

Vol. 828
No. 126



Friday
3 March 2023

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

Pensions Dashboards (Prohibition of Indemnification) Bill <i>Second Reading</i>	499
Employment (Allocation of Tips) Bill <i>Second Reading</i>	512
Protection from Redundancy (Pregnancy and Family Leave) Bill <i>Second Reading</i>	527
Carer's Leave Bill <i>Second Reading</i>	540

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

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

*This issue of the Official Report is also available on the Internet at
<https://hansard.parliament.uk/lords/2023-03-03>*

The abbreviation [V] after a Member's name indicates that they contributed by video call.

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
Non-afl	Non-affiliated
PC	Plaid Cymru
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity or for the Lords spiritual.

© Parliamentary Copyright House of Lords 2023,
*this publication may be reproduced under the terms of the Open Parliament licence,
which is published at www.parliament.uk/site-information/copyright/.*

House of Lords

Friday 3 March 2023

10 am

Prayers—read by the Lord Bishop of Oxford.

Pensions Dashboards (Prohibition of Indemnification) Bill *Second Reading*

10.06 am

Moved by Lord Young of Cookham

That the Bill be now read a second time.

Lord Young of Cookham (Con): My Lords, in moving that the Pensions Dashboards (Prohibition of Indemnification) Bill be read a second time, I reassure noble Lords that these dashboards are totally different from the ones in the REUL Bill which have generated such excitement this week.

After gathering significant cross-party support in the other place, where Mary Robinson successfully steered the Bill through the parliamentary process, I am hopeful that it will receive a similarly positive reaction here. This is a simple yet important measure designed to safeguard the interests of those saving for their pension.

By way of background, I have a long-standing interest in pensions legislation, having spoken in the 1970s when Barbara Castle introduced the state earnings-related pension scheme, and more recently speaking about the potential benefits of the pensions dashboard during the passage of the pensions Act 2021. I see in their places today several aficionados from that debate.

With record numbers of people saving for retirement, it is more important than ever that people understand their pensions information and prepare for financial security in later life. Pensions dashboards will be digital tools available free of charge to consumers, designed to bring together individuals' different pensions, including the state pension, in one place online. This will fundamentally change the way that people interact with their pensions, thereby helping to support more informed retirement planning.

As my noble friend the Minister will confirm, the Government continue to work closely with industry and their key delivery partners, such as the Pensions Dashboards Programme—which is part of the Money and Pensions Service—the Pensions Regulator and the Financial Conduct Authority, to progress this dashboards project. I am grateful to my noble friend for arranging meetings for noble Lords with the FCA to update us on that progress, and I am grateful to his officials for their briefing for this debate.

While it is true that millions of people are saving for their retirement, it is also the case that consumers are not generally well engaged with their different pensions. This has been highlighted by the FCA, which estimates that 53% of adults contributing to a defined contribution pension have not reviewed how much their DC pension pots are worth in the last 12 months. In addition to this, the Pensions Policy Institute estimates that over

2.8 million pension pots were considered to be lost in 2022, representing an increase of 73% since 2018. Pensions dashboards can help to address this issue by bringing together people's various pensions, including state pension, in one place online. This will reconnect savers with their lost or forgotten pension pots, and by doing so will help people plan for their well-deserved retirement.

There is a requirement in the Pension Schemes Act 2021 for the Money and Pensions Service to provide a pensions dashboard service. This was a welcome addition to that Act which I pressed for at the time, along with other noble Lords. Moreover, it will also be possible for others to enter the market and provide dashboards, which will be bound by requirements set out in the Pensions Dashboards Regulations and regulated by the FCA. That will provide scope for innovation, helping to engage a broad range of users and meet the varied needs of the millions of people with pensions savings. Importantly, individuals will see the same information regardless of which dashboard service they use, and robust rules will be in place to ensure consumers' interests are at the forefront of all dashboards.

The Pensions Dashboards Regulations 2022, which were approved by this House in November last year and subsequently came into force in December, place requirements for occupational pension schemes to be connected to a digital ecosystem designed by the Money and Pensions Service. These requirements include, for example, the need for pension schemes and providers to continue to comply with the connection, security and technical standards published from time to time by the Money and Pensions Service. There are also requirements relating to the provision of pensions information at the request of a pension scheme member.

Under the Pensions Dashboards Regulations, the Pensions Regulator may, if necessary, take enforcement action against trustees or managers of occupational pension schemes in the event of non-compliance. For each breach of the regulations, this could result in penalties being imposed of up to £5,000 for individuals or up to £50,000 in other cases, such as for corporate trustees. These are significant penalties, but the House may be surprised to hear that there is nothing in the legislation which prohibits the trustees or managers being reimbursed for those penalties using the assets of the pension scheme. My noble friend the Minister can confirm, but I understand that this was simply an oversight during the passage of the Pension Schemes Act 2021, and the omission escaped the eagle eyes of noble Lords scrutinising the Bill.

My Bill addresses this critical issue by making it a criminal offence for trustees or managers of occupational pension schemes to reimburse themselves from the assets of the pension scheme for penalties imposed for compliance breaches under the Pensions Dashboards Regulations. If a trustee or manager was found guilty of this offence, the Bill's provisions would allow for a maximum sentence of up to two years in prison, or a fine, or both. This is intended to provide an effective deterrent to such unscrupulous behaviour.

The Bill does not place any new costs or requirements on occupational pension schemes but rather works by extending existing legislation which provides for a

[LORD YOUNG OF COOKHAM]
similar prohibition in a number of other areas of pensions legislation, including automatic enrolment. I hope noble Lords agree that it increases protection for pension savers from any unscrupulous persons. I look forward to working with the Minister and other noble Lords as we aim to secure its swift passage through the House. I beg to move.

10.12 am

Baroness Altmann (Con): My Lords, I congratulate my noble friend Lord Young on his excellent introduction and sponsorship of this important but limited Bill. I also congratulate our honourable friend Mary Robinson on introducing it in the other place. I am delighted that the Government and my noble friends on the Front Bench are supporting this Bill.

As my noble friend Lord Young has explained, the pensions dashboard should be, and I hope will be, an important element of the pensions landscape for ordinary people who have pensions savings and perhaps wish to know more about what they have in their pension fund. Given the complexities of pensions, and even with contributions going into them, so many people do not really understand or know quite how much money is going in on their behalf or how much is accumulating for them. So there is a job of work to do on financial education.

What is so important is that, once people can see all their pension information, they can be assured that the system in place to oversee the dashboards protects them. This Bill is an added element of the armoury that is so important in ensuring that rogue operators of a pensions dashboard would not be able to cover up their mistakes or pay for their mistakes by taking money out of individuals' pension funds. It is hard to see how someone would argue against the measures in the Bill, which simply will mean that, if the person providing the dashboard or responsible for the dashboard is fined by the regulator for doing something against the rules, they cannot just take money out of the ordinary customers' pension funds but would have to pay it themselves. Although my noble friend considers the penalties significant, one might argue whether a £5,000 fine, or even a £50,000 fine for a corporate, is sufficient to deter wrongdoing. I think the level of penalties is applicable across pensions and will, I hope, be sufficient to ensure that we have a safe system.

I have given my noble friend notice of a few questions I have about the dashboard, which are very important in terms of the programme itself, especially after the announcement yesterday by our honourable friend Laura Trott, the Pensions Minister, that the dashboard programme is going to be reset—whatever that might mean; we will find out soon.

The first question, which relates to the clear need to delay the introduction of this long-awaited measure, is on the security of Verify, or its alternative system, which is designed to protect members' data. I do not know if my noble friend could update the House on that. Some of the problems were due to what we have learned recently about the errors in state pension records, especially for women, where many women have found that the information is incorrect and, in some cases, has been for many years—they were already

in retirement and still had not had the correct amount. How is the department getting on with its correction exercise?

The other concern might be around the records and readiness of public sector pension schemes to connect to the dashboards. With the McCloud remedy needing to be implemented, there are going to be significant administration issues. Could my noble friend give us any comfort on that or an indication of timescales? I hope he can assure us that at least the Nest Pensions fund is ready for connection. That is a very large one, set up by the Government to cater for low-paid workers and people with small amounts of pension.

Finally, I ask for clarity from my noble friend on an issue I have raised so many times in this House, and have tried to insert in the legislation as it has been going through. What is the status of the checks on the accuracy of all pensions data? I understand that the fines we are discussing may be imposed if people fail to connect to a dashboard or do not have a service that works properly on the dashboard, but are there also fines and penalties for people who load incorrect data? It is not just about loading the information. Is there any requirement in law—and who would it fall upon and what would be the penalties for failure—to ensure that the pension information for each person has been checked and verified and is as accurate as that process could produce?

Overall, I welcome the Bill and am pleased that the Government are supporting it. I wish it safe, quick passage through the House.

10.19 am

Lord Sharkey (LD): My Lords, I can be very brief. We support this Bill and congratulate the honourable Mary Robinson MP on seeing the necessity for it, devising it and seeing its safe passage through the Commons. During that passage, the Bill attracted widespread and enthusiastic support from all sides, including from the Government themselves.

The Bill clearly fixes what could have been an extremely unfortunate loophole, and I confess to some chagrin that we did not spot the loophole at an earlier stage. I had thought that we had been pretty thorough—and lengthy—in our scrutiny. It is surely obvious that we should prevent trustees or fund managers who are fined for breach of the dashboard regulations reimbursing themselves from the funds of which they are trustees or managers. Equivalent prohibitions already exist for other aspects of pensions governance, and we clearly need to add the Bill's prohibitions to that list.

We would also like to speed the progress of this Bill through this House, ideally unamended, to ensure that the loophole is closed quickly. We want to be able to prevent, for example, reimbursements for fines levied for failures to meet the required target dates for connection to the MaPS dashboard—although, as the noble Baroness, Lady Altmann, just pointed out, that may not be quite so pressing as it was before yesterday.

Having said all that, there are just a few areas in which I would welcome a little more detail from the noble Lord, Lord Young, who has introduced this Bill with his customary clarity and fluency. I understand that for a breach of the dashboard regulations, such as a failure to connect to MaPS on time, TPR can issue a

penalty notice of up to £5,000 where the trustee or manager is an individual, or up to £50,000 where the person is a body corporate. These do not seem to me to be very large amounts, especially given the resources available to large pension funds. How were these amounts decided on and why is it thought they will prove an adequate deterrent to noncompliance with the regulations?

I understand that, under the terms of the Bill in Clause 1, the penalty imposed for use of the pension funds to reimburse managers for fines imposed for breach of the regulations would be, on summary conviction, a fine not exceeding the statutory maximum and, if convicted on indictment, a maximum of a two-year prison sentence, a fine or both. What is the level of the statutory maximum fine, is there is a similar limit to the fine levied for conviction on indictment—because that does not appear to be clear in the Bill—and could the noble Lord say, for these penalties, as for the penalties for breach of the regulations themselves, how they were arrived at and how they were assessed as providing sufficient punishment for breaching, or disincentive to breach, the regulations? Finally, I ask the noble Lord for reassurance that the extent of the recovery of any funds illegally diverted as reimbursement for fines will be taken into account when deciding the appropriate penalty for that action.

I conclude by once again congratulating Mary Robinson and the noble Lord, Lord Young, on this Bill and wishing it a speedy passage.

10.23 am

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to take part in this Second Reading debate and, in doing so, I declare my financial services interests as set out in the register. I congratulate Mary Robinson on securing this Private Member's Bill: it is the model of what a Private Member's Bill should do. My noble friend Lord Young said in his excellent introduction that it was specific and effective—and it is certainly that. Again, congratulations to Mary Robinson, my noble friend Lord Young and everybody who has helped in the preparation of the Bill to get it to this stage.

Pensions have somewhat lost their sheen since perhaps the 1970s, when my noble friend Lord Young spoke about them, yet, when you look at what is behind a pension, it still makes sense today. It is still a positive proposition to have something separate from the employer, protected by a trust structure, to set you up for your retirement. But, since the development of pensions, in relatively recent history, Equitable, Maxwell, Brown and other issues have taken the sheen off that pensions promise—but they should not. Perhaps there is a need for a great big branding exercise to be done.

Auto-enrolment has certainly played its part: perhaps we should all consider how best to rebrand what is fundamentally a very positive proposition for people to connect and commit to as early as possible in their working lives to ensure that security when they reach the age of retirement, be that 65, 66, 67, 68—or whenever that may come to all of us. To my noble friends the Minister and Lord Young, I say: should we not consider effective means to increase our efforts to promote the whole proposition of pensions as a positive

means, which is potentially in need of rethinking but essentially a very good thing to have as part of our society and economy?

Moving to the issue at hand of dashboards, the simple and effective measure in the Bill is just that. Will my noble friend Lord Young or the Minister confirm that it simply brings into line the proposition which runs through all pensions legislation when it comes to the behaviour of trustees in such situations, so it is a clear and obvious reset of what the 2021 Act did not include? The great possibilities of pensions dashboards are in what we are able to do with data. If we have clear and coherent data and people are able to have it in real time on their devices, that can only be a positive thing, if the right levels of education, communication and understanding can also be put into that mix.

As my noble friend Lady Altmann asked: what is being done to ensure that that data is robust, reliable, consistent and the complete picture? It is true in this instance, but also across all that we may be able to do in fintech with the new technologies we have available to us, that it is only as good as the quality of the data that underpins it, and dashboards are the obvious, clear example in front of us today. That data point is critical to consider at every point to ensure that, when an individual looks at their dashboard, they can know that that is the real-time, accurate representation of what they hold across all their pension pots.

Finally, on the question of digital ID, again it is pertinent in this instance, as it is to everything we seek to do in a digital economy for the UK. None of this will work effectively unless we get to grips with digital ID. So is the Minister satisfied with the progress we are making on digital ID for the UK? Where are we currently and where will the responsibility for digital ID rest, with the changing departmental structure across Whitehall? Can he urge ministerial colleagues to further increase the pace in this digital ID work, because it is critical to so much of what we are trying to achieve? It must be secure, it must be reliable, it must cover all the issues around privacy, and we still have quite a journey to cover on that issue.

To conclude, again I offer congratulations to my noble friend Lord Young and Mary Robinson. This is a specific, clear and effective Private Member's Bill. I wish it swift, safe speed into statute.

10.29 am

Baroness Sherlock (Lab): My Lords, I thank the noble Lord, Lord Young of Cookham, for introducing this Bill, and all noble Lords who have contributed. I am grateful to the noble Lord, Lord Young, for his characteristically clear introduction. I commend him on his many years of service in the interests of debating pensions and, like him, I say it is nice to have those of us interested in pensions dashboards back together again. It is always good to get the band back together again, even if the pensions dashboards crew is about as un-rock and roll as it is possible to be. But it is lovely to be here today.

I have a long speech on the importance of pensions, which I am going to spare your Lordships this morning because, if nothing else, the noble Lord, Lord Holmes

[BARONESS SHERLOCK]

of Richmond, has done a fine job of this and it is a very narrow Bill today. But since the discussion has ranged a bit more widely, I will say that we were supportive of the idea of pensions dashboards in the original legislation but that support came with a number of questions. Like so many things, things can be a good idea, but how they are done is crucial to whether they end up being a good idea. We raised questions about ID, data security, governance and redress. What happens when things go wrong? This is an unusual situation, where tens of billions of pounds of assets will be mandated by the state to be released and put on to this central spot. If something goes wrong, this is potentially very serious indeed.

I think that was amplified by the Government's insistence on going with commercial dashboards from the outset. This House had to press to insist that a public dashboard be there from day one, but I still think the Government's attachment to commercial dashboards raises some risks. Imagine for moment that you are a commercial pensions company. You can sit somebody down, show them your dashboard and say, "Look at your pots all over here. Let's gather them all into one tidy pot in this corner. Should I just move them into this space?" It does not take very much imagination to consider the possibilities for mis-selling even within what is legal. Those questions have been raised and have yet to be satisfactorily answered.

The principle of today's Bill is very simple. It is that the interests of pension scheme members should be protected from the actions of rogue trustees and others who fail in their statutory duties. The Bill, as we have heard, will make it a criminal offence for a trustee or scheme manager who is given a penalty for failing in their duties to dip into scheme funds to pay the penalty. Inasmuch as it aligns the position in relation to penalties for failure to fulfil dashboard requirements with those for other comparable penalties, the Bill seems straightforward and we are very happy to support it.

But I would like to add a few brief questions to those put to the noble Lord, Lord Young, and the Minister may wish to reflect his view as well, given the Government's wholehearted support of this Private Member's Bill. First, can somebody confirm to the House that this Bill simply replicates for dashboard-related breaches the prohibition in the Pensions Act 2004 which prevents trustees or managers using member funds to pay regulatory penalties; in other words, that there is nothing novel hidden in here?

Secondly, why was the provision not included in the Pension Schemes Act 2021? Was it, as the noble Lords, Lord Young and Lord Sharkey, have suggested, simply an oversight? If so, I do not think the noble Lord, Lord Sharkey, should beat himself up. I do not think it is his job to bury in the small print details of how things may align with the original legislation. I certainly feel no guilt at all. Frankly, I am prone to feeling guilt but, on this occasion, I feel absolutely fine.

Thirdly, will it be permissible for trustees to be covered by indemnity insurance paid for out of scheme funds? I think this can be done elsewhere.

On a related point, when we debated the Pensions Dashboards Regulations on 15 November 2022, the then Minister, the noble Baroness, Lady Stedman-Scott, said "we accept that the regulatory requirements on trustees have grown a great deal over the years".—[*Official Report*, 15/11/22; col. 839.]

It is always the case that rogue trustees can simply ignore the rules, but has the DWP made any assessment of whether there is a point at which the demands and risks of trusteeship might deter individuals and lead to a growth in the use of corporate trustees, and whether that might lead to a reduction in the important diversity of trustee experience which may be necessary to protect members' interests?

My final question was going to be to ask whether trustees are ready for the first connection deadline on 31 August 2023. However—as the noble Baroness, Lady Altmann, rightly pointed out—yesterday, from a clear blue sky, dropped a Written Ministerial Statement which was just 418 words long. It calmly and simply said that additional time would be needed to deliver the technology and for the

"industry to help facilitate the successful connection of a wide range of different IT systems to the dashboards digital architecture."

