. I congratulate my noble friend Lady Kramer, who has been a stalwart in this area for a long time. Mary Robinson, chair of the APPG, says in her foreword on its website that

"my personal interest in whistleblowing rests in my experience as a constituency MP where I am confronted with whistleblowers who have turned to me as a last resort."

Many of us share that experience, and the heartbreak when we see the plight that befalls whistleblowers, as my noble friend Lady Kramer and other noble Lords have laid out. This Bill is needed.

Let us make no mistake: it is bad enough that whistleblowing is so often ignored and that harm continues to happen, but it is even worse that whistleblowers are victimised, cover-ups are increasing and millions, including public money, are spent on deliberately ruining the lives of people trying to serve the public interest. Seemingly, it can go on and on like that with impunity. It is not working in our regulators or in individual businesses; maybe it never will, because there are always vested interests and—including among regulators—perceived bigger issues, even if that "bigger issue" analysis is wrong.

My noble friend Lady Featherstone elaborated on the bigger issue example of Great Ormond Street Hospital, and my noble friend Lord Sharkey noted that Barclays CEO Jes Staley hired investigators to try to identify a whistleblower. He was fined mere pocket money by the FCA. Not only did that undermine the new senior managers and certification regime, but I have had discussions, including with people in the regulatory sphere, where the FCA has been defended on the grounds that "financial stability was more important" and you could not sack the boss of a big bank. That type of attitude is perhaps the most damaging systemic risk there is, and it is embedded throughout the public and private sectors. I cannot express my revulsion more that our beloved NHS has repeatedly spent huge amounts of money that should go on treatments to victimise and destroy people who sought only to make things better.

The APPG for Whistleblowing has brought out two great reports. The first summarises in its strapline just what I have said: *The Personal Cost of Doing the Right Thing and the Cost to Society of Ignoring it*. The second investigated how the system of employment tribunals is not working in favour of whistleblowers, who are outgunned in spending, frankly as a deliberate strategy.

The law is not working. It took a judge to challenge the narrow definition of an employee, and who should be covered, right up to the Supreme Court. If we really want to get the benefits to society that whistleblowers

[BARONESS BOWLES OF BERKHAMSTED] aim to deliver, we must take them seriously. The creation of an office of the whistleblower would do just that: where the call can be received by specialists, where the first response is not to question what powers a regulator might have to act, and where the right kind of advice can be given to whistleblowers concerning information, including how not to fall into traps that will subsequently lead to legalistic unpicking.

The companies and organisations on which the whistle is blown have all that legal paraphernalia at their fingertips; it is only right that the whistleblower should too. The beneficiary is the public good. We should not put a price on that, but as my noble friend has pointed out, the cost is likely to be covered by fines and prevention of the harms that so often fall on the public purse.

This is a simple and enabling Bill, and there have been great speeches supporting it today. I hope that the Minister has noted them and that he can come with good news, because this Bill is supported by research and evidence from the APPG, and it is so much more than a just a good idea.

2.25 pm

Lord Bassam of Brighton (Lab) [V]: My Lords, I start, as others have, by heartily congratulating the noble Baroness, Lady Kramer, not only on bringing the Bill forward but on her years of tireless campaigning on the issue, which I hope will come to fruition.

Like others, I have done a bit of whistleblowing, so I understand from personal experience just how perilous an activity it can become, not least for people's employment status. As we have heard, we need whistleblowers across our country to keep businesses, public activities, government and corporations clean and straight, and to avert the tragedies that may result from internal cultures of denial when things go wrong.

When people come forward they do not do so for money or fame; it is often in spite of the impact on their career or family. They do so because they believe that they are doing the right thing and that the public have a right to know. There are many examples where whistleblowing could have made a real difference: Grenfell, Carillion and Boeing 737 MAX, just to name a few. In some cases, one person's actions could save hundreds of lives.

We know that our current legislation, the Public Interest Disclosure Act 1998, is not adequate, but it was good at the time to ensure that whistleblowers got the protection and support that they needed. It dissolves down into employment tribunals, where individuals must face their employer, with relevant individuals, such as trustees, trainees and volunteers, being excluded from the law and regulators being unaccountable for the way they treat whistleblowers, who do not even get legal aid and must personally pay their legal fees.