The Minister continued:

"Given these delays, I have initiated a reset of the Pensions Dashboards Programme in which DWP will play a full role. The new Chair of the Programme Board will develop a new plan for delivery."

The Statement also said:

"DWP will legislate at the earliest opportunity to amend the timing of these obligations".

We do not know, therefore, when the start date will be, but given that we are not promised another update before the Summer Recess, presumably it is not imminent. Can somebody, either the mover or perhaps the Minister, tell the House what on earth has gone wrong? Is it technical? Is it problems with schemes? Is it data?

When did the Government know? Did they know when this Bill was going through another place just recently? Did they know when we debated the regulations in November in some considerable detail? I am really interested to know to what extent the problems associated with creating commercial dashboards and connecting them to the dashboard architecture from day one have contributed to the need for a reset. What does it mean that

"DWP will play a full role"

in the new programme? Was it not playing a full role already? Has that changed?

When will the Government legislate to delay the programme? Are there plans to amend, for example, the many forthcoming pensions regulations we have before us? Also, I wonder, given that there is now no urgency at all, would government legislation not be a better way to deal even with the matters under debate today than a Private Member's Bill which has the wholehearted support of the Government?

The Government were so confident of being able to meet their dashboards timetable—on which we challenged them—that they hardwired the connection dates for schemes into the schedule. It says that the "staging deadline" for

"master trust schemes that provide money purchase benefits only"

for 20,000 or more relevant members is 31 August 2023, and so on. They were that confident. But since then, because that was published, pension schemes have spent time and money scrabbling to get ready for those hard deadlines. I suspect the irony will strike them that we in Parliament are debating a Bill designed to ensure that trustees pay penalties if they do not get their schemes connected to the dashboards in a timely and appropriate manner and the DWP just slips out a Written Statement saying, “You know what, we are not going to make it for August, after all. We are just going to reset the programme and we will give you some kind of update before the summer.”

I know that things go wrong. I get this. I have been a special adviser in government. I have been involved in enough programmes. But when things go wrong, I think the House is owed an explanation of exactly what went wrong. I suggest to the Minister that one thing he might usefully do is to forward to his colleagues in another place the proceedings of this House on the original legislation, the debates on the regulations and the associated debates. The Government were warned that this was incredibly complex. They were warned about the issues about data, ID and all kinds of things. I think this may be a good opportunity, since we are to have a pause enforced, for the Minister to tell the House that he will take the opportunity both to engage with the concerns raised around the House and to brief the House on how these are going to be addressed. I look forward to the replies.

10.37 am

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Viscount Younger of Leckie) (Con): My Lords, I congratulate my noble friend Lord Young on his excellent introduction to the Bill. My noble friend has made it clear to the House that the Bill will increase protection for pension savers. It has the full backing of His Majesty’s Government, and it gives me great pleasure to speak in support of it today.

The introduction of automatic enrolment has been a resounding success in helping people save for retirement, on a scale which was hard to imagine just 10 years ago. It has normalised workplace pension saving, with more than 10.8 million workers being enrolled into a workplace pension to date, and £33 billion more saved in real terms in 2021 than in 2012.

This success has, at the same time, resulted in challenges for the Government, consumers and the pensions industry more broadly. Research by Aegon found that 73% of people have multiple retirement or pension plans. While it is usual for people to move around the labour market throughout their working lives, this can make it difficult for people to keep track of what they have saved. Indeed, research by Scottish Widows in October 2022 has shown that nearly half of workplace pension holders do not know how many pension pots they hold with previous employers.

Pensions dashboards will help to address these issues—and I will come back to the point raised on dashboards. They will put the saver in control and allow them to view information about their pensions, including the state pension, in one place online. By doing so, dashboards will enable savers to be reunited

with pension pots they may have lost or forgotten about over many years. To highlight how significant the total value of lost pots may be, the Pensions Policy Institute suggested in its paper last year that it could be as high as £26.6 billion.

The Pensions Dashboards Programme is supervised by the Money and Pensions Service to deliver the technology underpinning dashboards. This is far from a straightforward task. It involves connecting thousands of pension schemes so that millions of consumers are able to search for their pensions.

Yesterday, as has been mentioned in the House this morning, the Government published a Written Ministerial Statement which explained that additional time is needed to deliver the complex and technical solutions to enable the connection of pension providers and schemes, in accordance with the connection deadlines set out in the Pensions Dashboards Regulations 2022 and the Financial Conduct Authority’s corresponding rules for pension providers. Given these delays, my honourable friend in the other place, the Minister for Pensions, has initiated a reset of the Pensions Dashboards Programme, in which the DWP will play a full role. This will include a new chair of the programme board and the development of a new plan for delivery.

The noble Baroness, Lady Sherlock, spoke about the importance of ensuring 100% quality and security for these dashboards. I cannot give her more detail on precisely what the reset will mean, which was the gist of her question, but the DWP will play more of a part in terms of those who are managing the dashboard, including MaPS—she will know more about that. But I will endeavour to update her and the House as soon as I can on progress. Obviously, the WMS has just come out, but she rightly asked these questions and that is as much as I can tell her.

The Government will also amend the Pensions Dashboards Regulations 2022 at the earliest opportunity to provide the pensions industry with clarity about the timings of its legal obligations. The Government will ensure that the pensions industry has adequate time and the necessary technical information to prepare for any revised connection deadlines. The Minister for Pensions will provide a further update to Parliament before the Summer Recess, as the noble Baroness, Lady Sherlock, mentioned.

However, none of this detracts from the importance of this Bill, which is needed irrespective of the timeline for delivery. The Pensions Dashboards Regulations 2022 set out detailed requirements for occupational pension schemes to be connected to a digital ecosystem, which will enable the provision of pensions information at the request of a pension scheme member. As set out in the Written Ministerial Statement, this framework for dashboards set out in the regulations remains fit for purpose. The Pensions Regulator may take enforcement action for non-compliance with any of the requirements in part 3 of the Pensions Dashboards Regulations. Once connected to the dashboards ecosystem, occupational pension schemes may be in breach of the regulations—for instance, if they fail to maintain connection to the digital architecture or fail to provide information within the timeframe set out in the regulations. In the event of non-compliance, the Pensions Regulator

[VISCOUNT YOUNGER OF LECKIE]

may issue penalty notices of up to £5,000 for individuals or up to £50,000 in other cases, such as those involving corporate trustees. Several questions were raised in this respect, notably by my noble friend Lady Altmann and the noble Lord, Lord Sharkey.

Having covered the basic penalties, I add that the Pensions Regulator is required by the Regulators' Code to take a proportionate, consistent and targeted approach to enforcement. However, in the event of multiple compliance breaches, the regulations allow TPR to issue multiple penalty notices within the same document. The Pensions Regulator's consultation on its compliance and enforcement policy closed on 24 February 2023. In that consultation, TPR set out its intention to consider the total amount of any penalties issued in the light of the circumstances of the breaches and the impact they have had. TPR expects to publish its consultation response and final compliance by the summer. Hopefully, this helps to answer the questions raised by the noble Lord, Lord Sharkey. We feel that the levels are consistent with other areas of pensions legislation. He may know more about that than me, but that is what we believe. Regarding the question raised by the noble Baroness, Lady Sherlock, there is nothing novel in the approach we are taking in this respect.

My noble friends Lord Holmes and Lady Altmann raised the important issue of data accuracy checks. It is critical that savers be able to trust the information in front of them. Trustees and managers have existing legal obligations in respect of data quality, including the accuracy principle under UK GDPR, which requires organisations to ensure that data remains accurate and up to date. The Pensions Regulator has set out its expectations on data quality in its record-keeping guidance. This includes that data be measured at least once a year. The regulator's guidance on dashboards is also clear that trustees and managers must ensure that the values provided are accurate, and it urges them to work with administrators to improve data if required.

Bringing us back to base, this Bill from my noble friend Lord Young focuses on solving one key issue: that current pensions legislation does not prevent a trustee or manager being reimbursed for these penalties using funds from the pension scheme. The Bill increases protection for pension savers by prohibiting trustees and managers of occupational personal pension schemes from being reimbursed out of scheme asset in respect of penalties imposed on them for non-compliance with the Pensions Dashboards Regulations. The Bill would achieve this by amending Section 256 of the Pensions Act 2004, which already provides similar prohibition in other areas of pensions legislation. I confirm to my noble friend Lord Young—the noble Baroness, Lady Sherlock, mentioned this as well—that that was indeed an oversight. It did indeed escape the eagle-eyed lawyers—including that of the noble Lord, Lord Sharkey, so I am sure that he can be forgiven.

Under the Bill's proposals, if a trustee or manager were to be reimbursed, and knew or had reasonable grounds to believe that they had been so reimbursed, they would be guilty of a criminal offence unless they had taken all reasonable steps to ensure that they were not so reimbursed. Should a trustee or manager be

found guilty, the provisions of the Bill allow a maximum sentence of up to two years in prison, or a fine, or both. Additionally, were any amount to be paid out of the assets of a scheme in such a way, the Pensions Regulator would have the power to issue civil penalties to any trustee or manager which fails to take all reasonable steps to secure compliance.

The Bill has been drafted to make provision across the United Kingdom. As noble Lords will know, pensions policy is transferred to the Northern Ireland Assembly and the usual process would be for the Assembly to provide a legislative consent Motion for any provision relating to a transferred area. However, the Government's position is that if the Northern Ireland Assembly is unable to consider the matter before the final amending stage of the Bill, it should proceed unamended. Ultimately, the Government are of the view that it would be wrong for these protections not to extend to pension members in Northern Ireland.

A number of questions were raised in relation to and beyond this Bill. My noble friend Lady Altmann asked about NEST and its readiness for connection. The announcement yesterday allows the programme to develop a firmer footing and put it on a path to successful delivery, including ensuring that all data providers can connect safely and securely. The programme and DWP have been in regular contact with NEST and will continue to be over the coming months, to support it in preparing to meet its connection duties when the revised timeline is in place.

My noble friend Lady Altmann also asked about One Login, the successor to Verify. As she may know, there are currently more than 340 services on GOV.UK, with around 190 accounts accessed via 44 different sign-in methods. GOV.UK One Login will replace these with a single ubiquitous way for users to sign in and prove their identity. It will improve inclusion and save millions of pounds through collaboration, efficient service delivery and tackling fraud across departmental boundaries. Development of GOV.UK One Login is progressing at pace, and I can reassure my noble friend Lord Holmes that the core of the system has been launched—its sign-in element, a web-based identity verification journey and a fast-track identity-checking app. There are currently five live services using One Login, with more services expected to onboard in 2023-24. The Cabinet Office and the Government Digital Service are working closely with central government departments to ensure that the programme meets their and their users' needs.

My noble friend Lady Altmann asked about security and the alternative to Verify. The Pensions Dashboards Programme has procured an interim identity service provider, whose contract runs until January 2024. The service it provides is aligned with the Government Digital Service's good practice guide. The Money and Pensions Service is engaging with officials in the Cabinet Office and the Government Digital Service, as well as the wider market, building on the engagement work undertaken in 2020, to identify all possible options that may comprise its new identity service delivery model.

Returning to the Bill, the noble Baroness, Lady Sherlock, raised an important point about trustees using schemes to buy indemnity insurance. I can reassure

her that the Bill would make it a specific criminal offence for pension scheme trustees or managers to reimburse themselves using the assets of the pension scheme in respect of penalties. It also includes taking out an indemnity policy but having the cost of that reimbursed through the scheme.

The noble Baroness also asked about—I am paraphrasing what she said—a chilling effect, particularly for non-professional trustees; it is a very good point. The Government acknowledge that many trustees do an excellent job, often on a voluntary basis. The vast majority of trustees are in schemes with fewer than 99 members and so would be outside the scope of these regulations unless they connected to pensions dashboards voluntarily. While we accept that the regulatory requirements on trustees have grown a great deal over the years, this is only right given what is at stake, since we are talking about the pensions savings of millions of people. The Pensions Regulator will provide an extensive programme of communications to support trustees to meet the requirements in the pensions dashboards regulations.

The noble Lord, Lord Sharkey, asked about the statutory maximum fine in relation to summary conviction. I may have covered that, but I will write to him if I have not answered the question; I hope that is helpful.

To conclude, I am firm in my view that everyone rightfully deserves protection for their pension savings; we all know that, and that is exactly what the Bill does. It is a simple Bill in that it will extend a prohibition in existing legislation rather than placing new requirements or additional costs on to occupational pension schemes. However, the proposals under the Bill are powerful enough to swiftly deter any rogue actors from reimbursing themselves using pension assets that belong to hard-working people. I hope that the House recognises that and supports its passage today.

10.51 am

Lord Young of Cookham (Con): My Lords, I am grateful to all noble Lords who have taken part in this debate and for their support for this modest legislation. As my noble friend Lady Altmann said, the Bill is impossible to oppose, and I hope that optimistic forecast is carried out. She raised issues about penalties. My noble friend the Minister answered that, but so far as this Bill is concerned it seems to me that two years in prison is quite a severe deterrent for anyone who seeks to break the rule set out in the Bill.

The noble Lord, Lord Sharkey, fired at me four technical questions about penalties, and I am grateful to him. Fortunately, the bullets were intercepted by my noble friend the Minister, who answered them. As we have heard, if by any chance the replies do not come up to standard, my noble friend has promised to write to the noble Lord.

I am grateful to my noble friend Lord Holmes, who reminded us about the success of auto-enrolment. I agree with what he said about the need to promote early investment in pensions to get the benefit of the magic of compound interest. He also touched on a subject close to my heart; namely, digital identification and the history of the Verify programme. My noble friend the Minister dealt with that, but as I understand

it, rather than wait for the Government to come up with their solution, the programme dashboard is developing an interim programme which will be compatible with the one the Government end up with.

Those who came along to listen to the longer speech of the noble Baroness, Lady Sherlock, on pensions will have been disappointed, as she decided not to deliver it. We look forward to hearing that on a separate occasion. She referred to the Written Ministerial Statement announcing a delay in the programme. I want to congratulate the Whitehall wordsmith who came up with the expression “initiated a reset”. I think the train operating companies will want to follow that example, and I look forward to hearing on Monday that Great Western Railway has “initiated a reset” to the 8.14 from Cookham to Paddington.

Finally, I am very grateful to my noble friend the Minister, who answered, I hope, all the questions that were theoretically directed at me. He reminded us of the large sum of money—£26 billion—represented by “lost” pensions and reminded us about the complexity of the plumbing involved in getting the dashboard going. I am also very grateful to him for his comprehensive reply to the debate and for the Government’s support.

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

Employment (Allocation of Tips) Bill

Second Reading

10.55 am

Moved by Lord Robathan

That the Bill be now read a second time.

Lord Robathan (Con): My Lords, this is a Bill entirely about fairness. Indeed, a Member of the other House said to me only this morning, “What is there not to like?”. It was started in the other place by my honourable friend the Member for Watford, Dean Russell, and then continued—for reasons which I will not bore you with—by my honourable friend the Member for Ynys Môn, Virginia Crosbie. What the Bill does is quite simple: it creates a legal obligation on employers to pass on tips, gratuities, service charges—for ease of reference, I shall refer to all these as “tips”—to employees in full. The only deductions permitted are those required or permitted under other statutory provisions, specifically tax law.

Which of us has not wondered, or indeed asked, a waitress or waiter whether that person gets the extortionate service charges that often end up on the end of our Bills? We do not expect businesses to take a slice of anything we pay for service, so this Bill will create a level playing field for businesses that already pass on tips to workers in a fair and transparent way. At the core of the Bill is the creation of a legal obligation for employers to distribute all tips to workers without any deductions; this includes mandatory and discretionary service charges which are added automatically on to customers’ Bills by some hospitality venues. When customers pay service charges, they—we—expect them to go to workers in full, and they jolly well should.

Ensuring that tips are passed on to workers in full, with no deductions by employers, could make a real difference to workers’ incomes. We are talking typically

[LORD ROBATHAN]

about workers in hospitality such as restaurants, but it would also apply elsewhere; for instance, in taxi services such as Uber, croupiers in casinos or hairdressers. Where employers receive tips directly from customers or have control or significant influence over the distribution of tips which workers receive directly, the Bill will create that legal obligation for them to distribute those tips to workers in a fair and transparent manner. The obligation will attach to the total amount of the qualifying tips paid at, or otherwise attributable to, a place of business of the employer.

To clarify, the Bill does not cover tips which employers do not receive or have control or significant influence over. For example, if workers receive cash tips, perhaps put in a physical pot, and divide them between themselves without any control or significant influence from the employer, those tips are not affected by the Bill. It will not interfere with existing tipping arrangements where employers do not influence or make deductions from tip allocations.

It is important that we retain flexibility for employers to choose how to distribute tips so long as that distribution is fair. Some employers may choose to use a *tronc* system to distribute tips—I actually knew what a *tronc* system was, but, for clarity, it is an arrangement commonly used in the hospitality sector where an employer delegates the collection, allocation, and distribution of tips to a person or persons who are known as a “*tronc* master” or a “*tronc* operator”; that person is often, in a restaurant for instance, the head waiter. The Bill does not seek to regulate the operators of independent *tronc* systems, although the employer will need to be satisfied that it is fair overall to make arrangements for distribution through a *tronc*.

The Bill includes provisions for the Secretary of State to issue a statutory code of practice which will promote fairness and transparency in relation to the distribution of qualifying tips, gratuities and service charges, and help tribunals determine whether it is fair for an employer to make certain *tronc* arrangements. Employment tribunals must have regard to relevant provisions of the code when determining whether an allocation of tips, or making certain *tronc* arrangements, is fair, and the code of practice will consider some of the factors which may be relevant to fairness.

The reason for the code is to capture the nuances of fair tipping practices across and within sectors. We need to ensure that we put in place a framework that appreciates the differences from business to business and allows flexibility. However, to reassure noble Peers, there will be a full consultation on the code with subsequent approval by both Houses—or not, of course.

Transparency is a crucial part of the Bill and information plays a significant role. The Bill creates an obligation on employers to have a written policy on dealing with tips, which must be made available to all workers. In order for workers to understand whether their tips have been distributed fairly, the Bill also creates a new right for workers to make a request for information relating to their individual tipping record and the overall amount of tips that the business has received in a given time period. This does not add any onerous obligations or regulations on an employer or

business—apart, one might say, from writing a policy—for most employers will already have a system in place for the fair distribution of tips.