Ultimately, there are no official standards for whistleblowing that employers must meet or recognised procedures for them to follow. This can have a serious impact on how quickly whistleblower reports are accessed. For example, only this month it was revealed that the FCA was still assessing 316 reports from 2019 and 630 from 2020. Does the Minister think that this is

right and acceptable? How timely should companies and regulators be when reviewing whistleblower reports? Clearly, things need to change, as we have heard today from speakers right across the House.

However, sadly, it seems to me and others that the Government do not take this as a priority. As others have said, the most recently introduced change was back in 2017: a new legislative requirement for most prescribed persons to produce an annual report on whistleblowing disclosures made to them by workers and employees. Earlier this year, the Government said that they

“recognise how valuable it is that whistleblowers are prepared to shine a light on wrongdoing and believe that they should be able to do so without fear of recriminations.”—[*Official Report, Commons, 8/6/21; col. 846.*]

They are quite right. Ministers say that they remain committed to

“reviewing the UK whistleblowing framework and will carry this out once sufficient time has passed for there to be the necessary evidence available to assess the impact of the most recent reforms.”

They say that

“The scope and timing of such a review will be confirmed in due course.”

However, we are no further forward in hearing more about when the review will start, how long it will last and what will become of any recommendations. What does “sufficient time” mean, and what evidence are the Government seeking to collect? How much evidence do they need before they can “assess the impact”? I hope that the Minister can fill in these blanks.

I turn to the Bill. The idea of the office of the whistleblower is certainly interesting, and we welcome the opportunity to debate it. As the noble Baroness, Lady Kramer, clearly explained, it requires the Government to establish an office of the whistleblower, which would be responsible for the administration arrangements to facilitate whistleblowing. It would have several powers, including giving direction to the monitoring of activities of relevant bodies on issues such as confidentiality and the use of disclosed information; consulting on amending or replacing UK whistleblowing legislation; being a point of contact for individuals who wish to disclose information about wrongdoing; and maintaining a fund to support whistleblowers—all things that are clearly essential. It seeks also to offer the protection and support for whistleblowers that is currently missing.

It would be helpful to hear the following from the Minister. What concerns does he have about a dedicated office? How can this protection and support be offered without a specific office? If his concerns are financial, how much does he expect the office to cost? The Labour Party has also suggested giving protected status to whistleblowers and imposing a statutory duty on employers to prevent victimisation. I thought that the noble Lord, Lord Hendy, made a really powerful argument for that, and the importance of having a statutory code of practice. Does the Minister support such proposals, so that we can prevent discrimination against victimisation?

In conclusion, whistleblowers play an important role in protecting the public and consumers, and they could do much more with protection. They can ensure

that businesses and services operate more effectively and efficiently and stop serious incidents from occurring. We need to ensure that they receive the right and proper support. To do that, action is needed, and I look forward to hearing what the Minister proposes in his response. This is too important to be left for long, and I should like to see legislation brought forward as a matter of urgency, if the Government are not prepared to support the Bill proposed by the noble Baroness, Lady Kramer, which has so much going for it and many merits.

2.31 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan)

(Con): My Lords, I start by joining virtually every other speaker in the debate in offering my congratulations to the noble Baroness, Lady Kramer, on securing a Second Reading for her Private Member's Bill. She has spoken passionately today, as she has on a number of previous occasions, about the experiences of whistleblowers, in advocating the need for reform. I thank all other noble Lords who have contributed to this important debate. As the noble Lord, Lord Sharkey, pointed out, the work of whistleblowers is invaluable, and there should be no doubt that this Government value the important work that whistleblowers do when they speak up to shine a light on cases of wrongdoing.

Before I turn to the contents of the Bill, I say in response to the noble Baroness, Lady Chakrabarti, that this Government take the issue of sexual harassment in the workplace extremely seriously. Our strategy on violence against women and girls will be released later this year.

I turn now to address the contents of the Bill, which seeks to establish a new office of the whistleblower. First, the office would have the power to give direction to and monitor relevant authorities in their investigations. I understand that the intent is to provide consistency in standards for regulatory investigations triggered by whistleblowing information. My concern is that this duplicates the role of the existing prescribed persons, and at some considerable cost. The Government believe that it is the regulator that has the best understanding of its sector. Prescribed persons have been given this legal status because of their ability to take action in respect of a disclosure made to them; many have extensive knowledge and understanding of the subject matter and, in some cases, regulatory oversight of that sector. An overarching body would be pressed to meet this level of specialist expertise. With around 35,000 whistleblowing disclosures made to named prescribed persons in 2018-19, should the new body have these functions, it would require significant staffing resources, with diverse expertise across all sectors, to enable it to carry out these functions effectively.

Secondly, the office would consult on amending or replacing the Public Interest Disclosure Act 1998 and the Public Interest Disclosure (Northern Ireland) Order 1998. The Government welcome feedback and comments on the UK whistleblowing framework. In 2013, we published a call for evidence on the whistleblowing framework, seeking views on ways that it could be made more effective. We have since implemented the action plan from this review. The Government have been clear that we will conduct a further review of the

whistleblowing framework when the time is right, and when the more recent reforms, which date from 2017, as the noble Baroness, Lady Kramer, pointed out, have had time to take effect.

It is also important to acknowledge that employment law is devolved in Northern Ireland. To all intents and purposes, these matters are aligned, as Northern Ireland has similar legislation in place to protect whistleblowers; however, we need be mindful of the extent of our remit.

Thirdly, the office would act as a point of contact for whistleblowers, and provide legal and financial assistance. It is the Government's position that whistleblowers already have a range of channels available to them to get advice on whistleblowing. Comprehensive government guidance is available on GOV.UK. Whistleblowers can also contact ACAS, which deals with questions from employers and employees about a wide range of employment relations matters, including whistleblowing. As the noble Lord, Lord Hendy, pointed out, whistleblowers may also approach their trade union, prescribed person or one of the organisations specialising in whistleblower support, such as Protect or WhistleblowersUK.

Fourthly, the office would provide financial redress to individuals whose disclosure is deemed by the office to have harmed their employment, reputation or career. The current framework under the Public Interest Disclosure Act allows a whistleblower to take action against their employer or former employer at an employment tribunal. This recognises that it is the employer's responsibility, as an organisation, to support whistleblowers at work. There is no cap on the compensation that employment tribunals can award to whistleblowers. This is designed to be a powerful deterrent to poor employers and to reflect the potential career-ending nature of whistleblowing. Making the office of the whistleblower responsible for financial compensation may break these vital links and introduce a lot of complexity into the enforcement landscape. I believe that it is right that the framework seeks to ensure that organisations are held accountable for the behaviour of their staff and the culture that they create.

I thank the noble Baroness for bringing the Bill to the House and for enabling this important debate. I have not been convinced that the Bill is the right solution to the matters that have been raised, but the Government will continue to monitor the situation and to make improvements where needed, as we have done over the past decade.

2.37 pm

Baroness Kramer (LD): My Lords, it has been a superb debate. I will be exceedingly brief and will not repeat the many arguments, examples and illustrations from all around the House in support of an office of the whistleblower. I just say that I am rather sad at the Government's response, because the fundamental core of our argument is that all the assertions of what takes place and the lived reality of what takes place are two entirely different experiences. We need something such as the office of the whistleblower to ensure that the gap is bridged. I appreciate the opportunity to exercise and discuss these key issues today and, as a consequence, I beg to move.

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

Higher Education Cheating Services Prohibition Bill [HL] *Second Reading*

2.40 pm

Moved by Lord Storey

That the Bill be now read a second time.

Lord Storey (LD): My Lords, the academic integrity of our universities, and indeed our whole education provision, is important not only for the reputation of those institutions but for the students themselves.

Contract cheating is when a student pays someone to write an essay for them. Thanks to the internet, we now have thousands of so-called essay mills that offer these services and make them easily available. These services advertise themselves widely, making use of social media services and slick websites to sell their product. This academic cheating industry is worth hundreds of millions of pounds, and more and more students are being drawn into its clutches. We see the use of so-called influencers and celebrities on social media, creating the impression that it is cool or all right to use these essay mills and to cheat. The cheating industry is now operating at an industrial scale.