The Bill will be enforced by workers through the employment tribunal system, and provides tribunals with remedies and situations where an employer has made deductions from tips or not allocated tips in a fair and transparent way. For general knowledge, I point out that the majority of employment disputes are settled before they reach an employment tribunal, and we expect referrals to such a tribunal under the Bill to be relatively rare or unusual.

If an employer does not allocate tips fairly between workers, the employment tribunal can order the employer to revise any allocation of tips that it has previously made, recommend that the employer deals with tips in a certain way or make a payment to a worker or a number of workers of the employer, so that they receive the tips that they should have received. It might also compensate workers for any related financial loss attributable to a breach of these provisions by up to £5,000.

I hope this gives an overview of the Bill and the provisions within it. As my honourable friend down the other end said, “What is there not to like?” Both parties opposite, Labour and the Liberal Democrats, raised no problems with the Bill during Committee in the Commons—they raised a few issues, but not real problems—and support the Bill.

I hope noble Lords from all sides of the House will join me in helping the Bill succeed. It is an opportunity to bring back change that will positively impact those businesses that are already doing the right thing and, especially, those workers who receive tips. I beg to move.

11.02 am

Lord Browne of Ladyton (Lab): My Lords, it is a pleasure to support the Bill sponsored by the noble Lord, Lord Robathan, and to anticipate its provisions finally reaching the statute book. In opening Second Reading, he outlined the Bill’s functions with thoroughness and lucidity. I beg to say that the longer I spend in this building the more I realise that we are all on a political journey. I hope that his enthusiasm for and championing of a Bill that makes a real and positive difference to some of the lowest-paid workers in our country is an indication that he has come a long way from where he was in 1997-98, as evidenced by his voting record on the then National Minimum Wage Bill.

I began by saying that it is a pleasure to support the Bill. It is an equal pleasure—a number of noble Lords may repeat this remark—to do so without caveat or reservation. It engages a simple question of equity: money given in tips to serving staff should be theirs without fear of depredation from their employers. This question is particularly acute when the hospitality industry is attempting to regain its feet after the pandemic and is being further buffeted by rising energy prices, the cost of living crisis and, more importantly, labour shortages. This should encourage people to work in the industry, knowing the prevalence of the problem that it addresses.

The Bill is comprehensive in scope, extending the legal right to a fair allocation of tips not merely to directly employed workers but to agency staff and

those allocated tips through a third-party tronc scheme. I must admit that I did not know what a tronc scheme was until I read the Bill. Crucially, under Clause 4, it ensures that workers receive tips no later than the end of the month following the month in which they were paid by customers. I also welcome the measures in the Bill giving adequate scope for enforcement, and commend those involved in the Bill's drafting and ensuring its passage through the other place. I look forward to these legal protections being extended to hospitality workers as soon as possible.

That last point leads me to ask why this has taken so long. The first call for evidence for this legislation was put out by the then Department for Business, Innovation and Skills in August 2015. Since then, we have had five different Prime Ministers, eight Secretaries of State and innumerable reshuffles among junior Ministers. Indeed, not only does the government department that published that call for evidence no longer exist, even its successor department has gone the way of Nineveh and Tyre. This measure has been included in two general election manifestos and four Queen's Speeches, and has been the subject of two consultations. It is fair to say that, were the staff who are the subject of the Bill to adopt such a laggardly approach to their own work, the allocation of tips would be a purely academic exercise.

This should cause us seriously to reflect on the efficiency of government over the last eight years. The Bill is limited in scope, rights an obvious wrong and has cross-party support. If a measure of such comparative simplicity can take eight years to pass, something has gone profoundly wrong with our lawmaking in this country. I will resist the temptation to reach outside the scope of today's proceedings to consider the silting effect that the necessity of dealing with Brexit and its consequences has had on our legislative efficiency, but will merely leave it hanging in juxtaposition to my points earlier.

I welcome the Bill and once again commend the work that the unions, other workers' campaigning groups and parliamentarians on all sides have done in ensuring that it is now likely to reach the statute book. It will have my full support as it passes through your Lordships' House.

11.06 am

Baroness Berridge (Con): My Lords, I too thank my noble friend Lord Robathan for introducing this small but important Bill, especially as, like many noble Lords, I have been a receiver of tips, not only a giver. Although the loophole has been closed so that tips cannot be relied on by employers not paying the national minimum wage, tips are often given to those on that lowest lawful wage and can be a vital part of overall wages. Back in the day, it was so encouraging on a long shift in the local gastropub to open the drawer and see a number of paper notes along with the coins in the tips bowl. It really was an incentive for the rest of the shift and an extra bonus when saving for university.

It is only right to have a distribution policy that is fair and for employees, not the employer. It is often a personal payment, such as by a lone woman travelling

home at night in a cab or Uber, when the driver gets you home safely and you know that they have waited until you are safely inside the building before driving off. These extra kindnesses really matter and should be rewarded personally.

I welcome, in Clause 6, that there should be a written policy to enable claims to be taken to the employment tribunal, giving employees the requisite information, but it would be good if that policy were simple enough to be on display for customers. I think Clause 6 limits it only to workers. How tips are distributed can affect whether a customer wants to give a tip. It can also change the way that tips are given. Like my noble friend Lord Robathan, I have often asked waiting staff and given cash if I am informed that they will not get a tip given by a card payment.

The Bill has also intrigued me. Although I am aware that my noble friend cannot answer the following question directly, I ask: what happens to gratuities added to bills paid by card in the dining rooms or guest rooms in Parliament? I hope that he will pass that question to the relevant authorities so that noble Lords will know the answer.

I agree with the noble Lord, Lord Browne, that it is sad to note the many commitments that have been made on this matter. I particularly cite October 2018, when the Conservative Party made a commitment to bring this into law, but it has taken four and a half years since then to legislate. It is also sad to note that it is necessary to use the law to achieve what should be normal employer behaviour. As my noble friend said, what is there not to like? Many or most employers, apparently including Uber, pass on tips paid electronically, but it is not always the case.

Sadly, the compensation orders against rogue employers, in Clause 8, might not be enough. I hope that the media will keep a watchful eye, as it is really only their revelations, with the transparency they give and the shame attended to them, that bring about the best sanctions. I anticipate that we will see some class actions brought in response to enable employees to have their requisite compensation orders and get their money back. I welcome the Bill and hope that it has a swift passage through Parliament.

11.10 am

Lord Mitchell (Lab): My Lords, if it were not for tips, I probably would not be standing here today. In the mid-1960s, I was living in New York, studying for my master's degree in business administration at Columbia University. Sadly for me, I had no money, and New York city is no place to be poor, so I got a job as a waiter at a restaurant enticingly called Your Father's Mustache. It was located in Greenwich Village; it was noisy and crowded, and it sold beer and cocktails, burgers and huge sandwiches—I loved it. I worked four nights a week, starting at 9 pm and finishing at 3 am. It was hard work, especially because, by 8.30 am the next day, I had to be at my class, all prepared. My basic pay was 99 cents per hour, minimum wage, plus tips. Being English, at the time of the Beatles I achieved some degree of notoriety, and I was good at hustling for tips. I would earn about \$60 per evening—and that was in 1965.

[LORD MITCHELL]

In the days before credit cards it was all about cash tips. I learned about dynamic tipping—assessing the customer and working out how best to maximise my reward. Most important of all was positioning the change on the tray so that he took the coins and notes nearest to him and left me with the tip I felt I deserved. For me, it was the difference between happiness and misery. I secured my MBA, returned to London, had a fulfilling career in IT, and here I am today. Without those tips, who knows how it might have turned out?

All this is to emphasise as strongly as I can that my heart and soul are with the recipients of tips. I know just how crucial these payments are to those who work in pubs, bars and restaurants. I must thank the noble Lord, Lord Robathan, as well as Dean Russell in the other place, for introducing this Private Member's Bill, which now has Government support. It is a vital Bill, and when it becomes an Act it will give certainty of earnings and security to many hundreds of thousands of people who work in the hospitality industry.

I would like to raise a few areas where I believe we are at risk of unintended consequences. I ask the noble Lord to consider these points, and I would welcome the opportunity to meet him prior to the Bill going to Committee.

The first point concerns agency workers. I fully understand why, at first glance, it seems equitable that agency workers qualify for sharing in the tip allocation on the same basis as directly employed staff. But I am told that agency rates have now gravitated upwards, to the extent that there is now an implicit tipping share built into the daily fee. Therefore, if agency people also share in an establishment's tips, does it not mean that, in effect, they get the benefit of the tip twice over? That cannot make sense. If it stays as the Bill proposes, will that not mean that many staff will move towards being hired as agency workers rather than direct employees? That cannot be a good thing.

The second point concerns credit card payments. I know that fundamental to this Bill is the concept that employees should participate in the sum total of all tips, with no deductions. However, I think credit card charges should be exempted. If there is a built-in tip of, say, 12.5%, and the total bill is paid by credit card, which most bills are, then the establishment will have to pay the credit card charge on not only the base cost but the tip portion of the bill. Surely the credit card fee is a direct cost of the transaction, and the restaurant and the staff should bear that cost proportionately. My suggestion is that a maximum deduction of up to 2% should be netted off from the tipping pool. That does no more than cover the additional cost to the business arising from the customer's generosity, and with a maximum rate set to avoid any abuse or excessive deduction from an unscrupulous operator.

Finally, I would like to address the issue of multiple-site operators. The Bill as it stands states that the tipping pool should originate from the bar or restaurant where the employee works. That makes sense. But there are many restaurants and bars which have associated premises, and it is not uncommon for staff to be transferred from one to another. Imagine a situation where a successful restaurant wants to open another restaurant

and wants to transfer skilled staff from one to the other to get the place up and going, or where a business operates a large establishment which generates significant tips and a smaller restaurant a mile down the road with a much lower level of tips. New restaurants take time to find their feet and build up clientele. Operators will, from time to time, need to move staff from one premises to another, perhaps to cover illness or staff shortages. If the Bill stays unamended, it will remove the incentive for staff to move from a successful restaurant to a start-up, or from a larger site to a smaller one. That does not make sense. Surely a group should have the facility to amalgamate its tipping pool across multiple restaurants.

As I said, I would welcome the opportunity to discuss these issues with the noble Lord. The hospitality industry was battered by Covid, and now it is being battered by inflation and staff shortages. We have a good Bill before us. We should do all we can to minimise the burden on employer and employee alike.

11.16 am

Lord Shipley (LD): My Lords, it is a pleasure to follow the noble Lord, Lord Mitchell. He raised a number of interesting points, particularly around agency workers, credit card fees and new premises. I hope the Minister will be in a position to respond to some of those, because I hope that the Bill will get a speedy passage through the House. I am particularly grateful to the noble Lord, Lord Mitchell, for explaining the concept of dynamic tipping to us, which he clearly made great use of if, all those years ago, he was securing \$60 per evening—which was then a very significant sum of money—to assist him in his studies.

As the noble Lord, Lord Robathan, said, what is there not to like? I subscribe to that view. This is about fairness for the 2 million people who receive tips as part of their employment. As the noble Baroness, Lady Berridge, said, this will help to increase low incomes, and that aspect of the Bill should not be understated.

Like others, I share the concern, as a customer, around what happens when I pay a tip or a service charge, and what the meanings of the terms that are used on the bill actually are. We should say that many businesses operate good systems for ensuring that tips and gratuities reach the staff customers intend them for. However, when I pay a service charge, I expect it to go to the staff providing the service, through a system that is transparent and which they understand. I have not seen a case for any part of the service charge being deducted for the employer's benefit, although I think there is an issue around the credit card charge, which the Minister might like to clarify when he replies.

The new code of practice is going to be extremely important. It will need extensive publicity to ensure that the new requirements are being met, particularly those in Clauses 2 and 3. That will require substantial publicity through unions and social media. I hope the Government will support that process and that the Minister might be able to advise the House of the Government's intentions to make sure the publicity reaches those who will benefit from it.

Like other speakers, I am absolutely delighted to give our support to the Bill. I wish it full speed through all its stages in this House.

11.19 am

Baroness Deech (CB): My Lords, there cannot be anyone in this House who has not been affected by, and thought about, tipping. We all face the question of how much, and whether an amount added automatically can be removed without embarrassment. On many occasions, we wonder about the etiquette of tipping or not tipping. I had thought that it was less likely that many of us had been on the receiving end, except when we were younger. But, having listened to the noble Lord, Lord Mitchell, I will never again not think of how a young person to whom I am giving a tip might in fact be a future Peer.

Nevertheless, there are both detailed and broad questions that can be raised. The insertions that Sections 27D and 27F made into the Employment Rights Act have fairness as their theme. It is not defined. How can it be applied, or how can issues between employees and tronc operators be handled when the trons are operated independently of the employer? The tronc system also means that, if a customer really wants to reward a particular employee, the tip may still go into a pool if that is how the tronc system is set up. Where tronc systems exist, there is little incentive for employers to offer much beyond the legal minimum wage levels. The more they pay, the higher the national insurance and other wage-related costs mount, which does not apply to tips, and, if the employer pays more, he or she will still remain obliged to distribute the tip income.

Proposed new Section 27G requires a tip to be paid out by the end of the month following its payment by the customer. But there is no definition of what is meant by paid. Charges in hotels may be accumulated during the stay: for example, the tip might be added at the time of the meal, but payment by the customer might be added long after. Payment might be delayed or even never received, or the charge in question to which a tip was added at a particular time might have to be reversed or reduced later due to error or disputes.

While the Bill rightly calls for information to be supplied to the employee, it could be argued that best practice means that explanation of the treatment of tips and service charges should be included for the customer on menus and tariffs. Given the lack of uniform standards, and the variety of systems and technicalities involved, it would be difficult to explain these in simple terms, let alone ones for which there is room on a menu.

Let me range to a broader level. Will this legislation serve only to cement out-of-date pay practices that will serve to inhibit the hospitality industry's recruitment efforts? Pricing and employment practices in that industry need to be brought into line with best practice. Instead of relying on tips, employers need to be able to set salaries that offer fair and competitive levels of pay and provide prospects for promotion, bonuses and recognition of long service. The employee needs to know exactly how much they will be earning and ensure that they benefit fully from pension and other

pay-related benefits such as holiday and sickness pay. Those pay-related benefits should relate to their total earnings. Those full earnings should be liable for tax. Employees and employers affected by tips should be subject to the same tax and national insurance contributions as any other business. They are not now, because of the special arrangements affecting tips. Ideally, all prices quoted by service and hospitality businesses should be fully inclusive, with no additions expected. Customers would be relieved and grateful.

In sum, the Bill as it stands needs more definition, which may yet be found in the guidance to be issued. But, overall, it is backward-looking rather than forward-looking, and many of us wish that there could be some end or curtailment to the system of tips. Will the Minister tell the House why it was thought necessary to set in stone schemes that could be said to be out of date?

11.23 am

Lord Bourne of Aberystwyth (Con): My Lords, it is a great pleasure to follow the noble Baroness, who spoke with her customary lucidity and insight on some legal points, which I may also address.

I congratulate my noble friend Lord Robathan, in presenting the case so powerfully and with such clarity, and my honourable friends in the other place, the honourable Members for Watford and Ynys Môn.

I will come to the point made by the noble Lord, Lord Browne of Ladyton. I very much agree about the great length of discussions, consultations and abortive legislation that we have had on this issue. We need to address this.

The measure is simple and straightforward. There are some profound legal issues, and indeed some cultural issues, which the noble Baroness, Lady Deech, touched on. I share some concerns that she has addressed about how the practice of tipping has come to be seen as a substitute for wages in some cases. It is growing more extensive: I am told that, when you buy a sandwich in some delicatessens, you are invited to make a tip to the person in the shop making it for you. This is not an attractive practice. What happens in Singapore, for example, where people just do not tip, has its attractions: then, the wage reflects the job that is done.

However, we are where we are. I strongly support this measure, because I do not think that we will get to that position in the short term, and we need something that is fair to employees, as my noble friend said. The current system is not. Only in cases where there has been much adverse publicity have some notable restaurant chains, such as Pizza Express, altered their practice. They used to deduct a portion of the tip made on a credit or debit card payment and retain it. That is clearly unfair. I do not think that it happens so much with cash payments made to employees: that would be contrary to Section 1 of the Theft Act, and I do not think it necessarily happens. But during the pandemic, we have seen more people paying their bills by credit or debit card: it is clearly the norm.

The Bill is attractive because it will end that, and I have just one or two questions. It is attractive not least because now when we go into restaurants we will not have to ask the employee, "Are you getting the tip?" I asked this question last night, and I am pleased

[LORD BOURNE OF ABERYSTWYTH]

to say that they were. Every time you go to a restaurant, you feel obliged to ensure that the tip is going to the employee. Clearly, in many cases, it is. I do not want to suggest that all restaurants and hospitality outlets are unfair. They are not: I think the great mass are now passing it on. But this will rectify the practice.

I have a concern about publicity. We need to ensure that there is publicity behind this legislation, so that not just employees but members of the public—bearing in mind that, in this context, many members of the public will be coming from overseas—are aware of the practice, so that they can reflect that in how they give the tip and be assured that it is going to the employee.

There is a case about the tronc system, which the noble Baroness, Lady Deech, referred to. When somebody leaves a tip, they may want it to go to just the individual who is serving them. On the other hand, a tronc system will mean, in practice, that some of that goes to the kitchen staff and those behind the scenes. I would personally want to do that, but not everybody does. This needs to be dealt with in separate legislation. This piece of legislation should go forward: it has taken too long already.

This brings me back to the point made by the noble Lord, Lord Browne. I wanted to address this in speaking briefly today. We need to look at a situation where something that has virtually universal support takes at least eight years—admittedly, some of that when the pandemic slowed things down a bit—to get to the statute book. It is crazy. Something that is divisive, in the sense that it divides opinion, would get to the statute book much more quickly. Can the Minister take this back to his department and push for the issue to be taken further elsewhere? Where there is virtually universal agreement on something, can we not have a fast-track system to ensure that it gets to the statute book? Listening today—and I am sure it was the same in the other place—nobody really objects to the Bill in fundamental terms, and it would be very desirable if we could find a way of fast-tracking it, perhaps from this House, where we are more used to working across the aisle.

With that, I once more congratulate my noble friend on what he has done in ensuring that this is the focus, that there is unity here and that we are able to pass this legislation.

11.29 am

Baroness Chapman of Darlington (Lab): My Lords, it is a real pleasure to contribute to this debate and to follow very well-informed contributions, based on experience. I pay tribute to the noble Lord, Lord Robathan, for introducing the Bill, to my noble friend Lord Browne—I do not think I have ever heard him make such a positive speech on any topic—and to the noble Baroness, Lady Berridge, who made some interesting points. The questions of the noble Lord, Lord Mitchell, on agency staff and credit card charges are obviously very important. I do feel for the Minister: he thinks he is going to be introducing something universally popular and we are all going to say, “Well done”, and he ends up with a bunch of technical questions; but that is us doing our job. The points made by the noble Baroness, Lady Deech, about the

culture of tipping were very interesting and not something I had thought about before today. I thank her for that, and we must simply see this as a step in the right direction, not the destination. The points about information for customers, so that they know what is happening to the payments they are making, were very important. The awkwardness for the employee when asked if they will get the tip—referred to by the noble Lord, Lord Bourne—which forces them to decide between being honest and undermining their employer, is a difficult situation, even though we as customers are asking with the very best of intentions. That is something we have all encountered.

The Labour Party has obviously been supportive of this direction of travel for a very long time. There is a great deal of overlap between the position of these Benches and the measures in the Bill. We think that all tips, service charges and gratuities should go to workers in full, and that employers must not charge processing fees. The Bill’s provisions cover agency staff, which is good, and give workers the right to ask for records and recourse, which is vital. I thank the trade union Unite, which has for years been raising and campaigning on this issue. Alongside this, we are committed to bringing in a mechanism for collective grievances at work which would enable employees to bring a grievance against their employer to ACAS, as a collective. We believe that this would help to enforce fair tips more strongly.

It is useful to outline where we are as a party, where that overlaps with the Bill and what to do when we think things are not working correctly. As was indicated in the debate, how we advertise and ensure that all employers are aware of this change in law is very important, as is how it will be enforced and how staff can raise problems in the confidence that doing so will not be detrimental to them. There should be no deductions, including processing charges, apart from statutory taxes. The written policy on how tips are allocated needs to be made clear to staff when they start employment, and employers should ensure that all tips are allocated fairly through a TRONC who is genuinely independent of the business. For larger business, it should be stipulated that the TRONC should not be chosen from senior management personnel and should have the genuine consent of the workforce. Obviously, smaller business would not be subject to that, as it would not be practical. This should be underpinned by a statutory code of practice, be extended to agency workers and enforced by employment tribunals through ACAS. We would also reform and update the HMRC E24 guidance to simplify it, ensure it reflects updated requirements and make it easier to understand.

This is a welcome Bill. It may not deal with absolutely everything on this topic, but when the Government do something sensible, we should acknowledge that—perhaps balloons, a carnival or lighting some candles might also be appropriate. After the week I have had with the Retained EU Law (Revocation and Reform) Bill, it is a pleasure to welcome this, and I look forward to the Minister’s response.

11.34 am

The Minister of State, Department for Business and Trade (Lord Johnson of Lainston) (Con): I thank the noble Baroness, Lady Chapman, very much indeed—she

could always give me a tip for the work we are doing today, but I do not expect one. I pay tribute to my noble friend Lord Robathan for bringing this Bill forward, and I also make special mention of Dean Russell, the honourable Member for Watford, for the tireless work he engaged in to make sure that after a long period, this very important matter is now placed before this House.

It comes down to a simple matter of fairness. As customers, we were all surprised by this, and I was certainly surprised to discover that the tip I gave when I went to get my family pizza was not going to the staff—the people in the restaurant who were expecting it, and whom I was expecting to pay. For me, this is as much a matter of accurate description, to ensure that what people are saying is happening actually is. At the end of the day, this Government are committed to fairness and ensuring that employees get the right rewards that it is expected they will receive. I am delighted to take this Bill forward today.

I will go through some of the points that were raised. I covered the point made by the noble Lord, Lord Browne, in that now absolutely is the time. Looking back over the last few years, we were disturbed by the Covid crisis, but the initial voluntary scheme simply did not work, which was a pity. In my experience, the majority of restaurateurs are good, honest hardworking people, and it is important to highlight that running a restaurant is not a straightforward business, particularly for small restaurants. Restaurants and pubs are important to our community, and it is important that we support them and do not impose onerous legislation on them. But unfortunately, because the voluntary code of practice was not a success—and that had to be borne out in time—we were obliged to go into a consultation, and here we are. There is no looking back from this point, but it has taken a while for good reason.

Regarding the contribution of the noble Lord, Lord Mitchell, I do not know whether Your Father's Moustache is still in existence, but it sounds like he was earning more than—adjusted for inflation—than he might be being paid to attend the House today. I must therefore question his business acumen, quite apart from his patriotism.

I will cover some of the important points that have been raised, first, on agency workers. At the core of the Bill, the honourable Member for Watford and other officials have been trying to work out how to make this fair. It is considered in principle fair to pay temporary staff in a place of hospitality for the work they do. It would seem appropriate that, if someone works for a period in a restaurant or pub, they be rewarded with a share of the tips, commensurate with their input. Having said that, there have been comments—such as those of the noble Lord, Lord Mitchell—about additional pay for agency workers as opposed to full-time workers, who may be more committed to an establishment. This matter will be covered in the consultation and will be included in the guidance issued by the Secretary of State, which will eventually appear in the code of practice. It is not necessarily straightforward, and it is important that practices already in place in establishments passing on the full quantity of tips be able to continue. I believe that they will be able to continue with smoothing

out the fairness between agency workers paid at different rates and full-time staff who are paid at potentially lower rates for their full commitment to the establishment. This is a principles-based activity, based on what is fair, and the system should be designed to ensure a smoothing out of that, but it is certainly worth raising.

The Bill is quite specific that credit card charges may not be passed on to the employee—to clarify, they may not be deducted. We feel that is important because it creates a level playing field for all employers in making sure that there is no discrimination. We found that under the voluntary code various different charges were being levied—the so-called administration charges—from 2% up to 10%. The reason we believe the voluntary code was not working is precisely that employers were starting to impose fixed-cost charges on tips that we felt were not right to go to the employee, so we have not allowed for credit card charges. There may be other charges that need to be considered in the consultation, but they will come out during that discussion. However, that is an important principle that has been laid out and made clear.

Multisite operations have been mentioned. That topic has arisen quite a lot in these discussions. We have sympathy regarding the complexities. Again, let us return to the principle of fairness and what is right. A lot of this will come out in the consultation and will be developed into the code of practice, but the principle here is that the unit itself—the restaurant or pub—is the economic entity that will allocate the tips to the individuals working in that place of employment. The Bill is designed specifically to ensure that that is the case. It is not designed to allow large corporations to pool tips and allocate them accordingly. We are trying to draw a line between the gratuity or *pourboire* given by the customer to the person who has been serving them and those around them. That is an important point of principle. I am sure this will be discussed in the consultation period, but I want to make it clear that currently it is specifically to ensure that a single site is the recipient of the tip process and then that is distributed accordingly.

The noble Lord, Lord Shipley, raised the importance of the consultation process, as did my noble friend Lord Bourne and the noble Baroness, Lady Chapman, and of ensuring that it is widely publicised. We do not necessarily have the resources in this instance to embark upon a highly expensive publicity campaign but actually I do not think that will be necessary. If any noble Lords in this House have been involved in this process, they will have been contacted by large numbers of restaurateurs and recipients of tips to ensure that their views are clearly heard. This is an emotive subject that commands a lot of popular appeal. We will make every effort to ensure that the consultation is widely held and that people are aware of the opportunities to contribute to the consultation process in order to effect a strong code of practice.

On the point about publicity and how to project an establishment's tip policy to clients, it is clearly stated in the legislation that it has to be available to the employee on day one when they arrive, it has to be clearly stated, and it must be available for clients as soon as we have developed the code of practice so that

[LORD JOHNSON OF LAINSTON]

they can see, if they wish, what the tip practice is. There is currently no specification to put an extended tip policy on the receipt or whatever—I think that might be rather cumbersome—but it should certainly be available to the client. More important than a technical description of how every dollar is allocated among the staff is the knowledge that we are putting in place today, thanks to the good work of my colleagues, a fair system where clients and customers who tip staff know that all that money is going to the deserving workforce who have created the environment and given the service that has been received.

The noble Baroness, Lady Deech, made a series of extremely thoughtful points. I too have enjoyed the concept of a *tronc* master, which is a phrase that has only recently come into my vocabulary. That is a very practical way of delivering fairness among employees. In the work that I have done, I have been struck by how straightforward and sensible this system is, and we want to keep it sensible and straightforward. I emphasise that we are not trying to increase bureaucracy and burdens upon hard-working restaurateurs, innkeepers and pub owners. That is not what this is about. It is about fairness and making sure that the majority of restaurateurs who do the right thing are able to do so in a continuing fashion, and that the people who do not are made to.

The *tronc* system allows for an independent person, often someone associated with the restaurant—they might be its accountant or whatever, which is perfectly reasonable—to make sure that there is a fair allocation of tips. I understand that there are some *tronc* masters who franchise their operations so that there are multiple *tronc* masters, so there is a job there if the \$60-a-day tip does not continue to come to the noble Lord, Lord Mitchell, in terms of making sure that there is a fair allocation. That seems to me to be an effective way of doing it. It was asked whether it was current and appropriate; we think so, and we have very much factored that into the legislation.

I do not want to go on too long but there was an important point about the monthly pay cycle. It is worth noting that in this House, when you go to one of the restaurants or eateries and you leave a gratuity, as I do—I hope I am known as a generous tipper—that money is accumulated over the year and then paid out in January to all the staff in the House of Lords. That includes the doorkeepers and the secretarial staff, though I am not sure whether it includes *Hansard*, the clerks and so on. The point is that this is more complicated than it seems. In the consultation we will work to ensure that fairness is the basis of this rather than procedure. The reason why we have the one-month payment cycle—that is, one month after money has been received—is to ensure that employers pay the staff on time for the work that they do when it comes to passing on tips from customers. That is absolutely right and it should be the core principle. Frankly, we should resist trying to find mechanisms and delays around that process, while at the same time understanding the importance of making sure that people who have systems that are fair can still operate, given the flexibility required.

I am grateful to my noble friend Lord Bourne for supporting a fast-track process. I do not think the House of Lords is necessarily known for its fast-track processes. I would not necessarily encourage any circumventing of our marvellous and ancient processes, but I agree that we should get on with it, and we are pleased to be doing so.

I thank the noble Baroness, Lady Chapman, for the comments that she made. I will say only that if she has a chance to engage with us, she will see that the code of practice will be detailed and there will be written policies. I do not believe we have suggested using ACAS as a process for managing organisations that do not pass tips on in full as they should; instead, it goes through the employment tribunal system. Whether that is run by ACAS I do not know, but we would certainly be delighted to engage on how the process should work. But we want to keep this quite light-touch. The last thing we want to see is employees having to go through complicated and cumbersome legal processes for something that should involve pretty immediate redress. If the noble Baroness has the opportunity to go through the legislation, she will see the detail that is there for relatively rapid redress processes.

To conclude, bringing forward these new regulations will protect millions of workers, among them many of the lowest paid across a wide variety of sectors, and give them an avenue to seek remedies. Consumers will rest assured that the tips they leave are going, as intended, to reward the good service and hard work of staff rather than lining the pockets of bosses. Additionally, those businesses that are already doing the right thing—passing on tips to workers in full without deductions—will be confident that they are not at risk of being undercut by their less reputable competitors, which is a very important point.

These new measures are backed by government evidence and analysis, with a full impact assessment of the measures having been published. Continued stakeholder engagement will ensure that we do not inadvertently disallow arrangements that are considered fair in some workplaces, as I have mentioned, meaning that we can continue to promote fairness for both businesses and their staff.

The Government are pleased to support these new measures and we are glad to see the level of support for them across the House. I have greatly appreciated that during today's debate. All waiters and other restaurant staff will look to us, I hope, as a beacon of fairness as we bring this legislation into force. I look forward to continuing to work with my noble friend Lord Robathan to support the passage of the Bill.

11.48 am

Lord Robathan (Con): My Lords, I apologise to Members present because I should have declared an interest at the beginning, although admittedly it is over half a century out of date. When I was at school, I did a bit of waiting, though not much, and I remember the joy that I had when someone left a £5 note—which was worth something in those days—on the table. My children, who are in their early 20s, have done a bit of waiting more recently. They got paid, of course, but they also got tips, and they were very happy with those.

I should warn my noble friend Lady Berridge and the noble Lord, Lord Mitchell, that there will most certainly be a great deal of resistance from our excellent waiting staff in the Peers' Dining Room should they wish to take up their past careers in waiting, especially if the noble Lord can get as much tipping as he used to get in New York.

I thank my noble friend the Minister for signalling the Government's continuing support for the Bill and for answering most of the questions.

I would like to refer to three points that were raised. First, the noble Lord, Lord Mitchell, raised the question of agency workers. We should be aware—I hope the code of practice will be—of being too prescriptive on how much an employer pays either his own staff or agency workers, because I do not think that is really up to us to determine.

Secondly, on credit cards, personally I have a rather ordinary little credit card. I did a bit of research and apparently the charges on that would be something over 1%. Of course, if you have a gold Amex card—I do not know whether anyone in this place does—I understand it goes as high as 3%. That is surely up to the person who has the gold card. All these credit card charges are already discounted by restaurants and other places. Those who already pay the whole service charge do not in general discount it and take money out for the credit card charges, which would probably be more complicated than it was worth.

Thirdly and finally, I agree with my noble friend Lord Bourne and the noble Lord, Lord Browne, that it is rather sad—I will put it no more strongly than that—how long it takes to get a very simple bit of legislation through Parliament.

I hope noble Lords on both sides can agree that this is an important, if small, piece of legislation which would ensure fairness and transparency for both workers and employers. This is an opportunity to increase consumer confidence, which we have all heard about, create a level playing field for businesses and help ensure that hard-working individuals—often, as has been pointed out, the lowest paid—get the money they have been given and deserve for their work.

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

Protection from Redundancy (Pregnancy and Family Leave) Bill

Second Reading

11.51 am

Moved by Baroness Bertin

That the Bill be now read a second time.

Baroness Bertin (Con): I begin by thanking the honourable Member for Barnsley Central for all his hard work in taking this Bill through the other place. Thanks to his considerable effort, expertise and enthusiasm, we have a workable Bill which is supported by the Government and all political parties and by key external stakeholders, including the CBI. It was even described as a “group hug” in the other place in

Committee. I do not think we do enough political group hugging, so I sincerely hope I can deliver the same joined-up spirit today.

I pay tribute to the officials at the Department for Business and Trade for their excellent work in supporting the Bill and in supporting me. I echo also the honourable Member for Barnsley Central's sincere thanks to the Equality and Human Rights Commission, the TUC—that is not something noble Lords will hear me say often, but I do thank it on this Bill—the Royal College of Midwives, UNISON, Pregnant Then Screwed—which has been a very powerful campaigning group on this issue; I know that many women will be grateful for its efforts—the Fawcett Society and the Chartered Institute of Personnel and Development. All these groups have been instrumental in making this Bill happen.

To give noble Lords some context on this legislation and why it matters, according to figures from a report commissioned by the Equality and Human Rights Commission, at least 54,000 women a year get pushed out of the workforce after becoming pregnant. I had to double-check that figure—I thought it must be a typo or the number must span over 10 years, but it does not. That equates to one in nine women either being dismissed, made compulsorily redundant, or being treated so poorly that they felt they had to leave their job.

Further to that, in 2018 YouGov conducted a survey to understand managers' attitudes around pregnancy and maternity discrimination. Almost half of employers agreed it was quite reasonable to ask women during the recruitment process whether they have young children. One-third believed that women who become pregnant and new mothers in work are generally less interested in their career progression. Four in 10 employers agreed that pregnancy in the workplace put an unnecessary cost burden on them. That was in 2018 but I would be surprised if those attitudes had changed radically, so we still have some way to go on this issue. I think we can all agree that the figure of 54,000 women being pushed out of work does not belong in a progressive and modern society.

Becoming a parent is the most exciting and rewarding, but often the most challenging, thing that a person can do. I am lucky enough—or mad enough, depending on which day you catch me—to have done it three times. But it is also an anxious time, from the minute you find out you are pregnant to the moment you hold your baby—God willing—and during all the months and years that follow. I believe very strongly that no woman should ever have to fear losing her job because she is pregnant or because she has taken her entitled leave.

The current regulations under the Employment Rights Act 1996 and the Maternity and Parental Leave etc. Regulations—MAPLE for short, which is how I will refer to them, for the sake of all our sanities—put a woman on maternity leave in a preferential position in a redundancy situation so that she goes to the back of the queue when jobs are being cut. There are parallel regulations, as many noble Lords will be aware, which have the same effect for parents taking adoption leave or shared parental leave.

[BARONESS BERTIN]

The point of the Bill is to extend the redundancy protection I have described into the period of pregnancy and for a longer period after the return to work, thus alleviating much of the anxiety around job security that a pregnant woman or a new parent may face. The clauses in the Bill are simple but important. They will give the Secretary of State a new power so that regulations on redundancy can be made during a protected period of pregnancy and an amended power so that regulations on redundancy can be made during or after a period of relevant leave. That relevant leave is currently maternity leave, adoption leave or shared parental leave.

I am very glad that shared parental leave is included in this extended protection. We must get better in this country at encouraging fathers and partners to take up a proportion of their shared leave. Nearly all the evidence points to improved family outcomes, and legislation such as this, although not a silver bullet, helps maintain momentum in that culture shift. I think attitudes have improved in this regard but let us be under no illusions: uptake is still very low. I am sure there are financial reasons and quite understandable financial considerations for that and that is not something we can hope to settle in this debate.

Let us also acknowledge that, in some industries and companies, a father taking a decent chunk of parental leave is still akin to committing career suicide. I think that this macho way of thinking has a big impact on us gaining real equality between the sexes. Big, profitable organisations should be running towards generous shared parental leave schemes. They want their talent pipelines to be stuffed with great women as well as men and this is one way to do it—we know that. Until the burden of responsibility is shared more evenly in those early years, I do not think we will ever really achieve real equality between the sexes in the workforce.