During the passage of the Higher Education and Research Act the problem was beginning to appear, and I put down a similar amendment in Committee and on Report. After discussions I agreed to withdraw the amendment and agreed with the Government that we should try to deal with the issue by voluntary means. So, working with the NUS and the Quality Assurance Agency for Higher Education, work was undertaken to encourage students not to use essay mills. The QAA established an academic integrity working group—which, by the way, supports this Bill—a student’s charter was written, and the Advertising Standards Authority was proactive in removing adverts by these companies, particularly on the London Underground.

At the time of the Bill’s passage, the Government gave an assurance to the House that they would look at introducing legislation if voluntary means were not successful in curbing the problem. Sadly, far from curbing the problem, essay mills have continued to grow and flourish and, as I said a few minutes ago, they operate in industrial proportions. Indeed, the Conservative Party included taking action on this in their manifesto at the last general election—is that not called a manifesto pledge?

The problem is not just confined to the UK; it operates worldwide. An increasing number of countries are taking action through legislation, including New Zealand, Australia, Ireland and a number of states in the USA, and a number of European countries are preparing legislation as well.

There is another insidious side to essay mills. The Greenwich School of Management and other colleges were paying agents to recruit young people, particularly those from disadvantaged backgrounds and often unemployed, to take up degree courses. The agents were paid a fixed sum of money for every young person they signed up to the course. To entice these young

people on to the course, they would tell them not to worry about the academic assignments—they would be provided by an essay mill which would do the assignments for them. The agents got their money, the college got its fees, the students got a loan which was higher than a jobseeker’s allowance, the university that validated the degrees got a fee, and the Government could show that a higher number of students from disadvantaged backgrounds were going into higher education. The trouble was that a very large number of young people took the loan and left at the end of the first year. The drop-out rate was phenomenal and the pass rate for those remaining was very low.

Surprisingly, nobody picked this up, whether it was the QAA or the validating university. It was down to the BBC’s “Panorama” to highlight this scam in its programme on academic cheating. Eventually, the Greenwich School of Management closed down, which was very sad for those staff and students who were not involved and lost their jobs. Another private college highlighted in the programme, Grafton College, also closed down. I have to tell your Lordships that this practice is still continuing. I hope that the Minister might meet me to discuss the problem, as I have evidence of other colleges engaging in such practice.

At the beginning of my speech, I said that the academic integrity of our universities is very important. I want to end by saying that this amendment is also important for the overwhelming number of students who do not cheat but carry out their academic studies with the hard work and rigour that we would expect. It is not fair on them that we should allow cheating to continue to grow.

I also want to put on the *Hansard* record my praise for the Quality Assurance Agency for setting up the academic integrity working group, and particularly to Gareth Crossman; for Professor Phil Newton and Professor Michael Draper at Swansea University for the pioneering work and research that they have carried out; and for Chris Skidmore in the other place, who had a similar Private Member’s Bill which ran out of parliamentary time when a general election was called. I also had a very supportive email from the noble Viscount, Lord Hanworth, who highlighted his own experiences as an examination officer of how cheating occurred. I beg to move.

2.47 pm

Baroness Gardner of Parkes (Con) [V]: My Lords, I commend this Bill for its intent to stop third parties from completing someone else’s higher education assessments for a fee, or even advertising their services to do so, and thereby preventing students seeking out such services. They are the equivalent to a drugs cheat winning the Olympics and are grossly unfair on other pupils. I have three areas on which I would appreciate the Minister’s comments.

First, is there sufficient clarity as to what is a higher education establishment? This is not defined in the Bill, nor is it clear in what other legislation it may be defined.

Secondly, why does the Bill not cover A-level students, who often have dissertations to write as part of their courses and may be tempted to use such services?

Thirdly, we have heard many stories, particularly in lockdown, of family members or friends doing a student's work, which is then passed off as that student's work. Why does the Bill not cover the provision of such services, even if unpaid, as surely the intent is to ensure that the students do their own work and do not use another person to do this?