Going back briefly to the technicalities of the Bill, clearly these are delegated powers in the clauses I referred to earlier. Noble Lords, quite rightly, are often concerned that we should be clear about the need for delegated powers and how these will be used. The Bill deals with matters linked to existing delegated powers. To achieve a consistent effect, provisions are therefore drafted in similar terms in the Bill. The powers in the Bill mirror, in so far as it is possible, the approach in the existing MAPLE legislation. These have been on the statute book for some time and are well understood by employers and the legal community. I reassure noble Lords that the Bill is clear that regulations made under the new powers will be subject to the affirmative resolution procedure and that Parliament will have the opportunity to debate and consider the detail the regulations set out. I am delighted that last night the Delegated Powers and Regulatory Reform Committee's report said:

“There is nothing in this private member's Bill which we would wish to draw to the attention of the House”.

I hope that reassures noble Lords.

Redundancy protection will apply from the point a woman tells her employer she is pregnant and for 18 months after the birth of the child, covering the period of parental leave and a return-to-work period. The 18-month period of redundancy protection means

that a mother returning from 12 months of maternity leave will receive six months' additional protection when she goes back to work. It is a very simple approach, allowing both new parents and their employers to easily understand those requirements and it accommodates parents who make use of shared parental leave which can be taken in discontinuous blocks.

I know that the Government continue to work very constructively with stakeholders who really understand this issue inside out—I want to praise the Government on that—on the finer detail of how it will work and how the legislation will be most effective. Indeed, there are ongoing discussions with the Government on several areas, the most contentious perhaps being the qualifying period. Currently, there is a proposal to include in the regulations a qualifying period of six consecutive weeks of family leave before you are entitled to these redundancy protections. I urge the Government to reach an agreement whereby maternity leave is exempt from that period. Such a threshold could inadvertently leave a new mother, who may be forced to curtail her leave for whatever reason, doubly unprotected and vulnerable. I fully back keeping a qualifying period for shared parental leave; this feels just and reasonable, and encourages a meaningful uptake—why that is so important was discussed earlier.

In conclusion, this Bill is a welcome strengthening of the redundancy protection for pregnant women and parents. Not only will it prevent unscrupulous employers discriminating against pregnant women—as we have seen that they still do, and can do—but it acknowledges that you are not necessarily on a level playing field as soon as you come back from your maternity leave, or your shared parental leave, if you have taken a significant amount. To be put on a level playing field in a round of job cuts is simply not fair when you have come straight back from your leave.

This is a progressive policy, which I am proud to be involved in. I thank all noble Lords in advance of this debate for their contributions. The Bill will make a real difference to people's lives—to the woman telling her boss, not with trepidation but now with confidence, that she is pregnant, and to the mother returning to work after maternity leave, knowing that her job is safer and more secure. This is a small step, but it has wider significance. It is a statement about the sort of society we are and want to be, one that protects and values parents, and the sort of economy that we are trying to build, one that makes the most of all its talents. I beg to move.

12.02 pm

Lord Browne of Ladyton (Lab): My Lords, for the second time today, it is a pleasure to support a Bill. I am only sorry that my noble friend Lady Chapman is not here to hear me make the second most enthusiastic speech that I have ever made in your Lordships' House. It is a particular pleasure to do so as we approach International Women's Day next week. Noble Lords will be aware of an analysis published by the World Economic Forum which found that the pandemic has slowed the global trend towards gender equality by more than three decades. In that context, this Bill will make a real contribution towards a more equitable working environment for women in this country.

I congratulate the noble Baroness, Lady Bertin, not only on sponsoring the Bill but on making, if I may say so, a profoundly convincing case for it. It was a speech that only a working mother could make, all the more powerful in being made by a Member of your Lordships' House who has been at the very centre of government in this country. She reminded us that the genesis of the Bill can, in part, be traced back to 2015, and research commissioned by the Cameron Government. She shared some of the findings of that and other research. That research found that, disturbingly, 77% of mothers surveyed had faced some form of discrimination or disadvantage during pregnancy or maternity leave, or when returning to work from maternity leave. More worrying still was the attitude of the employers surveyed. Despite years of equality legislation and attempts to change people's attitudes, some 70% said they felt a woman should reveal if she were pregnant during the recruitment process and, more egregiously, 25% felt that they were entitled to ask a woman about her plans to have children in future. As we have heard, more recent work undertaken to assess the impact of the pandemic on expectant mothers at work suggests that a quarter had experienced unfair treatment, with this being significantly more probable at the lowest end of the income scale.

In the Second Reading of the Bill in the other place, the Bill's sponsor invoked the redundancy protection model in Germany—and indeed this same model was commended by the Women and Equalities Select Committee in 2016 when reporting on this same issue. Although a straightforward transposition of the German model into UK legislation is impossible, the Bill as it stands comes as close to extending those same protections into UK law as is possible, while taking into account the divergences between the two countries. I am bound to say that those divergences are significantly to our disadvantage.

As it happens, I have friends in Munich with young children, and, in the margins of the Munich Security Conference, which I attended a couple of weeks ago, I visited them. It is astonishing the degree to which they, their employers and the whole environment benefits extraordinarily from the German attitude to the support of families with children. It is not the only aspect of German employment policy that we could learn from, but we should learn more from it because it is consistent not only with a positive attitude to children, and their growth and development, but with a successful industrial economy in the modern global world.

This legislation will strengthen the Equality Act 2010, which already prohibits discrimination on the grounds of pregnancy and prevents employers laying off new mothers by extending redundancy protections to six months. I shall not labour this point, because it is directly analogous to something that I addressed at greater length in my remarks in the debate immediately preceding this one. However, it is frustrating that repeated commitments from the Government to introduce an employment Bill, of which these provisions were to be part, have failed to materialise. Each year there are somewhere in the region of half a million pregnant women in the workplace. This is not, therefore, a peripheral issue or something artificially amplified by sections of our community but something which will,

in some form, affect all of us. Given that we have been promised action on this since 2016, with an employment Bill eventually being included in the 2019 Queen's Speech before Covid derailed the legislative programme, why has it taken seven years, pricked by the spur of a Private Member's Bill, for the Government to consent to act on this issue?

My hope and expectation is that the Bill will have universal support as it passes through your Lordships' House. I do not wish to take up time that could otherwise be filled by the expression of full-throated support by other noble Lords, but I would like to mention the issue of employment tribunals. The Bill today, and the consequent regulations to be made by the Minister, will not apply a comprehensive blanket ban on making a pregnant woman or those on parental leave redundant, but it will markedly strengthen their chances of making a successful claim of unfair dismissal through the employment tribunal system. However, that system is, if not broken, at least hugely dysfunctional.

Figures released by the Ministry of Justice a few weeks ago show that it takes an average of 49 weeks for a case to be heard by a tribunal. It is a grim irony that, as it stands, the average wait for a new mother to receive justice would be longer than her pregnancy. It is worth emphasising that this is simply the time until the first hearing, which in many cases is only the start of an elongated process that is further bedevilled by delay. If the Government wish this Bill to be effective and to really protect pregnant women and new mothers, as I am sure they do, their first priority must be to bring down the tribunal backlog, currently at close to half a million cases. Simply citing the pressures of Covid is not good enough. Waiting times have been lengthening since tribunal fees were declared unlawful in 2017. When the Minister responds, I would be very grateful if this question could be addressed.

I close by commending once again the noble Baroness, Lady Bertin, for the thoroughness and care that she has displayed in bringing this Bill before your Lordships' House today. She offers us a good opportunity to show your Lordships' support for it to progress, I hope swiftly, into law.

12.10 pm

Lord Fox (LD): My Lords, it is a great pleasure to follow the noble Lord, Lord Browne. We are in danger of basking in his enthusiasm, having had two speeches in succession.

There is only a small number of speakers in this debate, but that reflects the fact that, to use a phrase we heard when discussing the previous Bill, this seems like a slam dunk. It is a Bill that we should not be speaking against. In advance of his speech, I welcome the noble Lord, Lord Leong, to his first Front-Bench speech—the first of many, we hope. My speech will be relatively short, because the preceding speakers have covered a whole tranche of it. The noble Baroness set out a compelling case for the Bill, which I have to say, as did the noble Lord, Lord Browne, has been a long time coming.

The Bill owes its existence to 2019, when the Government announced that they would extend redundancy protections, but of course it goes back

[LORD FOX]

much further than that. The Queen's Speech in 2019 contained a government commitment to introduce an employment Bill, as we have just heard, that would extend redundancy protections and prevent maternity discrimination, among other things. To date, we have not seen that employment Bill, and it was not included in the Queen's Speech in 2021 or 2022. I ask the Minister if I am right in saying that this tranche of government-supported Private Members' Bills, which in a sense fillet some aspects of that employment Bill, is a sign that we will not be seeing an employment Bill in this Parliament. Many of us are beginning to draw that conclusion. We would say, and I am sure other Members of your Lordships' House would agree, that that is a tremendous shame. There is a huge amount of work that needs to be done in that employment Bill, and many people will be disappointed.

I turn to the Private Member's Bill in hand. It is very good that the Government are choosing to support the Bill, which was led by Dan Jarvis in the Commons and so eloquently by the noble Baroness, Lady Bertin, here. It is a big step forward, and they are both to be very much credited for bringing it forward. I am delighted that it will receive government support—and of course it will receive support from these Benches.

As we know, the Bill will enable the Secretary of State to make regulations about protection from redundancy during and after pregnancy, and for six months after returning from maternity, adoption or shared parental leave. The Bill will deliver the government commitment that was made in 2019. Sometimes it is good to recognise that Bills come in different ways; most of us work on primary legislation in an adversarial way, and it is good to see us joining across the House to welcome this.

A real driving force behind the Bill was the 2016 EHRC landmark investigation into pregnancy and maternity discrimination at work. It came up with the need to extend the period covered by existing protections against unfair selection for redundancy under Regulation 10 of the Maternity and Parental Leave etc. Regulations 1999, so as to cover both pregnancy and the six-month period after returning to work from maternity, adoption or shared parental leave.

Like the noble Baroness, I was shocked by the numbers; I had to go back and look at them. There seems to be agreement that 54,000 new mothers do not go back to their job after maternity leave. That is a huge waste of human capital, as well as undermining the family economies of some of our poorer families across the country. The noble Baroness cited 2018 data. Unison has provided me with a briefing which refers to a TUC survey in 2020 of more than 3,000 women, and the numbers are very similar: one in four women had experienced unfair treatment at work, including being singled out for redundancy and furlough—which was another version, in a sense. It is very much at the low-paid end where most of this happens. Low-paid women—those earning less than £23,000 a year—were much more likely than women with higher salaries to be victims of this sort of discrimination. Gong forward with the Bill will therefore have a discriminatory advantage both in terms of sex and the economy.

Those of us who have worked in business know that it is really important to give women who come back from maternity leave a proper opportunity to get their feet back under the table and to get back into the system. The Bill will make it impossible for unscrupulous employers to get rid of women in a way that has clearly been happening systematically across the country.

As we have heard, the Bill received support from the Government and MPs from all parties during its passage through the House of Commons. There have been voices beyond your Lordships' House that say that it does not address all the underlying issues within the legal system. I am sure this is true, but it undeniably moves things forward, and for that reason it has our full support.

The noble Lord, Lord Browne, cited the German experience. I have quite a lot of experience of that, having worked for businesses that had a big footprint in continental Europe. I add to that the experience of Sweden, which is even further down the road of cultural change. The way that Swedish employment law operates has created a family-centric culture in that country. I do not pretend that the Bill will achieve that, but it is certainly a step in the right direction.

12.16 pm

Lord Leong (Lab): My Lords, I thank my honourable friend in the other place, the Member for Barnsley Central, Dan Jarvis, and congratulate him on his important Bill. I also thank the noble Baroness, Lady Bertin, for sponsoring the Bill and introducing it with a passionate and powerful presentation. I thank the noble Lord, Lord Fox, for his very warm welcome. I always look forward to hearing my noble friend Lord Browne of Ladyton's enthusiastic speeches. I thank everyone for their contributions on the Bill.

Many noble Lords will recall this feeling: the sense of anticipation and trepidation; the gratitude for the work of the team around you; and the hope that the delivery will be successful, sensing that after this day your life will never quite be the same again. The first time, one cannot help but feel especially anxious, despite knowing that some people have been through this experience many times. I am of course referring to standing at the Dispatch Box to speak in support of a Bill.

The noble Baroness, Lady Bertin, and the noble Lord, Lord Fox, have already mentioned that some 54,000 new parents each year are potentially affected by the issues addressed in the Bill. Delays since 2019 mean that a further 200,000 people may have faced dismissal or compulsory redundancy because of pregnancy, marring what should be a joyful, if exhausting, time in their lives. So although this has taken a rather long time, I am pleased that, at Third Reading in the other place, the Government committed to supporting the Bill. I can confirm that the Labour Party also gives its full support.

Let me be very clear. The Bill should not be seen as providing the absolute minimum baseline for how employers should respect and treat their female employees. As many noble Lords will be aware, some of the charities working in this space do not support the Bill because they do not feel it goes far enough.

While I recognise those concerns, I argue that although the Bill is not a silver bullet, it is at least a step in the right direction. But, if we delay it any further, we should be mindful of the 54,000 people each year who will not be protected by the support that it offers. Of course, there is more to be done in changing attitudes and improving legislation. I was disappointed to discover that five years after the Equality Act 2010 became law, a survey showed that one-quarter—one-quarter!—of employers still felt it was reasonable to ask women about their plans to have children, and almost three-quarters felt that women should declare if they were pregnant during recruitment. While I hope that these attitudes will have improved since 2015, I am sure that they will not have disappeared.

The world of work and the demographics of the workforce in this 21st century are going to be completely different from what many of us experienced in our younger days. The cost of housing means that most young couples need two incomes to run a household, and especially—as many of us can testify—to bring up a family. Birth rates are historically low. Furthermore, the proportion of people of working age in relation to those in retirement is falling. This has been aggravated since the pandemic by the increase of people in early middle age leaving the workforce, as vacancy rates testify. We should be supporting—not penalising—people who want to remain in work. Furthermore, it is in the interests of employers, who want to attract the best and brightest employees of the future. We should remember that around 60% of UK graduates are now women, so it makes sense to have policies and practices around maternity which offer security and support, free from fears of discrimination.

The increasing shift to hybrid working in many jobs—it will only increase as technology develops—should permit innovative and creative solutions to some of the physical and mental challenges faced during pregnancy and early parenthood. While we should encourage employers to do far more than the statutory minimum, the Bill should reassure new parents—and those who tragically lose their babies through miscarriages—that they do not have to become embroiled in litigation or expensive and long tribunal processes at what will always be an incredibly stressful time.

While I do not want to get ahead of myself, I draw the attention of those in your Lordships' House who are concerned that this does not go far enough to Labour's *A New Deal for Working People*. My party has committed to

“extending statutory maternity and paternity leave, introducing the right to bereavement leave and strengthening protections for pregnant women by making it unlawful to dismiss a woman who is pregnant for six months after her return, except in specific circumstances.”

Under a future Labour government, I feel sure that we will be revising and revisiting this legislation and addressing the concerns of those who feel that the Bill does not go far enough.

I urge noble Lords to support the Bill, which represents the minimum that new parents should expect from employers as they begin one of the most important, joyful and essential journeys—though often challenging and sleep-starved—that a human being can make: bringing a new life into this world. I urge noble Lords

that we turbocharge this Bill through this House—and perhaps we can set a precedent by having a political group hug.

12.24 pm

The Minister of State, Department for Business and Trade (Lord Johnson of Lainston) (Con): Hear, hear. I congratulate the noble Lord, Lord Leong, on a fabulous first outing at the Dispatch Box. I believe that he was in the same cohort as myself in October last year. Like him, I feel like a troop in some war film; I arrived as a fresh recruit and a musket was thrust into my hand, and I was pushed forward to the front line. I thought that he acquitted himself beautifully, and I look forward to many hours debating with him over the next few years. This is a subject that is clearly extremely dear to both our hearts. I really do feel deeply moved by the words I have heard during this debate. I thank the noble Baroness, Lady Bertin, for introducing the Bill today and for her comments and technical coverage, which were extremely useful. It is an honour for me, as a father, to confirm this Government's ongoing support for this absolutely essential Bill. I also pay tribute to Dan Jarvis for initiating the process that led to us being able to be here at this moment debating such an important and clearly right topic.

Pregnancy and maternity discrimination has been a cause for concern for some time, as has been raised by noble Lords today. The noble Baroness highlighted the research which showed that 54,000 women are forced out of work a year; that was also echoed by the noble Lord, Lord Browne. The noble Lord, Lord Fox, commented that 54,000 women were not returning to work after maternity, but I am sure he misquoted this point. I am only emphasising it because of the important fact that, actually, these are women coming back after maternity who are being forced out of work. It is not of their choosing. This is on top of mothers who are coming back to work and feeling pressured to leave the workforce. It is a separate point and an enormous number. These figures are absolutely shocking. In 2017, the Women and Equalities Select Committee undertook an inquiry into pregnancy and maternity discrimination. Its headline conclusion was that

“pregnant women and mothers report more discrimination and poor treatment at work now than they did a decade ago.”

We would like to think that we have a progression in our society, in terms of respect for and understanding the vitality of motherhood in our workplaces. It is tragic to discover that, according to this evidence, it is not the case. It is absolutely right that this Government are taking forward these moves in supporting this Private Member's Bill.

I will cover some of the comments made by the noble Lords, Lord Browne and Lord Fox, based around the systems of other countries. I too investigated what other countries do with interest. We should aim for the very best policies that we can to encourage these sentiments and activities. However, given where and how the German and Swedish systems operate, I think the processes and proposals here go a long way towards achieving our ambitions, as noble Lords were right to say. As is often the case in legislation, this is a journey. I hope the noble Lord, Lord Fox, will agree that it is essential that we put this in place now so these measures

[LORD JOHNSON OF LAINSTON]
can be built on. I believe there are sentiment or cultural changes that will come from further legislation. I support this as a result while paying attention to, investigating and noting what other countries aspire to so that we may also aspire to those levels.