2.49 pm

Lord Addington (LD): My Lords, my noble friend Lord Storey—I am not saying this just because he is my noble friend—has introduced more or less a perfectly delivered Private Member's Bill. He has identified a problem and, in a short document, given a solution that addresses it. The noble Baroness, Lady Gardner of Parkes, might well be right that it could go further than higher education, but that would destroy the fact that it is a nice, short Bill that we can see.

There is an easier way to do this and, once again, my noble friend's name is on it: in the current skills Bill, stick in his amendment after Clause 25. That might be the best reason the Government can give for not accepting this now.

The principle behind this, just to make it clear, is not the initial trivial one that "I struggled through my dissertation. These little—insert whatever expletives you like—of today should damn well do the same". It is because some of these qualifications are professional; they may even require somebody to go on to take a job that has a responsibility for somebody's life. They should know what they are doing and should have passed the qualification. It could be a matter of public safety.

There is also the fact that our university education system is supposed to be where you are intellectually tested and encouraged to go on to new ground; you are encouraged to push yourself and to open up your mind to see what is there. But you might go to university and discover that half the people on your course are not taking this step—and it can be quite a worrying step sometimes, causing people to ask, "How bright am I? Am I bright enough to do this? Should I take that little chance? Should I push that argument?" It is being undermined by this activity.

The internet has almost made this inevitable. Let us face it, there was always an essay going around on certain subjects and topics which you could have copied, even in the stone ages of the photocopier, when I took my degree. But it is the level at which it is available now that we worry about. I hope the Government say yes to this Bill or the amendment, or make sure that something achieves the same thing, in a short timeframe, because this is wrong. We have the opportunity to change it. I hope we will hear how that is happening.

2.51 pm

Baroness Deech (CB) [V]: My Lords, I declare an interest as the former and first independent adjudicator for higher education, dealing with student complaints from all universities. I am well aware that the Bill deals with a serious problem that could threaten the reputation and integrity of our universities, and I am grateful to the noble Lord, Lord Storey, for bringing it forward. For once, the virtuous got lucky in the ballot.

Cheating on an industrial scale with essays provided as if ordered from Amazon is a blot on standards and higher education. We must not risk students emerging who are not properly qualified, as the previous speaker said. It is a grave problem and one of considerable reach. Check out "write an essay for me" on Google and you will be presented with a wealth of resources. This widespread cheating is an indication of the commercialisation of some universities, and the sense of entitlement that students feel, now that nearly everybody can get a place and the fees are so high. As it was once expressed to me by a student: "I paid my fees; I went to the classes; I am entitled to a second." Obviously the Covid restrictions on face-to-face teaching in our universities must have made the temptations and opportunities for cheating much greater.

I am therefore convinced that we need this Bill. It has difficulties of enforcement and interpretation, no doubt: one needs to distinguish between the essay provided for the student to submit and the legitimate aid to study. In law, in my youth, it was the Nutshell series, which so many of us committed to memory.

The Bill is well-crafted because it introduces strict liability. Conviction will not depend, as it did in earlier Bills, on the state of mind of the provider of essays but on the fact of advertising them. The burden of proof shifts to the provider. The student is not criminalised; the provider is, with the deterrent of high fines. The provider would not be guilty if it could not know that the student would use assistance provided to cheat, so if a student uses his or her friend's notes, that would not be caught by this Bill, nor would assistance provided by family or friends, which may well be a major source of too much help. It is likely that many friends and family might be deterred by the realisation that certain types of help are being criminalised. This Bill is probably an improvement on the cheating laws in New Zealand and some 20 American states where, sadly, cheating still goes on despite legislation.

Existing laws are inadequate. The Fraud Act proceedings are too cumbersome. It is hard to imagine the universities affected calling the police. A case would take so long that the student would have graduated by then and, given that one remains innocent until proven guilty, they would probably claim to be able to graduate. The essay mill might even sue the suspect student for breach of contract, the student having undertaken to use the work provided only for reference. A student might even be open to blackmail by the essay provider if Fraud Act criminal principles applied. That is why this specially designed Bill is a much better remedy.

Making essay mills illegal would make marketing claims that they are a legitimate business unsustainable and would likely act as a disincentive to students inclined to use them. We should welcome this Bill as a tailored tool for the improvement of higher education.

2.55 pm

Lord Bhatia (Non-Afl) [V]: [*Inaudible*—how many students use "essay mill" or other third-party contract cheating services. The Government's response was that the bespoke nature of paid-for assignments "can make it difficult for providers to detect that it is not the student's own work."

[LORD BHATIA]

Research has indicated that the use by students of essay mills and contract cheating services appears to have increased in recent years. Minister Chris Skidmore said there were

“at least 932 sites in operation in the UK”.—[*Official Report*, Commons, 10/2/21; col. 349.]

In September 2018, more than 40 university vice-chancellors wrote to the Government calling for legislation to target essay mill companies:

“Legislation will not be a magic bullet; it is, however, a vital part of the broader package of measures. Legislation would, amongst other advantages, shut-down UK-based essay mills; prevent the advertising of their services near campuses and in public places such as the London Underground; enable the removal of essay mills from search engine findings and prevent UK-based companies from hosting online advertisements for essay mills.”

Despite NUS guidance, the creation of an Academic Integrity Advisory Group, and the introduction of new generation plagiarism detection software in universities, the use of essay mills did not appear to be declining. The paper argued that legislation was therefore needed to—I emphasise—criminalise the practice in the UK. Does the Minister agree?

2.57 pm

Baroness Benjamin (LD): My Lords, I support my noble friend Lord Storey, who I know is extremely committed to this Bill. I commend him on his determination to push it through.

There is so much pressure on young people in schools, as well as colleges and universities, to succeed and to get top grades. The strain and pressure can sometimes be too much. Some students feel that the only way to cope is to use so-called essay-writing services to enhance their chance of higher grades. Shamefully, there are those out there who will take advantage of these young people and offer a solution they find hard to resist. This is why the Bill is so important: to stop unscrupulous people taking advantage of vulnerable students.

I was the chancellor of the University of Exeter. I used to tell the graduates to act with morality, integrity and honesty and to be the person others can trust. I know that the university, under the leadership of Vice-Chancellor Sir Steve Smith, put support in place during my time as chancellor to assist any student who felt pressured.

Universities UK also supports the Bill. It says it has called for essay-writing services

“to be made illegal and we continue to work together with government, the Quality Assurance Agency ... and other higher education bodies to tackle their use.

All universities have codes of conduct that include severe penalties for students found to be submitting work that is not their own. Such academic misconduct is a breach of an institution’s disciplinary regulations and can result in students, in serious cases, being expelled from the university.

Universities have become increasingly experienced at dealing with such issues and are engaging with students from day-one to underline the implications of cheating and how it can be avoided.

University support services are also there to help vulnerable students struggling with anxiety and stress around coursework and deadlines.”

Universities UK has an ongoing programme of work focused on ensuring that quality and standards in higher education remain high and employers’ confidence in the system is maintained.

The Quality Assurance Agency has now launched its *Academic Integrity Charter*, signed by 150 UK higher education providers, to protect and promote academic integrity and take action against cheating. Despite all these actions and policies being in place, these organisations all support this Bill, so I hope that the Government will too, and will join forces with them and support my noble friend Lord Storey’s Bill to put measures in place to help young people not to be tempted to cheat, but to be that person others can trust.

3.01 pm

Baroness Sherlock (Lab) [V]: My Lords, I thank the noble Lord, Lord Storey, for introducing the Bill and explaining it, and all noble Lords who have spoken. We fully support the outlawing of cheating services.

The QAA’s latest guidance says that there is now evidence that contract cheating is widespread and it believes that there are well in excess of 1,000 essay mills in operation. It seems that universities are catching only a tiny percentage of contract cheats—it is hard to detect bespoke work. Has the Minister read the paper by Lancaster and Cotarlan published this year in the *International Journal for Educational Integrity*? They built on the 2015 work by Ardid et al, which found no difference in the results students received when taking exams in person or online, provided they were supervised, but that when students took an exam online and it was not supervised, they got higher marks. That raised the question of whether students were using contract cheating in online exams.