I will turn to some of the other points. In January 2019, the Government consulted on extending redundancy protection for women and new parents. We received 643 responses, which is a considerably high number for these sorts of consultations. The majority strongly agreed or agreed—and this refers to the question of whether or not we are going far enough—that six months would be an appropriate period of “return to work” for redundancy protection purposes, and that protection should be extended to parents who have taken adoption leave and shared parental leave. This shows we have struck a very sensible and appropriate approach. The noble Baroness, Lady Bertin, raised an important point about the entitlement period—if I have the phrase right. This will be covered in the consultation process which will follow the Bill. That is important, as is right that there is a threshold limit for some elements of shared parental leave. That would only be fair and proper and, given our direction of travel, would fit in well. I stress to this House that these are major steps in ensuring that parents can return to work and be protected. That is what this is about.

I stress that in November 2019 the Conservative manifesto—we were discussing manifestos earlier and the noble Lord, Lord Leong, mentioned his party’s manifesto going forward, so I would like to look at our party manifesto historically—made a commitment on redundancy protection.

Questions have been raised about an employment Bill and why we are doing this now. There are no plans, as far as I am aware, to bring in an employment Bill. That is why it is all the more important that the Bills that we are discussing today are enacted, since they form an important component of how we wish to run our employment legislation. In 2019 the Government published a consultation on this issue and announced steps to bring forward legislation to implement these changes. We are pleased to support this Private Member’s Bill, because it delivers stronger redundancy protections for pregnant women and those returning from parental leave.

I am also extremely pleased at the degree of cross-party co-operation and support in the other place. It is a testament to the strength of our system that we can work across parties, put aside our rivalries and deliver change which will make a real and positive impact on people’s lives. However, I would not like the noble Lord, Lord Leong, to think that every debate with me will be so amicable as to either begin or end with a group hug.

There are a few technical details before to I come to a conclusion. As set out by my noble friend Lady Bertin, the Bill will give the Secretary of State the power through regulations to extend the MAPLE protection into pregnancy and for a period following the birth of a child covering the return to work period. The existing redundancy protection that applies when a parent is taking relevant leave will remain unchanged. The result

will be that redundancy protection will apply consistently from the point when a woman tells her employer she is pregnant all the way through to 18 months after the child is born.

I am very aware, as I am sure noble Lords are, that businesses have to accommodate these important changes. We think it is essential for the way we wish to structure and construct our society. We also believe it is essential in order to have a sustainable workforce that we bring these measures to bear. However, it is not the Government’s intention needlessly to burden businesses with excessive regulatory burdens. I think we would agree with that, since they power our economy. This Private Member’s Bill does one thing which I think is very important: it makes it much simpler for businesses. Maternity legislation can be complex, and by having a very simple timeframe, as I have just described, redundancy protection will apply consistently from the point a woman tells her employer she is pregnant all the way through to 18 months after the child is born: it is clear for everyone to understand. I think that is very important indeed. I hope that businesses see this as a clarification rather than a confusion, and I know that the general public will be pleased to see the simplicity and clarity of this approach.

I am also pleased to reassure this House that the powers in this Bill as far as possible mirror the provisions relating to the existing MAPLE regulation 1999. I believe we had confirmation of that yesterday or the day before, when the Delegated Powers and Regulatory Reform Committee published its report stating simply that there was nothing in the Bill to which it wished to draw the attention of the House. I hope this is ample reassurance for noble Lords.

To conclude, these measures will provide valuable support and protection for pregnant women and parents after parental leave. The Government are pleased to support this Private Member’s Bill and to deliver our manifesto commitment. Supporting this Bill is in line with our ongoing commitment to supporting workers, working mothers and parents and building a high-skilled, highly productive, high-wage and fair economy. I believe it is simple for business, and I believe it is absolutely the right thing to do on our journey to building a better society. I look forward to continuing to work with my noble friend Lady Bertin as the Bill progresses through the House.

12.35 pm

Baroness Bertin (Con): I thank noble Lords for their contributions today. There were numerous contributions, which I take as a positive sign. They were so supportive that I would like to acknowledge each one. I thought the noble Lord, Lord Browne, made a very powerful speech. He told an anecdote about Germany and how culturally different we are. It does not get more high-powered than the Munich Security Conference. Acknowledging that children are part of every element of life is something that we need to get better at in this country. Culture change takes a long time, but legislation can sound the starting gun for that, although this Bill is not going to solve everything. The noble Lord made good points on tribunals as well. I will not comment on that here, but I do hear what he is saying, if I could put it that way.

I say a big thank you to the noble Lord, Lord Fox. I was very grateful for his speech and also for acknowledging that when we have agreement we must agree with each other—and we definitely need to do a bit more group hugging. I think the public want that from us. Where we can agree, we should come together, even if we are on other sides of the fence. He made a very important point, which it is right to acknowledge: some organisations have not been necessarily 100% behind this Bill. It is a very hackneyed phrase, and I hate to use it, but of course if you had a blank sheet of paper maybe you would start again and do things slightly differently. We do not, and we must be careful that we do not let perfection get in the way of good.

The noble Lord, Lord Leong, made that point very well. I had not realised that this was his first outing on the Front Bench, so I feel very honoured to be part of the beginning of this chapter. I very much enjoyed his speech. I thought it was very well made, and I hope to have many more interactions with the noble Lord going forward. Again, I am very grateful to him for his robust defence of the Bill and for acknowledging that some organisations—not many, but some—have pushed back on it.

I also appreciate the point about birth rates falling. Being a parent these days is really quite tough. When I think back to when my mother was raising us, the homework levels now are so much higher, and the pressures that we have to run with as parents. It does not surprise me at all that people are thinking, “D’you know what? I don’t really fancy this”. It is very expensive and the pressures are there. I think it is right to acknowledge that. We must support, not penalise, parents who want to remain in the workplace, particularly mothers. We must double down on that.

Finally, I thank my noble friend Lord Johnson for the Government’s response. It was a very eloquent and thorough reply. The Government have obviously thought long and hard about this subject. We must acknowledge that they are very committed to this issue. We have moved very far forward. On timing, we always want to do these things a lot quicker, but the reality of government and the challenges that the Government face mean that that is not always possible. I think that we should acknowledge the progress that has been made under this Conservative Government. It has been a progressive time in office, and I am proud of that.

My noble friend also talked about the vitality of motherhood in the workplace. No self-respecting company or organisation should think, “How can we get mothers out of the workplace?” What a disgrace. We should be thinking, “How can we get mothers back into the workplace?” They offer so much and their organisations are far richer for them.

My noble friend also said that we were on a journey and that we would build upon it, and I look forward to walking with him on that route. Manifestos have been mentioned. I hope and am certain that the Conservative manifesto will give a very strong and powerful offering to parents. It must, because that is the way to electoral victory. I therefore invite noble Lords to support the Second Reading of the Bill.

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

Carer’s Leave Bill

Second Reading

12.40 pm

Moved by **Lord Fox**

That the Bill be now read a second time.

Lord Fox (LD): My Lords, the Long Title of the Bill is:

“A Bill to make provision about unpaid leave for employees with caring responsibilities”,

and that is what it will do. The Bill will give new rights to at least 2 million employees who have unpaid caring responsibilities, supporting them to remain in work and improving their health and well-being. It will also support employers’ retention and recruitment and increase their productivity. I must confess to a level of trepidation in making this speech which I did not expect to have. I spend most of my waking hours looking at legislation for what will not work and thinking of ways to explain to Ministers why things should not happen. It is a very unusual position I find myself in to be promoting the benefits and importance of a piece of legislation, so I beg your Lordships’ indulgence as I make this attempt.

I speak as the party’s business department lead, and I must confess to feeling something of a carpetbagger in supporting the Bill. The real credit for getting to this point lies on other shoulders, and it is on those shoulders that I now clamber. In particular, I commend the noble Baroness, Lady Pitkeathley, and my noble friend Lady Tyler. I look forward to hearing from them later, as I do from all other noble Lords who will speak. The role of the noble Baroness, Lady Pitkeathley, in bringing the issues facing carers to the fore has been exceptional and extends back decades—I did ask her, and I established that “decades” is the right word. Her counsel on the Bill has been invaluable, as has the counsel of my noble friend Lady Tyler. I am sure she will mention her Private Member’s Bill, which presages this one. The other shoulders on which I clamber belong to my honourable friend in the other place Wendy Chamberlain MP, who is standing at the Bar. It was thanks to Wendy that the Bill successfully passed all stages in the House of Commons on 3 February this year with no amendments, receiving support from the Government and MPs across the House. I am looking forward with anticipation to hearing the Minister—the noble Lord, Lord Johnson—and anticipate his support. I thank his department for its help in preparing for this debate.

As I have said, the Bill has received strong support from all quarters: 85 MPs have explicitly stated public support for it and it has been endorsed by over 140 organisations, including small and large employers, trade unions, employer representative groups, local and national carer organisations and the APPG on Carers. Indeed, I was very pleased to meet a number of exemplar employers, both large and small, earlier this week to hear about their experiences of already providing carer’s leave and the positive impact that it is having on both their workforce and their business. They explained and brought home in human terms, and indeed business terms, how this leave is beneficial.

[LORD FOX]

I also heard from two carers, both of whom are here with us today, who told me how invaluable it was to be able to take carer's leave to better juggle work and care. I thank them for taking some time off and coming to your Lordships' House. Again, they reinforced the human side of what we are discussing today. It really does matter—and it matters to an awful lot of people. Carers UK, which helped to facilitate many of these meetings, has been leading on this issue for years. The noble Baroness, Lady Pitkeathley, has been very much a part of that. Its research has uncovered that at least 2 million people—probably millions more—in paid employment are unpaid carers, so this is a significant issue.

The stresses and strains of having to juggle paid employment with unpaid care has led to hundreds of thousands of carers leaving the labour market or reducing their hours in work. This is at a time when recruitment into all forms of business is almost at a crisis level. More than 500,000 people—half a million—left the workforce between 2018 and 2020 because of the lack of support, 600 people per day on average. The acute shortage of social care support is also placing additional unsustainable pressure on carers and making it harder for them to manage both work and care. Caring has intensified too, with the proportion of unpaid carers providing significant care—over 20 hours per week—increasing by 42% since 2020, so they are having to do more caring, often as a result of less other care being available to their families. Many carers now report—it is no wonder—that they are exhausted and burned out, especially those who find the process of juggling so difficult. The Bill will help to meet some of that huge caring challenge. Again, it does not pretend to sweep all the issues away, but it is an important step.

I will summarise the main elements of the Bill. It will provide powers to make regulations to create an entitlement to carer's leave. It does this by inserting new provisions into the Employment Rights Act 1996. The leave will be unpaid and will be for the purpose of caring for a dependant with a long-term care need. All employees who meet the qualifying criteria will be entitled to the leave, no matter how long they have worked for their employer. It will be available to take in blocks from as small as half a day to up to a week in total at least—depending on future legislation—over a 12-month period.

I now go to the qualifying criteria. First, the person must be providing care for, or arranging for the care of, a dependant with a long-term care need. The definition of “dependant” is broadly drawn, and we should be very pleased about that, because it will make things a lot easier to manage and administer. The Minister talked about simplicity, and the breadth of drawing creates simplicity in the delivery. The Bill states that

“a person is a dependant of an employee if they ... reasonably rely on the employee to provide or arrange care”—

“reasonably rely” is an important phrase in this Bill. This is a helpful safety net and ensures that a wide range of relationships are in scope, wider than just immediate family members.

Secondly, the definition of long-term care need is similarly broad. In the Bill,

“a dependant of an employee has a ‘long-term care need’ if—

(i) they have an illness or injury (whether physical or mental) that requires, or is likely to require, care for more than three months,

(ii) they have a disability for the purposes of the Equality Act 2010, or

(iii) they require care for a reason connected with their old age.”

The Bill also requires that regulations set out the employee's rights regarding their existing terms and conditions while on leave and have their right to return to work once they have finished their leave. The reference to terms and conditions does not, of course, include pay. As I have said, this is an unpaid leave right.

I believe it is important that the right to carer's leave should work for both employees and employers. This is why employees will be required to give reasonable notice to take their leave, which enables employers to make necessary arrangements to manage their absence. In fact, in many cases, carers are having to use short-term sick leave or phone in sick to meet the care responsibilities they have. This is far less easy for an employer to manage than having advance knowledge that something is happening, where they can know the day and the hour, so it is actually a big advantage for employers.

The detail of notice requirements will be a matter for regulations, but the Government's consultation response makes it clear that the notice period requirements may be similar to those for taking annual leave, which should keep the landscape simple for those requesting and responding to requests for this leave. I should remind your Lordships that there is a separate cover for emergency issues, which does not come within the Bill.

Employees have a right to carer's leave, so it is stronger than a right to request, but the Bill acknowledges that there might be situations where it will be challenging for the employer to grant the leave requested. Therefore, an employer will be entitled to postpone the leave, but they may not deny a request. Clearly, this will be about the relationship between the employee and the employer, but the employee has a right. The aim of this approach is to ensure that employers engage with their employees so that they can agree on a suitable date. As with other employment rights, an employee will be able to make a complaint to an employment tribunal where their employer has unreasonably postponed or prevented them from taking carer's leave.

I shall say just a few words about the general and delegated powers, because details of how the provision will work will be set out in secondary legislation. There are delegated powers in this Bill, and noble Lords, including me, have often been concerned, rightly, about the way in which delegated powers will be used. In this instance, the delegated powers will allow the Secretary of State to set out the extent of the leave entitlement and when it will be taken, and employee entitlements while on leave and on return to work. They will also allow for regulations to cover procedural requirements around notice periods and postponement, and the consequences of failing to follow requirements.

This is all wholly consistent with the approach taken to family leave rights generally. That consistency makes it clearer and easier for employees, employers

and the legal community, and is a sensible and pragmatic approach. I was delighted that the DPRRC yesterday expressed no concerns with the secondary legislation in the Bill.

In conclusion, I encourage noble Lords to engage with the Bill. I think we all want it to succeed and to pass through your Lordships' House as quickly and easily as possible. We have an opportunity here to make a real difference to the lives of those who will seek to rely on this entitlement in future, and the people for whom they care. I hope that with the support of noble Lords, we can take that opportunity and deliver legislation that can make a change for the better. I beg to move.

12.52 pm

Lord Young of Cookham (Con): My Lords, perhaps I might be the first to congratulate the noble Lord, Lord Fox, on his choice of subject and the excellent speech he made in support of it, to which I will add a brief footnote to demonstrate the support from my side of the House for his Bill, but also to focus on its application to young carers. Having spent much of the week listening to the noble Lord making critical comments about pieces of legislation, it was a refreshing change to hear him speak so positively about this one, and I congratulate him on getting a clear round from the Delegated Powers Committee.

Last month, the ONS published the second phase of data relating to unpaid care from the 2021 census, and the Carers Trust, to which I am grateful for its briefing, has produced an interesting note on what those census figures mean in relation to young carers and young adult carers. The headline was that the 2021 census figures showed a significant decrease in the number of young carers and young adult carers identified through the census, compared with 2011. I happen to believe that there are a number of reasons why those figures underrepresent the number of young carers, but there was a significant increase in the proportion of children and young adults providing significant levels of care, with over 140,000 young carers and young adult carers caring for more than 20 hours a week. Astonishingly, there are still close to 50,000 children and young adults providing more than 50 hours of care a week—the equivalent of a full-time job—which in many cases they have to reconcile with their commitments to education. The data also highlighted how young carers and young adult carers in England and Wales were more likely to be living in areas of high deprivation compared with their peers without caring responsibilities, and there is a message there for the Government's levelling-up agenda.

While many of these young carers are still at school or college, a significant number are working and they struggle to balance caring with paid work. In the latest survey by the Carers Trust, 45% of young carers and young adult carers said that they were "always" or "usually" struggling to balance caring with paid work. Fewer than half of young carers and young adult carers said that they either "always" or "usually" get help from work to balance caring in their life.

By providing unpaid carers with a legal right to request additional leave because of their caring responsibilities, the noble Lord's Bill will help reduce

the need for carers to use annual leave or to give up work entirely because of their caring responsibilities, such as medical appointments or recovery from procedures.

One of the additional benefits of the noble Lord's Bill is that it should lead to increased awareness about the needs of unpaid carers and should ensure that all employers have processes to identify unpaid carers from the point of application and also record which staff have caring responsibilities. It also has the potential to normalise conversations in the workplace about caring. This is something which will particularly benefit young adult carers, who say that they find it difficult to identify themselves as unpaid carers to their employers. I am interested in the final section of Part 1 of the noble Lord's Bill, which provides a bit of a stick in that employers could be liable to pay compensation if they ignore the obligations in the Bill.

Finally, I support the Bill. I look forward to other speeches, in particular from the noble Baroness, Lady Pitkeathley, who has been campaigning on this issue for as long as I have known her, which I suspect is even longer than the noble Lord, Lord Fox, has. I support this legislation.

12.56 pm

Baroness Pitkeathley (Lab): My Lords, it is always a pleasure to follow the noble Lord, Lord Young, and I thank him and, indeed, the noble Lord, Lord Fox, for their very kind words. It has always been a privilege to be working for carers and I have always been fired up by being in contact with carers and being inspired by their contribution and their need. It is a pleasure that John and Patrick, two carers, are with us below Bar today.

Your Lordships will know that the Bill in front of us represents an issue that is close to my heart and that when it comes to Private Members' Bills I have previous form. It goes right back to 1995, when my much-respected colleague, the late Malcolm Wicks, took the first Private Member's Bill for carers through the House of Commons. I was not in your Lordships' House then, but I was chief executive of Carers UK and doing what Carers UK continues to do: providing support and leading the campaigning to get better recognition for carers, as it has been doing for more than 50 years in one guise or another.

That first Bill, the Carers (Recognition and Services) Bill, was not all that we wanted it to be, but it was a vital milestone in the fight—and I use the word "fight" advisedly—for recognition of carers. We learned in that particular fight a very important lesson: it is better to get something on the statute book and use it subsequently to move on rather than risk the ideal being the enemy of the good.

That lesson was further learned in two more Private Members' Bills, by which time I was a Member of your Lordships' House and had the honour of seeing them through this House. It is a lesson I have firmly in my mind today as we contemplate this Bill, so ably introduced by the noble Lord, Lord Fox. Its provisions are modest—some might say modest in the extreme—but they are of great significance.

[BARONESS PITKEATHLEY]

Many of us have campaigned for many years to secure additional rights to better support people who are juggling paid work alongside their unpaid caring responsibilities. Indeed, I remember very well the Caring Costs campaign that Carers UK set up nearly 30 years ago. Interestingly, it was funded by a government grant—we must bear that in mind, perhaps. It was a ground-breaking piece of work which looked at unpaid carers' experiences of being out of work and what would make a difference to them being able to return to work. That report from 1996 recommended a week's, even two weeks', unpaid leave for carers to be able to combine work and care, so this Bill has been a long time coming.

As the noble Baroness, Lady Tyler, will no doubt tell the House, she has tried previously on several occasions to bring forward legislation—unsuccessfully. I am therefore very pleased that this Bill, brought forward by Wendy Chamberlain MP last year, following the absence of an employment Bill, has made it this far.

As we have heard already, millions of people provide unpaid care to family members and friends in communities across the United Kingdom. While many do so gladly, willingly and with love, it often comes at great personal cost because carers do not receive the support and recognition they need.

A key benefit of the Bill will be to raise the profile of unpaid carers further by helping employers and other employees better understand what caring is. It is too often seen as a private matter and, as we have heard, carers are reluctant to identify themselves. The word "carer" is still not well understood and is often muddled up with "care worker"—although nowadays, thankfully, your computer is a little less likely to change it to "career", as it always used to do.

While carers face many challenges, one area that can be particularly difficult is continuing to remain in paid employment while providing unpaid care. All too often, the assumption is made that you simply cannot do this—it has to be one or the other. I have lost count of the number of carers who have said to me, "It was a no-brainer. When my mother was going to be discharged from hospital, they automatically assumed that I was going to give up my job to care for her."

The latest Family Resources Survey finds, as we have heard, that 2 million people undertake paid employment alongside their caring responsibilities. Research from Carers UK indicates that these numbers could be far higher, because of carers' reluctance to identify themselves. So it is only right that we take steps to support carers to remain in work where they want to do so.

The stresses and strains of having to combine work and care have led to hundreds of thousands of carers having to leave the labour market or reduce their hours of work, as we heard from the noble Lord, Lord Fox. Having to leave work has a significant impact on carers' finances, of course. Carers UK found that two in five carers who have given up work or reduced their working hours to care were around £10,000 to £20,000 per year worse off as a direct result. It also has a negative impact on carers' pensions; more than half of unpaid carers are unable to save anything for retirement. This has huge implications

for carers and the economy in the long term, with many left penniless in later life with the resulting effects and stress on the benefits system.

Beyond income, staying in paid work has a significant emotional effect on carers who can manage to do it. We know that mental well-being is higher among working carers in organisations that provide support than among those that provide no support. As one carer said, "I currently work two days a week and find hospital appointments clashing with workdays very stressful. I feel guilty about asking to swap days or take time off and guilty about not being able to attend appointments. A policy that allowed me unpaid leave would be good. I don't think my employer is aware or understands what caring is like." That is the case with many employers, although we must also pay tribute to the many employers that have taken up the carers' cause and aim to provide support in their places of work.

However, while the Bill has significant benefits to carers themselves—supporting them to remain in work and improving their health and well-being—there are sound economic reasons for ensuring that carers are able to remain in work. The UK economy and the productivity of business and employers, including the public and voluntary sectors, depend on retaining their skilled and knowledgeable staff. Crucially, that increasingly includes employees who are trying to combine work with unpaid caring responsibilities. We know how many skills carers develop during their caring lives—not just the obvious caring skills but organisational and administrative skills, which can be of great value to employers.

Certain sectors of our economy are particularly reliant on employees who combine working and caring. For instance, the latest NHS England staff survey found that one in three NHS staff also provides unpaid care. It is vital that they are supported to remain in work, especially considering the current health and care workforce shortages, of which we are all only too well aware.

The Bill's provisions will also have a positive effect on employers. Evidence shows that providing carer's leave leads to increased productivity for employers by improving their staff retention rates, reducing their recruitment costs—we all know how much it costs to recruit a new member of staff—and supporting the health and well-being of their workforce, leading to far less absenteeism. The Bill will also bring economic gains for the Treasury through increased productivity, as more carers will be able to stay in work rather than having to reduce their hours or leave the labour market altogether, and thus pay more tax to HMRC.

It is clear to me that all parties will benefit from this legislation; it is a win-win situation. The Bill is well drafted and allows for the flexibility that is necessary for it to work in practice for both employees and employers. It is particularly welcome that the Bill will enable employees to take carer's leave to care for a very wide range of people: a spouse or civil partner, a child, a parent, a person who lives in the same household or a person who may not be living in the same household but who still relies on you to provide care, and of

course the definition of “dependant”, as we heard from the noble Lord, Lord Fox, is widely defined, and that is very welcome too.

The Bill also allows employees to take carer's leave for a wide range of reasons, such as providing personal or practical support, helping with official or financial matters including phoning and being on the internet, providing personal and medical care, or making care arrangements. Anyone who has ever tried to make such arrangements knows just how time consuming that is: making contacts, being passed from one to another and inevitably waiting for the call backs which do not come.

While we still need to go further in providing support for carers to help them to continue work and care, I see this Bill as a vital first step and as a commitment that in future we can ensure them even more rights in their workplaces, and I will look forward to participating in that legislation in the future.

1.06 pm

Lord Shipley (LD): My Lords, it is a privilege to follow the noble Baroness, Lady Pitkeathley. Her knowledge and expertise on this subject are unequalled in this Chamber. As she said, the Bill has been a long time coming and it is a vital first stage—and it is indeed that. I thank my noble friend Lord Fox for his detailed explanation of the Bill and congratulate my colleague in the other place, Wendy Chamberlain MP, for piloting the Bill to this stage. I am very pleased to support this Bill at Second Reading and I hope your Lordships will be pleased to support it and take it through to its next stage.

In an ideal world, I would prefer to see carer's leave as a paid right. Indeed, many employers would subscribe to that, and many do it already. It is a good employment practice, the cost is minor and the employer will be more likely to keep valuable staff at a time when recruitment is getting harder.

The Bill has identified a clear gap in current legislation, in that it is not about emergency help or care for children who are ill, which are already legislated for, but it is about long-term, day-to-day caring needs for dependants and those close to the carer. As our population ages, this will become increasingly important. Crucially, the administration of the scheme is reduced to the minimum. Simplification matters because it means that those benefiting from it can follow the necessary procedures easily.

A key issue will be publicity. I was very struck by the comment of the sponsor in the House of Commons, Wendy Chamberlain MP, that

“a significant issue is simply getting carers to recognise themselves as such”.—[*Official Report*, Commons, Carer's Leave Bill Committee, 9/11/22; col. 5.]

The more the Government can do to promote the new right to carer's leave, the better the outcomes will be.

More and more people are going to need extra personal support as they grow older. Family members will mostly be providing it. We need to encourage those helping provide care to do so without giving up work, because the cost of care to a family would otherwise exceed the level of their income. We need them to stay in employment.

Seven million people are providing unpaid care when in paid work. That is a very large number. The economy needs them to stay in paid work, so this Bill really does matter. I welcome the Bill having completed its passage through the House of Commons without amendment. I hope that it will do likewise in this House and that the regulations are passed as soon as possible.

1.10 pm

The Lord Bishop of Leicester: My Lords, I am pleased to speak in wholehearted support of this Bill. It has been a pleasure to hear other speeches and to receive briefings on this significant area of our common life. I look forward to hearing other speeches and thank those who have introduced the Bill.

The Bill is an important step forward in showing carers that although their efforts may not be waged, they are very much valued. It might not go as far as could be hoped, as the noble Lord, Lord Shipley, has said, in that it provides for unpaid rather than paid leave, but it is undoubtedly a step in the right direction.

I see three key features of this Bill: first, the provision of leave for anyone with caring responsibilities, not just those who care for people in their household; secondly, guaranteeing this leave as a day one right; and thirdly, allowing for it to be taken flexibly. These three features show that the Bill recognises the variety of unpaid carers on whom society depends and the distinct challenges they face.

I draw your Lordships' attention to the Archbishops' Commission on Reimagining Care. The report, *Care and Support Reimagined: A National Care Covenant for England*, was published just a few weeks ago. Paid leave for carers and the right to request flexibility from day one of hire were among the commission's recommendations. That report, like the authors and champions of this Bill, recognises the difficulties of juggling responsibilities to one's employers and to the people one cares for. When that balancing act becomes unsustainable, millions of people give up work or reduce their hours in order to care for loved ones. If they do so, further financial pressure is added to their load. In return for providing care worth some £132 billion a year, more than a million unpaid carers are living in poverty.

There are psychological and spiritual as well as financial benefits to being able to stay in work. As one of my colleagues, Carolyn, who cares for her son, told me, for many carers including herself, being able to remain in work forms a vital part of their own well-being and positive mental health. Being able to contribute beyond their caring responsibilities is all part of feeling that their lives have purpose, meaning and consequence. This was echoed at a recent gathering of carers, parents and grandparents of children with special educational needs and disabilities which my wife and I hosted at our house. Many spoke of the loneliness of being a carer and the need for wider support networks, which can of course include colleagues at work.

Having the right to a week's leave will therefore help many unpaid carers to continue working, with the support for their well-being and household finances which that entails. However, it is important to state

[THE LORD BISHOP OF LEICESTER]

that we all stand to benefit from their skills, talents and experience remaining in the workforce. The phenomenal costs of recruitment and retention, which have already been mentioned, point to the spiritual truth that no one is a fungible economic unit. I and my diocese would be much poorer without people such as Carolyn—without their compassion, empathy, sensitivity and wisdom. She enriches us not despite her caring experience, but because of it. This Bill should therefore be passed not as an act of pity, but as a recognition of our collective debt and gratitude to one another and our interdependence on one another.

Returning briefly to the Archbishops' Commission, its report sees paid leave for carers as just one part of a more radical and ambitious vision. The Christian belief is that we are all made in the image of God, that it is not good for any of us to be alone, and that giving and receiving care is fundamental to human flourishing. This wider values-based vision of the commission encourages a revolution in our attitudes to disability and ageing, recognising that every single person is of equal value and dignity and must be treated as such. This vision includes the aim to make social care a universal entitlement, and that this should be person-centred care, designed with people, not imposed on them. At its heart is a call for a national care covenant which sets out the distinct roles and responsibilities not just of government but of all of us as citizens and neighbours.

I commend the archbishops' report to your Lordships, as it outlines both the fundamental values and the specific steps which could bring a compassionate, inclusive and sustainable care system into being. I invite employers to venture beyond the letter of the Bill and enter into its spirit by giving carers active support, recognition and affirmation, as well as respite. For every workplace would profit immeasurably by learning from those who give themselves fully to the well-being of others.

1.16 pm

Baroness Uddin (Non-Aff): My Lords, at the outset I take this opportunity to acknowledge the noble Baroness, Lady Bertin, who led the earlier debate so magnificently. The ambitions of her Bill were the fundamental objectives of many campaigns, and of a project a number of women set up in Tower Hamlets called the maternity services liaison advocacy scheme. It is a joy to see that the noble Baroness was speaking, and I am sorry I missed the debate. It is also an honour and a personal privilege to be taking part in this debate, and I want to humbly thank the noble Lord, Lord Fox, for his thorough introduction; he need not have worried at all.

Many statistics on unpaid carers are constantly bandied about, but the facts are glaring; indeed, we know that many more carers are not in the public eye or paid for by the public purse. Like many hundreds of thousands of families, we have cared for our loving and beautiful 44 year-old son—a young man who inspires us every day—without a shred of the public care system support which may or may not have been in place. Very early on in our professional and business

careers, the decision had to be made that, as parents, one of us would need to stay at home to ensure that our son was safe and cared for.

I can tell your Lordships that even enlightened local authorities were less than pleasant when women, in particular, sought time off for caring responsibilities, which in many instances counted against their career progression. Not much appears to have changed for substantial numbers of carers on zero-hours contracts or for poorly paid part-time workers who are almost certainly unlikely to gain from the proposed Bill. However, I keep hoping that one of these days, our Government's compassionate and caring conservatism, levelling up and all the other "ism" ambitions will eventually eradicate these horrible, cruel, medieval working conditions in the world's sixth largest economy. As a society, if we can afford to spend billions on crap PPE and weapons of war, we can also empower with a decent and just wage the army of social carers and family carers who are upholding our nation.

For those in our social welfare system, £69 for 24/7 carer's allowance, which has increased by only £15 over the last decade, is an insult. I can understand why many families such as ours simply opt out of the system. Many families may not even be aware of these cumbersome systems, or able to navigate them for this miserly amount. It is therefore important that changes are relayed through the NHS and DWP systems to ensure that these entitlements are known to carers.

I welcome these proposals for the carer's leave entitlement. With hand on heart, I say that they are a long time coming. More than four decades ago, as one of the founders and the manager of a project, I ensured that all members of our all-women staff team had written into their contract their entitlement to childcare and other care responsibilities, including emergency provisions, as the Bill aspires to do. This decision was critical to keep and foster talented and skilled women staff members, many of whom would otherwise have left and given up their employment. Many are still forced to choose, even today, as powerfully advocated by noble Lords during the Second Reading of the Protection from Redundancy (Pregnancy and Family Leave) Bill. I believe that our practice was pioneering in the 1980s and had a transformative impact on local services and statutory and voluntary organisations. Local and national leadership are critical. I believe that most employers will be supportive, given the available statistics: almost every household will face these dilemmas in their home sooner or later.

We are all too familiar with "A week is a long time in politics". Well, let me say that providing care and support for vulnerable loved ones with special physical or emotional needs is a lifetime of devotion. We must do all we can to prevent it becoming an untold toil. The flexibility and wide-ranging application proposed by the Bill are therefore welcome.

I have a generic point. Regardless of whether there are 10 million or 1 million carers, it would be more comforting if the Government recognised—they must—that family support systems are holding up an otherwise totally broken system of social care. From all the facts, well rehearsed in this Chamber, we see that we are not valuing carers and their real worth enough, in any way. Every family such as ours is still holding up, not only

when the formal care systems are broken, to make sure that our vulnerable loved ones live with dignity and independence.

It appears to have become customary to heroise individuals or families as a way of illustrating the impact of our policies and legislation on some service users. The question for me is not about one individual experience or my personal experience, which is painful and lifelong enough. As legislators, we are responsible for making a difference to many more families, communities and those in wider society who so often cannot access benefits or services. Therefore, gender and other equality impact assessments of the Bill are absolutely a must to realise the aspiration behind the deliberation in this Chamber. It has far-reaching implications that can change people's lives.

I am thankful to the many children's and other carers' organisations that have written to me, and I am always beholden to my noble friend Lady Pitkeathley who has campaigned for social and economic justice for carers for so long and so relentlessly. I salute her constantly, and very often in this Chamber.

I ask the Minister to write to me with details of how government departments reach out to communities hitherto beyond the reach of many respected national organisations, particularly communities in inner cities and deprived areas. How do government departments relay information on rights to families at the coalface of social and financial isolation? Consistency in our policies should be joined up, and not undermine access to information. For example, government departments are now routinely cutting or shutting down phone lines, instead directing service users to online services on the assumption that everyone has access to a smartphone or a computer. It is not so, and we know the facts about digital exclusion. We also know, and heard throughout the pandemic, of the impact of digital exclusion on the most vulnerable and needy. When they cannot afford food or energy bills, the upkeep of broadband or a computer device is pretty much out of the reach of most of them. We must therefore take the utmost care to undertake an impact analysis of all the legislative and procedural frameworks on carers and other vulnerable groups who suffer disproportionately.

As a community campaigner, I say that there is so much more to discuss, including the cutbacks and desperate shortage in social care, and the lack of respite and adequate day care facilities or holiday provision, all of which are putting huge extra pressures—I will not use the word “burden”—on families already stretched beyond their capacity. We speak of civilised society, and surely the heroic and unrelenting support that carers in their millions provide speaks volumes about our civility and honour. We are already saving the Government hundreds of billions, and none of us should rest here until there is full recognition and parity of employment rights for carers. So with great joy I support these good, small steps.

1.27 pm

Baroness Tyler of Enfield (LD): My Lords, we have had a very good debate on this important Private Member's Bill, and I thank my noble friend Lord Fox for his excellent introduction. For me, the debate has

underlined once again why carers' lives can be so difficult, despite caring usually being undertaken out of love and deep familial bonds. As we have heard, caring unpaid for a family member, friend or neighbour is a reality for many millions of people across the UK and is something that almost everyone will experience at some point in their life. It can take many forms: it can be day-to-day physical caring, washing, dressing, feeding those who cannot care for themselves; it can be making medical appointments, accompanying people, arranging for paid care; it can be helping a housebound elderly neighbour.

But caring for a loved one can come at high personal costs. Many carers find that their own relationships are negatively affected, and they can face their own health problems as a result of their caring role. With the huge pressures and backlogs across the NHS, with the difficulty all too often of getting appointments with a GP or a hospital, and the record level of demand for social care services at a time when the social care workforce is depleted, many carers are simply not getting the support that they need.

That is essentially what this Bill is designed to address, albeit that we are only at the start of what I hope is a much longer journey. “A vital first step” is how it has been described today. But today's debate has amply demonstrated how carer's leave will make a difference to carers' lives. We have already heard the latest estimates showing that over 7 million people in this country are juggling work and unpaid care, and every year more than 1.9 million people in paid employment become unpaid carers. This is not a sideshow; this is something affecting large segments of the population. We have today heard very movingly the stresses and strains of having to juggle paid work alongside unpaid care, without the support that is so often needed, and how it has left many carers exhausted and burned out.

Unfortunately, as we have heard, these pressures have led to hundreds of thousands of people having to drop out of the labour market or reduce their hours—at a time when their skills are much needed to the wider economy. We know and have heard that having a supportive employer and the ability to take time off work can help mitigate those pressures. Indeed, two-thirds of working carers who have already had access to unpaid carer's leave through their own employer's enlightened employment practices have told Carers UK that it really made their caring role easier. I spoke recently to some carers who were juggling working and caring, and I was very struck by what one lady said to me. She said, “I no longer have to hide the fact that I am a carer.” I can well remember feeling that I needed to hide my own personal caring responsibilities when I was in a full-time job, and I would have loved to feel that what I was trying to do was both above board and legitimate. I hope that this legislation will normalise and legitimise those struggling to do both.