Lancaster and Cotarlan looked at the situation during the pandemic. They examined how one website, Chegg, was used by students in five STEM subjects. The results showed that

“students are using Chegg to request exam style questions” and

“contract cheating requests can be put live and answered within the short duration of an examination.”

The number of student requests posted for these five subjects increased by 196% between April and August last year, compared with the same period the previous year. That, of course, was the time when many courses moved to being delivered and assessed online. Lancaster and Cotarlan conclude that

“students are using Chegg for assessment and exam help frequently and in a way that is not considered permissible by universities.”

In 2016, the QAA said that it would approach the main search engine companies and ask them not to accept adverts for essay mills and to block them from search engines. That clearly did not work: I did a search this week and loads appeared. I visited the Chegg website and it boasts:

“Ask an expert anytime. Take a photo of your question and get an answer in as little as 30 minutes.”

I then found a website which acts as a comparison site for essay mills. I clicked through to one of the sites it listed and found a simple form where a student can specify what they want to buy, the level, title and nature of the work, how long it should be, how many sources are needed and even their chosen referencing system.

I priced up a piece of undergraduate-level writing on “Augustine and the problem of evil” with three sources and Chicago-style referencing. I could have had a crisp 750 words in three hours for £89. A full 2,500-word essay would take 12 hours and cost £239. If I could wait two weeks, the price dropped to £137. I did not even have to subscribe to find this out. Obviously, I did not buy it—I have my degree—but if I were a student and I succumbed to this, as well as risking my career, I could put myself at risk of being blackmailed. An article on the HE blog Wonkhe reported examples of this. If students changed their minds or were not satisfied with the papers, they were refused refunds and the companies threatened to tell their university that they had used an essay mill.

It is now three years since 46 vice-chancellors wrote a joint letter calling for these websites to be banned—a call which, as we have heard, has the support of the major bodies in higher education—but nothing happened, and there is now a strong case that the problem is significant and growing. In the past, Ministers said that legislation was not needed and they would get sector bodies to issue guidance with tough penalties. We now have QAA guidance, but no formal penalties. Institutions may sanction individual students, but where is the action against those who make a living out of inciting students to cheat? Ministers have in the past focused on prevention, but the QAA’s latest guidance stresses that prevention can go only so far. The first edition of its guidance on the subject talked about designing cheating out of assessment, but in the latest version it concedes

“This is misleading, and could lead to complacency.”

Other countries have banned essay mills, so can the Minister tell the House why the Government do not think British students deserve the same protection from being preyed on as students in other countries? Contract cheating is a growing problem that puts students at risk and threatens academic integrity. It is a problem for all of us: I do not want my asthma treated by a doctor who got someone else to write their papers on respiratory medicine. Would the Minister like to drive across a bridge built by an engineer who cheated in her final exams? I do not think so. When will the Government act?

3.06 pm

Lord Parkinson of Whitley Bay (Con): My Lords, I congratulate the noble Lord, Lord Storey, on securing time for a Second Reading of his Bill. I know this is not the first time he has tried to bring forward legislation in this area, and I applaud his long-standing interest in combatting the scourge of cheating services. The Government are also grateful for his continued work with the Quality Assurance Agency for Higher Education’s academic integrity advisory group on this important issue.

I am also grateful to other noble Lords who have spoken this afternoon. Although only a few people have taken part, I know that this is a matter of interest across your Lordships’ House—the noble Lord, Lord Storey, mentioned the noble Viscount, Lord Hanworth, as one example. There is also great interest in another place, where my right honourable friend Chris Skidmore

introduced a Bill last Session. I am sure the noble Lord, Lord Storey, has seen Mr Skidmore’s article in the *Times* today expressing his support for his work and for the Bill.

Her Majesty’s Government welcome the Bill and sympathise with the issues it highlights. As the noble Lord noted, it is a government manifesto commitment to improve the quality and standards of higher education, which includes upholding academic integrity. The growing availability of cheating services, which, as noble Lords have noted, often use sophisticated and insidious online advertising, puts vulnerable students at risk and threatens the reputation of our world-class higher education sector.