I was also very pleased recently, along with my noble friend Lord Fox, to meet some leading employers in this field, large and small, to hear at first hand about their experiences of already providing carer's leave and the positive impacts that doing so had on their businesses, particularly in terms of staff retention. For this to really work, it must have real benefits to

[BARONESS TYLER OF ENFIELD]
employers and employees. That is the beauty of this Bill, which, by creating a new entitlement for employees to take up to a week of unpaid leave a year, will really help. Yes, it is modest—we all understand that—but it will provide increased flexibility to unpaid carers who are balancing paid employment with their caring responsibilities. I hope above all that, for many more of them, it will mean not having to make that invidious choice between caring and working.

In addition, the Bill will support carers with their finances, particularly in the longer term, and help with pensions. The noble Baroness, Lady Pitkeathley, reminded us of the number of carers who, because they have to give up their job altogether or reduce their working hours, become significantly worse off. This fall in income is often accompanied by a sharp increase in household costs as a result of the additional costs of ill health and disability. In the middle of a cost of living crisis, that is enough to tip many people over the edge.

Of course, everything comes with a cost, and we need to be up front about that. But I was struck last week when reading some research that suggested that UK companies can save up to £4.8 billion a year in unplanned absences and a further £3.4 billion in improved retention by adopting working practices to support employees with caring responsibilities. It might not be a strict comparison, but it is interesting to note that the impact assessment for the Bill says that the direct costs will be very small—only £4.7 million for one-off familiarisation costs for this new legislation, plus the recurring familiarisation costs. I call that quite a return.

I want to draw attention, as I have in the past, to the impact of unpaid caring on women and those caring for children with long-term disabilities. The Bill would particularly support women to stay in work, as they are more likely to be juggling work and care and more likely to be in part-time than full-time work. Carers UK research has shown that, while the average person has a 50:50 chance of caring by the age of 50, on average women can expect to take on caring responsibilities more than a decade earlier than men. Likewise, the Family Resources Survey shows that women aged 45 to 64 are most likely to be carers and more likely than men to provide informal care across all age groups, except for those aged 85 and over. It is welcome that the impact assessment produced for the Bill recognises:

“In the context of the gender pay gap, the fact that women are more likely to provide care means that they are more likely to face adverse employment effects associated with caring i.e., lower earnings and leaving the labour market.”

It is welcome that the Bill also provides much-needed support for those who are juggling work with caring for a child with a long-term disability. People in this situation often face extreme pressures and challenges, and it is right that they should be able to take advantage of the provisions in this Bill, building on the rights that they already have under unpaid parental leave.

Finally, it is instructive to see how other countries provide support to employees trying to juggle work and care. In preparing for this debate, I did a bit of research. The fact is that the UK currently lags behind other countries when it comes to workplace rights for carers. Many already have some form of carer's leave

in place—of course, it differs—including Japan, Canada, the USA, Germany, Ireland, France, Belgium and Sweden. So I think it is right that we are looking to close this gap. Indeed, there are some interesting and innovative approaches to family leave and carer's leave adopted in other countries that we would do well to study—a point I know the Minister made in the previous debate.

To conclude, I am delighted that after many years of trying, we finally have an opportunity to ensure that carers are better supported to remain in work by providing them with additional rights at work to make their lives more flexible and manageable. It is a cause that I, like so many others in this Chamber, have long championed. I do not pretend to have anything like the pedigree of the noble Baroness, Lady Pitkeathley, to whom we all owe a huge debt of gratitude. However, as she mentioned, I have tried several times—most recently in 2016—to introduce a carer's leave entitlement Bill. Sadly, as is the way of these things, it never received a Second Reading. So one of my messages today is to never give up hope. An opportunity may well come along, sometimes when you least expect it. I give huge thanks to my honourable friend Wendy Chamberlain, and of course to Carers UK for everything it has done. I very much hope that this time we can get these vital employment rights for carers on to the statute book, which is why I am giving my noble friend's Bill my full support.

1.36 pm

Baroness Blake of Leeds (Lab): I start by thanking the noble Lord, Lord Fox, for sponsoring the Bill before us today on this important matter, and indeed his colleague Wendy Chamberlain MP in the other place for initially sponsoring it. I note the cross-party support in the other place, as has been mentioned today, and I hope we can move forward in the same spirit. I also add my thanks for all the different briefing papers we have received—from Carers UK, for example, and the MS Society.

I particularly pick up on the reference the right reverend Prelate the Bishop of Leicester made to the Archbishops' Commission on Reimagining Care. I, too, recommend it to those who have not had a chance to look at its recommendations. It was my great privilege to work closely with Anna Dixon in her former role at the Centre for Ageing Better when I was the leader of Leeds City Council. So many of the pieces of work we did there have informed my views on how we need to move forward on this issue.

I also pay tribute to the other speakers in the debate for their passion and obvious long-term commitment to this agenda and for standing up for the most deserving in our society—all those unsung heroes who do so much to support their loved ones. Indeed, as we have heard today, many noble Lords have personal, as well as professional, experience of these matters; I note the comments made by the noble Baroness, Lady Uddin. These are incredibly important insights that we need to use to inform our discussions and policies as we take them forward. I pay particular tribute to my noble friend Lady Pitkeathley and thank her for her inspirational speech, and I acknowledge her wealth of experience in these matters.

We fully support the Bill, although we believe that carer's leave should be paid. We have to ask why it has taken the Government so long to introduce legislation, therefore necessitating its introduction by Private Member's Bill. We remain disappointed that the promised employment Bill has not materialised. However, we acknowledge that this is a significant moment to take a step in the right direction, and we believe we should seize the moment. It is also worth noting that, under the proposals set out in Labour's *New Deal for Working People*, the next Labour Government will legislate to ensure that working people can respond to family emergencies as and when they arise, without being left out of pocket.

As so many have said, unpaid carers are among the many unrecognised stars of the health and care sector. They step in to support friends and family with care so that those people can retain some of their independence and dignity. We need to emphasise, particularly with International Women's Day approaching next week, how important it is to point out that, tragically, the highest proportion of unpaid carers are women. The highest proportion fall in the 50 to 59 age group, where a staggering one in five women are estimated to be carers. Since the Covid-19 pandemic, there are 350,000 more people over 50 who are economically inactive, with health cited as the largest single reason but caring and family responsibilities coming second.

Carers UK has stated that granting unpaid carers the right to carer's leave would improve the finances of carers who would no longer have to reduce their working hours or give up work altogether. I think we all took on board the points outlined by my noble friend Lady Pitkeathley about the impact on mental health and, as the right reverend Prelate mentioned, the impact of loneliness.

The scale of the issue is huge. We have heard many figures today. Carers UK estimates that there are 7 million people in paid work who also provide unpaid care. Every year an estimated 1.9 million people in work become carers, and there is evidence of many using up their holiday entitlement to provide cover as needed. An estimated one in seven juggle work and care, with the Joseph Rowntree Foundation stating that over 1 million carers are living in poverty, feeling "abandoned by society".

In the 2017 to 2019 parliamentary Session, the House of Commons Work and Pensions Committee held an inquiry on employment support for carers. Its May 2018 report, *Employment Support for Carers*, stated:

"Balancing care with paid employment is a tricky juggling act"—

I think that is putting it mildly—which, as we have heard, causes many carers to either give up work or reduce their hours. It said that this was costly to the individual, who can lose financial security and may need to recruit a replacement. In addition, it found that there was an economic cost as

"productivity, and ultimately tax revenues, suffer from people who want to work, or work more, being avoidably unable to do so".

Putting my business and trade hat on, I will say, like the noble Lord, Lord Fox, that the impact on the economy is profound and needs to be taken into

account by the Government, particularly by the Treasury. I will not repeat the figures that the noble Baroness, Lady Tyler, quoted, but they are stark and significant. Indeed, our Adult Social Care Committee estimated in its excellent report a loss to the Exchequer of £2.9 billion in carer's benefits and lost tax revenues.

We welcome the broad definition of reasons for needing carer's leave and the fact that the definition of "dependant" is also broadly drawn. These definitions are often misunderstood, and further clarity is indeed welcome.

I particularly welcome the reference to young carers made by the noble Lord, Lord Young. He raised the links to deprivation and that awful tendency of those in this category to suffer in silence and not to come forward and claim any support that might be available to them. Given the important role that unpaid carers play and the fact that so many of them find themselves in precarious financial positions, especially with the soaring cost of living crisis, the situation is simply unacceptable. Through this process, the ability to raise the profile of the issues is very important.

I feel that it is impossible to talk in this debate without referencing the urgent need to tackle the crisis of social care in this country—across all age groups, those caring for both children and adults with disabilities, respite need and home care, as well as in the residential sector. It would be very helpful in this debate to have an update on progress in this area.

I very much look forward to the Minister's response. I hope that, in line with other contributors' support today, we will hear that the Government support this important Bill's passage so that we can start to move forward on the journey to give carers support and to continue to increase awareness for those who so desperately need, and richly deserve, our support.

1.46 pm

The Minister of State, Department for Business and Trade (Lord Johnson of Lainston) (Con): I thank the noble Lord, Lord Fox, for introducing this debate. It was a highly eloquent, extremely thoughtful, very technical and, frankly, quite moving introduction to what I think we all agree is a most essential Bill. I also thank Wendy Chamberlain for initiating this process in the other place and the noble Baroness, Lady Pitkeathley, who clearly has been an inspiration to many in this House. She is an inspiration to me and has helped drive this agenda for many years. I hope that the noble Baroness feels a sense of satisfaction as she sits here participating in this debate, where we can now as a group "do something about it", as they say. I personally appreciate the enormous support the noble Baroness has given to this process.

I would like to cover three specific areas in terms of why the Government are so keen to support the Bill. First, this is good for business. I believe that the noble Baroness, Lady Blake, covered this from her expertise in her trade and economy role. Many other noble Lords also focused on this important point. We cannot afford for so many individuals to leave the workforce if we can possibly avoid it. I will talk about the moral case for that in a moment, but purely commercially, it does not make sense. It is an economic disaster that

[LORD JOHNSON OF LAINSTON]

people are forced to leave employment in order to care. The figure quoted, of £2.9 billion, seems to me to understate the cost to the economy of this situation. Coming at this from a relatively dry economic standpoint, as someone who is not a proponent, fundamentally, of excessive regulation or additional burdens on businesses, I believe this is absolutely the opposite. It is an essential lubrication to the opportunity for businesses to prosper and for more people to come back into the workforce. As the noble Baroness, Lady Pitkeathley, wisely said, it will allow us to raise the profile of carers. It will allow people to better understand the business case for being able to combine work and caring. It will also help businesses understand the importance of retaining their staff and engendering good relations with their employees. I am absolutely convinced, as are the Government, that the business case for this Bill is paramount and incontrovertible.

Secondly, the Bill reflects the relevant role that carers play in our society. I was appalled to hear of some of the costs that the noble Baroness, Lady Pitkeathley, mentioned, of between £10,000 and £20,000, the well-established losses to pension contributions, and the poverty levels in which many carers find themselves on account of having to give up work to do the right thing.

The right reverend Prelate the Bishop of Leicester raised a number of issues which have confluence with these points. I have not read the report of the Archbishops' Commission on Reimagining Care. I would be grateful if he would be kind enough to make a copy available to me, and I will certainly invest some time in it.

Other noble Lords raised the issue of the economic cost to carers, including the noble Baronesses, Lady Blake and Lady Tyler. The noble Baroness, Lady Tyler, had to hide her caring responsibilities from her employer. My noble friend Lord Young asked whether employers are obliged to keep a register of carers in their companies. They will be obliged to record people who say they are carers—clearly the process to obtain the unpaid leave will necessitate that type of information—but they are not obliged to undertake a survey of their staff. I do not believe it is a requirement for registration when you join a firm. I think this initial stage is probably satisfactory, but it is certainly something that should be kept under review.

We hope this legislation will start to change the attitudes of businesses and individuals so that we can be proud to be carers, and businesses can be proud to have carers in their businesses and to support them in an appropriate way, as they would those in other occupations, such as the Territorial Army or whatever it may be, who have important work to do and whom they want to retain. This is a very relevant incentive—not that I am comparing those two roles, but I hope noble Lords understand what I am trying to imply.

The noble Baroness, Lady Uddin, made important points that I would like to address relating to making sure that the profile and value of carers is appropriately raised. Their importance to society must not be understated. For me, this Government and, I am sure, all of us in this House, it is better that we have an effective voluntary care system for dependants from

loved ones, friends, neighbours and relations as a principle in how we structure our society and community. We believe firmly in that, so any measures that enable this type of society—a society of people bound together through love—is more powerful than any state support that could be provided to an individual, so I emphasise to the noble Baroness, Lady Uddin, my support for her remarks.

I am also very aware of the noble Baroness's comments around signposting entitlements to carers. It is important that we have a variety of different signpost mechanisms. They are, on the whole, the traditional mechanisms of websites, through ACAS and the tribunal system and similar government information portals, but I am not unaware of the need to raise the profile of this principle. I hope that debates such as this and the work of noble Lords will ensure we can continue to do this.

I am also aware of the issue around minority information portals. The Government are very committed to ensuring that all language communities are fully covered, but if there is anything that I can do personally to magnify this situation to any specific community, I would be keen to hear. This is ongoing work. I am sure all input will be well received. I believe the noble Baroness, Lady Uddin, asked me to write to her with specific details. I will be delighted to do so, and that may instigate further debate.

I hope I have covered everyone's specific points. I express my gratitude to all sides of the House for the moving and powerful way that we have come together to very clearly put all our support behind something that is very straightforward, easy to administer, essential for our economy, right for the moral fibre of our nation in terms of keeping carers in work, and will benefit society fundamentally in the long term as well as raising the profile of this issue so that we can be proud to be carers and workers.

I turn now to some of the specifics that it would be useful to have on record. The Bill will create a highly flexible new leave right with low administration requirements. It will be available from the first day of employment, so people will be able to take their one-week entitlement in blocks as small as half a day or, indeed, for the full week. Both "dependant" and "long-term care need" are defined in the Bill, as has been raised. This is important, and these definitions are very broad, as has been welcomed. This ensures that leave is available for the widest possible range of long-term caring scenarios.

The Bill also keeps the administration process as light as possible. It is our intention that the associated regulations will state that an employer cannot demand that an employee present documentation in support of a leave request. I think we all agree that that is a relevant point. It is not for people to justify their actions; that raises even higher hurdles and barriers around the situation we are discussing. This helps the employee, who may not wish to divulge details of the health and well-being of their relative or friend. It also helps the employer, frankly, as it will relieve them of the responsibility of storing and managing that data effectively.

In conclusion, the Government are pleased to support this Private Member's Bill and deliver our manifesto commitment. I thank again the noble Lord, Lord Fox,

for bringing the Bill before us today, and the noble Baroness, Lady Pitkeathley, for her endeavour and her journey to where we stand now. I thank all noble Lords who have participated in the debate. Many have spoken passionately about their personal experience of caring for loved ones. I hope that in future, for many unpaid carers, this new leave right will make it that little bit easier to balance their work and caring commitments, and that their lives will be a little bit better for that. This is why I want to see the Bill succeed. We have an opportunity here today to make a real difference to the lives of those who seek to rely upon carer's leave in the future.

1.57 pm

Lord Fox (LD): My Lords, I join the Minister in thanking noble Lords for their contributions today. When I saw the speakers' list, I suspected that we would have a good debate, but it has exceeded those expectations. I think it has been a wonderful debate and I understand that even the Deputy Speaker refused to leave the Woolsack in order to be able to hear the end of it. I start by specifically thanking the Minister: the care and the detail with which he replied to the debate is a very good sign, and I am really delighted by that. I am afraid I will have to pull him up on one thing. He suggested that the noble Baroness, Lady Pitkeathley, might be satisfied: I can warn him, from what little I know of the noble Baroness, that she will be at his door tomorrow with the next requirement.

I would like to pick a few of the bones out of this debate, because it has brought together a wide variety of issues. I thank the noble Lord, Lord Young, for bringing up the issue of young carers and young adult carers, because I failed to bring it forward, and I am delighted that he was able to do it. He also talked about workplaces being aware of how many carers they have. My noble friend Lord Shipley pointed out that there are an awful lot of hidden carers within the workforce. Even those businesses that have very well-defined carer systems, carer passports and whatever else do not unearth all the carers they have, so there is an awful lot of work to do, both at a governmental and societal level and at a granular level in businesses, particularly in small and medium businesses where they do not have the HR processes and the systems or the people to do this work.

The noble Baroness, Lady Pitkeathley, said a lot of interesting things, but I will pick out her point about trying to remove the guilt from this process—the guilt

of the employee having to go and ask, cap in hand, for time to do a very important task for the person for whom they care. By putting that into a process, we start removing that guilt. My noble friend Lord Shipley mentioned the ageing population, and this is crucial. The demographic, as it goes forward, is going to drive the need for care, year on year, to an even higher level than we see today.

I thank the right reverend Prelate the Bishop of Leicester for his contribution. He talked about valuing carers, and so many carers in the current situation do not feel valued by people around them. He talked about dignity, and I think part of what we are trying to do is create an element of dignity. The right reverend Prelate also talked about interdependence, with so many, as the noble Baroness, Lady Pitkeathley, said, feeling lonely. These are key issues. This was picked up by the noble Baroness, Lady Uddin, who talked about her own personal experience, which was quite moving, as well as the wider issue about how this is a real challenge in the harder-to-reach communities in our society, and I thank her for her delivery. My noble friend Lady Tyler talked about not having to make the choice between caring and working, not having to walk out of your work because you cannot manage the process of day-to-day life.

I am now going to do what most Ministers seem to do, which is shuffle a few pieces of paper. I thank the noble Baroness, Lady Blake, and everybody else for their support, but I did have some trepidation that one of your Lordships was going to come up, not necessarily with an excoriating review of what we had here but with a whole catalogue full of massive improvements. We all know there is more to be done, and I am sure, as I have just said, there will be lots of people wanting to suggest what that should be. But the sense I got from the Chamber is that there are not going to be lots of amendments coming forward, because the way we get this Bill through quickly, or indeed get it through at all, is without amendments—by accepting what we have and moving on. I thank the noble Baroness, Lady Blake, for her, I think, cry of: “Forwards. Let us seize the moment”. I ask your Lordships to join with us, with the Minister and me, to seize that moment, and I invite noble Lords to support a Second Reading of the Bill.

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

House adjourned at 2.03 pm.