As noble Lords have powerfully expressed, it is reprehensible for essay mill companies to profit from a dishonest business that exploits young people’s anxiety and can undermine our world-class institutions. In some cases, the consequences can be widespread and long-lasting, for example, as the noble Lord, Lord Addington, pointed out, where it can lead to graduates entering a profession in which they have not demonstrated competence to practise. I concur with the noble Baroness, Lady Sherlock, that I would not want to cross a bridge that had been designed by an incorrectly qualified engineer. She is also right to highlight the threat of blackmail of the students who use these services. People should graduate from university having learned to apply their knowledge and skills to a high and genuine standard. Circumventing that not only is immoral, as the noble Baroness, Lady Benjamin, said, but devalues the hard work of those who have succeeded on their own merit.

The Government have consistently made it clear that using these services is unacceptable, and we have worked with the sector to clamp down on them. We are clear that a multifaceted, collaborative approach is required to tackle this growing and global problem. Since 2017 in particular, the Government have been working with the sector on a series of actions to deal with cheating services. We challenged companies from the tech sector to identify how anti-cheating software can tackle the growth of essay mills, and we have worked alongside the QAA, Universities UK and the National Union of Students to produce guidance for providers and students. Despite that work, cheating services remain prevalent. I have not read the paper that the noble Baroness, Lady Sherlock, cited, but she is right that the QAA reports an increase in the number of academic writing sites in operation, with nearly 1,000 websites now listed on one particular access site.

It is clear that there is a strong case for supporting institutions to address this matter robustly. We have much sympathy with the noble Lord’s aims through his Bill and would welcome further discussion with him about it. I am also happy to meet to talk about the specific concerns he raised about ongoing abuse in this area.

Some of the Bill’s provisions need careful attention. My noble friend Lady Gardner of Parkes mentioned just a couple when she raised the question of the definition of “higher education providers” and “provision of services”, and we would welcome the opportunity to discuss those with the noble Lord, but I appreciate

[LORD PARKINSON OF WHITLEY BAY]

that he has brought forward the Bill in the spirit of seeking to find a solution to the problem, which concerns noble Lords from right across the House. It has the potential, particularly as part of a wider approach, to reduce the number of essay mills in operation. It would also send a clear sign to students and the companies themselves that this activity is illegal.

My noble friend Lady Gardner of Parkes asked whether it was right to focus solely on higher education. We think that at present we need to target where there is clear evidence of a problem, and the evidence suggests that higher education is the area of highest risk.

Some noble Lords mentioned the international action that has been taken. Similar legislation has been introduced in several countries, including the Republic of Ireland in 2019 and Australia last year. Emerging evidence in both those jurisdictions suggests that those laws are deterring essay mills from providing services to students, and regulators there have reported that having the legislation has provided them with more tools to engage students, higher education providers and cheating services, and that it has given them additional routes to tackle the problem.

I again thank the noble Lord, Lord Storey, for his work in bringing the Bill forward and allowing your Lordships' House the opportunity to consider these matters again today. It is an important and timely Bill that needs to be considered carefully to maximise its effectiveness but, alongside a continued and collaborative

effort with the sector to deter, detect and address contract cheating, it is one that could enable us to face the problem head-on.

3.12 pm

Lord Storey (LD): My Lords, I thank all Members who have spoken and the Minister for his supportive and constructive words. I have to say to the noble Baroness, Lady Sherlock, that there may not be an engineer who cheated on having built a bridge, but there are sadly cases of engineers who falsified their qualifications and were building bridges, but that is another issue for some other time.

My noble friend Lady Benjamin is absolutely right: this is also about supporting students who may have mental health problems or have got themselves into a state where they do not want to let their parents or their friends down and are lured into this, so the supportive networks that universities provide are really important.

I think the noble Baroness, Lady Deech, summed it up when she said that this is about the reputation and integrity of our universities and we should protect that at all costs.

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

House adjourned at 3.14 pm.

